

Planning Committee Meeting

**Online Meeting, Virtual Meeting Platform
Thursday, 10 December 2020 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. Attendance between 5.30pm and 5.45pm will greatly assist in enabling the meeting to start promptly.

Information for Members of the Public

Access to information and meetings

You have the right to observe all meetings of the Council, its Committees and Cabinet including those which may be conducted online such as by live audio or video broadcast / webcast. You also have the right to see the agenda (the list of items to be discussed at a meeting), which is published on the Council's website at least 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>.

Occasionally certain issues, for instance, commercially sensitive information or details concerning an individual have to be considered in private. When this is the case an announcement will be made, the live broadcast will end and the meeting will be moved to consider in private.

Have Your Say!

The Council welcomes contributions and representations from members of the public at most public meetings. Planning Committee meetings, other than in exceptional circumstances, are subject to one representation in opposition and one representation in support of each application. Representations can be a statement or questions of no longer than three minutes when spoken (maximum 500 words) submitted online by noon on the working day before the meeting date. Please use the form [here](#).

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>.

COLCHESTER BOROUGH COUNCIL
Planning Committee
Thursday, 10 December 2020 at 18:00

The Planning Committee Members are:

Councillor Cyril Liddy	Chairman
Councillor Lyn Barton	Deputy Chairman
Councillor Helen Chuah	
Councillor Pauline Hazell	
Councillor Brian Jarvis	
Councillor Derek Loveland	
Councillor Jackie Maclean	
Councillor Philip Oxford	
Councillor Martyn 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:

Christopher Arnold	Kevin Bentley	Tina Bourne	Roger Buston
Nigel Chapman	Peter Chillingworth	Nick Cope	Simon Crow
Robert Davidson	Paul Dundas	Andrew Ellis	Adam Fox
Dave Harris	Theresa Higgins	Mike Hogg	Mike Lilley
Sue Lissimore	A. Luxford Vaughan	Sam McCarthy	Patricia Moore
Beverley Oxford	Gerard Oxford	Chris Pearson	Lee Scordis
Lesley Scott-Boutell	Lorcan Whitehead	Dennis Willetts	Julie Young
Tim Young			

AGENDA
THE LIST OF ITEMS TO BE DISCUSSED AT THE MEETING
(Part A - open to the public)

Please note that Agenda items 1 to 6 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:
<https://www.youtube.com/user/ColchesterCBC>

1 Welcome and Announcements (Virtual Meetings)

The Chairman will welcome members of the public and Councillors to the meeting and remind those participating to mute their microphones when not talking. The Chairman will invite all

Councillors and Officers participating in the meeting to introduce themselves. The Chairman will, at regular intervals, ask Councillors to indicate if they wish to speak or ask a question and Councillors will be invited to speak in turn by the Chairman. A vote on each item of business will be taken by roll call of each Councillor and the outcome of each vote will be confirmed by the Democratic Services Officer.

2 Substitutions

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

3 Urgent Items

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

4 Declarations of Interest

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

5 Have Your Say! (Virtual Planning Meetings)

At meetings of the Planning Committee, members of the public may make representations to the Committee members. Each representation, which can be a statement or a series of questions, must be no longer than three minutes when spoken (500 words maximum). One single submission only per person and a total limit of 30 minutes (10 speakers) per meeting. Members of the public may register their wish to address the Committee members by registering online by 12 noon on the working day before the meeting date. In addition, a written copy of the representation will need to be supplied for use in the event of unforeseen technical difficulties preventing participation at the meeting itself. The Chairman will invite all members of the public to make their representations at the start of the meeting.

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 the Previous Meeting

7 - 16

The Councillors will be asked to confirm that the minutes of the meeting held on 22 October 2020 are a correct record

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	201236 Hall Road, Copford	17 - 58
	Outline application for the erection of up to 49 houses and associated highway works	
7.2	Colchester Northern Gateway, Land at Cuckoo Farm West, United Way, Colchester	59 - 106
	Redevelopment of the site to provide a Cinema (use class D2), active leisure units (D2), a hotel (C1), restaurants (A3) and/or hot food takeaways (A5), including drive through units, and/or a Public House (A4) in the alternative as well as flexible A3/A5 and/or D2 floorspace in the alternative, together with the provision of a single decked car park, a landscaped plaza with associated hard and soft landscaping, cycle parking, service laybys and drop off zones, the creation of a pedestrian and cycle link connecting United Way with Tower Lane and the installation/construction of balancing ponds, substations and associated infrastructure	
7.3	201130 West House Farm, Bakers Lane, Colchester	107 - 126
	Change of use of land from agricultural and the erection of 3no. Holiday Lodges	
8	Variation to Section 106 Agreement – Hythe Mills	127 - 130
	The Councillors will be asked to endorse a proposed variation to the S106 agreed for the Hythe Mills Student accommodation development. It is proposed to vary the agreement to allow the contribution to be used towards cycling and walking improvements in the area, better benefitting the accommodation residents.	
9	Temporary Changes to Planning Scheme of Delegation	131 - 136
	Councillors will be asked to review the temporary measures that were introduced to allow planning decisions to be made during the Covid-19 lockdown and changes to the scheme of delegation while virtual committees are in operation. They will also be asked to note those applications that have been determined under the delegated arrangements since the last update in October.	
	Exclusion of the Public (not Scrutiny or Executive)	
	In accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972).	
	Planning Committee Information Pages v2	137 - 148

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

Planning Committee

Thursday, 22 October 2020

Attendees: Councillor Lyn Barton, Councillor Helen Chuah, Councillor Pauline Hazell, Councillor Cyril Liddy, Councillor Derek Loveland, Councillor Jackie Maclean, Councillor Martyn Warnes
Apologies: Councillor Brian Jarvis, Councillor Philip Oxford
Substitutes: Councillor Patricia Moore (for Councillor Brian Jarvis), Councillor Gerard Oxford (for Councillor Philip Oxford)

Also in attendance:
Cllr K Bentley, Cllr S Crow, Cllr P Dundas, Cllr A Ellis
Revd L Smith, Mr G Cottee
Mr D Kelly and Ms R Macauley

810 Minutes of Previous Meetings

The minutes of the meetings held on 30 July 2020 and 20 August were confirmed as a correct record.

811 St Peters Church, conversion to single dwelling

The Committee considered an application for the demolition of the majority of the south aisle (retaining western gable wall) and the renovation of the retained building envelope, conversion to a single dwelling, including new reinforced concrete raft foundation and partial mezzanine and new floors to the tower.

The Committee had before it a report and an amendment sheet in which information about the application was set out.

The Committee members had been provided with videos and photographs of the site taken by the Planning Specialists Manager to assist in their assessment of the impact of the proposals upon the locality and the suitability of the proposals for the site.

Reverend Lydia Smith addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She was speaking in her capacity as the local parish priest and Chair of the Parochial Church Council (PCC) and explained that she was supported in her comments by the Diocese. The PCC had already submitted written representations. It was accepted that weight would be given to the partial preservation of the Grade II listed building. A key concern was that whilst church buildings had been converted successfully to residential use, this was more generally where a graveyard had been closed and was then maintained by the Local Authority, however this was an open and working churchyard which would make it more difficult to mitigate conflicts between the various uses. In view of the national shortage of grave space, it was important to maintain access to burial ground. Access to the graveyard was proposed via the north side of

the church where the terrain is sloping and on the only level land, the graves are densely placed. The proposed access route was shown close to the north wall of the church, an area that has a high density of graves, including some dating from as recently as 1990, as well as some cremated remains. This access was unsuitable. The access for maintenance and grave digging vehicles had been to the south side of the church where the access was on level ground, but this area was proposed as a private garden. Parking and access for those attending graveside funerals or visiting graves would also be an issue.

The archaeological study and the bat survey should be undertaken first rather than through the inclusion of conditions.

Mr Gary Cottee, the applicant, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application explaining that the family were committed to saving the building and the proposals represented the only scheme that would secure retention of part of the church. Once completed it would enhance the Conservation Area. He stated that interest in purchasing St Peters had been expressed in 2013 and early on he had carried out a survey of residents that had shown a majority in favour, but these results had been questioned by the Parish Council. No further surveys had been undertaken although the offer of a joint survey had been made. A conservation architectural practice had assisted in the drawing up of the proposals and a covenant would be sought limiting use to that of a single dwelling. In terms of access this would be through a private driveway, but parking is available on School Hill, other than directly in front of the school gates. To address any concerns about traffic movement during works there would be a traffic management plan, limiting the movement of construction traffic during school start and finish times.

Agreement had been reached to relocate tombs from the crypt should permission be granted. He also reassured members that the proposal required only partial demolition of the existing building, away from the active part of the graveyard. The proposal was much less disruptive to activities in the graveyard than The Church Commissioners' scheme which was for complete demolition.

Councillor Ellis attended and with the consent of the Chairman addressed the Committee relaying objections on behalf of the Parish Council who had stated the conversion of the building to a large 5 bedroomed dwelling was not appropriate in a churchyard open to burial. It would impact on the peace and quiet where burials take place. The report did not provide a resolution on the issue of access for funerals and machinery and more detailed information was needed. The number of conditions placed gave rise to concern. The Church Commissioners had expressed concern that the project might flounder, so resources needed to be considered for the viability of the project. In particular, the Parish Council stressed that they would not want the landmark spire to disappear and would wish to see safeguards in place for the retention of the spire. An instrument of guarantee should be in place before consideration of the conversion.

Councillor Bentley attended and with the consent of the Chairman addressed the Committee speaking on behalf of the Parish Council and residents. Mourners at

funerals and those who had loved ones buried in the graveyard would need to pass close by a house and this would be uncomfortable. Consideration should also be given to those tombs in the crypt. It was important that the spire be retained as a landmark.

Parking was an issue as the development was located in a busy cul de sac with traffic for the school. A major concern was whether the proposal would be seen through to completion. It was felt that an assurance should be given that works would not cease halfway. The inconsistency of the Church's position was noted, in that the Church Commissioners would be selling the Church to the applicant and yet a Church representative had spoken against the application.

Alistair Day, Planning Specialists Manager presented the report and, assisted the Committee in its deliberations. A presentation including plans and a video was made.

The Planning Specialists Manager explained the report was before the Committee as it had been called in in respect of demolition work and highway issues by Councillor Bentley. The church was located in the conservation area and grade II listed at the centre of Birch and classed 'at risk'. It had been closed in 1990 and the Church Commissioners had sought demolition and that had been subject to a Public Enquiry (which was subsequently aborted). Should the application before the Committee be unsuccessful proposals to demolish the Church would recommence.

One of the key concerns raised was how access would be maintained for the working of the churchyard. The extent of the proposed garden to the south of the church is the same that agreed at the public inquiry, The Church Commissioners have also accepted that this is the most logical place for a garden as it is subject to historic burials. It is accepted that the land to the south of the church has a shallower gradient and therefore provides an easier access route to the remainder of the churchyard. Officers consider that the precise alignment of any access route should be agreed between the landowner and the applicant. A condition was recommended to ensure that this route was appropriately detailed. The applicant has acknowledged that the development has to be sensitive to burials and has confirmed his willingness to reinter the burials in the crypt to an alternative location within the churchyard.

In respect of the resources for scheme completion, it was the opinion of officers that this is best secured as a condition of the sale of the land, making provision should the development stall.

Two parking spaces were proposed for the dwelling and the applicant had offered to create an area of additional parking to the front of the tower for those visiting the churchyard. The provision of the church visitor parking was a benefit being offered and was not essential for the conversion of the church to a dwelling. The Highways Authority was satisfied that the application would not have a severe impact on the road network. A condition had been included to ensure that there would be no clash with school times for construction vehicles.

The ecological report notes the presence of Pipistrelle bats within the church and a condition was recommended requiring further survey work and a scheme for

mitigation and enhancement to be agreed before the commencement of works p

Raft foundations had been proposed to minimise the impact on ground disturbance and any buried archaeology and memorials would be re-sited.

Members of the Committee acknowledged residents' concerns and raised the following issues:

There was concern that stained glass and all important features including the spire should be retained and should the application be approved a condition securing this should be added to the permission.

Access to the churchyard should be safeguarded, graves should be protected, and any preservation sympathetically carried out.

The tombs in the crypt should be removed for reburial.

Archaeological trenches should be dug, and any artefacts should be preserved in Colchester.

Vehicular access for construction would lead to damage of the greensward.

Parking spaces may in time not prove sufficient for the residents.

Non- completion of the project was an issue and it was felt that a bond/guarantee of available financing would be essential. A bond in place would provide reassurance.

Members also commented that there were many examples where redundant churches had been converted to dwellings. Some of the issues of concern were contractual matters to be resolved between the applicant and the vendor (Church Commissioners) such as financial viability, arrangements for funerals and access.

The Planning Specialists Manager further clarified that the access to the churchyard on the north side was outside the boundary of the application site, and smaller construction vehicles (lorries and forklifts) would need to be used given the access constraints. Planning conditions had been restricted to planning matters only. Two parking spaces for the residents met adopted standards. The survey of grave works was already included as a condition.

The bond to secure the completion of the conversion works was a private contractual matter and should the Church Commissioners not reach agreement on the sale of the land then demolition of St. Peter's would be the likely outcome.

Committee members had expressed a desire to see the landmark of the spire and St. Peter's church features retained and as much of the building itself retained. Members had explored the issues around the application including the conditions required and considered the alternative.

RESOLVED (SEVEN voted FOR, ONE voted AGAINST, ONE ABSTAINED FROM VOTING,) that the application be approved subject to the conditions outlined in the Assistant Director's report.

812 18120 Land at Queen Street, Colchester

The Committee considered report from the Assistant Director Place and Client Services, set out alternative proposals for the southern pedestrian access that is required to be delivered as a part of the approved Alumno development.

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

The Committee members had been provided with a plan of the site and photographs taken by the Planning Specialists Manager to assist in their assessment of the impact of the alternative proposals upon the boundary walling and the suitability of the proposal for the site in the context of the wider conservation area.

Dorian Kelly addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the endorsement of the recommendation. Mr Kelly stated that members were not considering an application but a delegated decision where both options were untenable. As this was not an application no plans had been made available to the public and no public consultation had been undertaken. However, he highlighted that the steep ramp outlined in option 2 with no rail was unsafe and the proposal in option 3 would result in loss of heritage in that it would result in the loss of four and half metres of the heritage wall. He stressed that the planning inspectorate's firm ruling was a Grampian condition that the disabled ramp shall be designed in accordance with BS8300. Mr Kelly urged members to reject endorsement of both options and that the developers should be asked to devise an alternative solution which conformed with the Grampian condition.

Rowena Macaulay addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the endorsement of the recommendation on the grounds that no properly drawn up plans were available to support it and no public consultation had been undertaken on the basis of such plans. Concerns were also expressed that the options did not meet safety standards and in option 2 there was a lack of guarding at the upper level and mobility restricted walkers and wheelchair users may have difficulties were this to be endorsed. Plans were not in the public domain; detailed drawings were needed as gradients and dimensions were key. Provision of details had been requested at the hearing in 2019 when the Inspector had made it clear that this ramp should meet the highest standards. It was important that the ramp dimensions ensured equal and safe access.

Part M of Building Regulations were there to protect the safety of some of the most

vulnerable users of urban settings and the Committee should not authorise works that would fall short of the Building Regulations.

A written submission provided by Sir Bob Russell was read to the Committee pursuant to the provisions of Remote Meetings Procedure Rule 5(1) in opposition to endorsement of the recommendation. This stated:

It is not the role of the Planning Committee to choose the lesser of two evils.

Options before the Committee do not comply with legislation relating to disability access.

Therefore the options should be rejected.

No ifs. No buts.

It is one thing to recognise that there are occasions with existing buildings where it is not possible to provide disability access which is fully compliant – BUT there is no excuse, no justification, in a new development for disability access to be compromised with a sub-standard level of access which is not fully in accord with planning legislation.

There is no wriggle room in the legislation when it comes to new developments.

There was no wriggle room given by the Planning Appeal Inspector when – as a specific Condition for disability access – he allowed the Appeal for the development on the site of the former Bus Station.

Those who attended the Planning Appeal Hearing will recall the strong case put by Councillor Gerard Oxford during those proceedings.

What consultations have there been with organisations which represent the interests of those with disabilities?

Normally it is a delegated matter for Officers to determine Conditions.

This is the first time I can recall that Councillors have been asked by Officers to determine a specific Planning Condition – disability access.

I suggest this is because Officers are fully aware that the Options do not comply with Planning legislation.

It would be a breach of their professionalism to say “yes” to something which they know should be a “no”.

I suggest that Councillors should be very firm – and give a resounding “no” to the options put forward by the developers.

It is for the developers to come up with a scheme where all Conditions are fully in accord with Planning Laws and Regulations. For the Committee to knowingly approve

something that they know is not compliant with Planning Law would be aiding and abetting a wrong.

The Committee was unanimous when last year it Refused the Planning Application for this development. One of the specific reasons was disability access. Therefore the Committee would be consistent in refusing to accept the Options before members, because to do otherwise would be to allow a development to proceed in the full knowledge that disability access is in breach of the planning legislation.

Councillor Dundas attended and with the consent of the Chairman addressed the Committee. He stated that he understood that it had been difficult for the public to comment as the detailed design had not been included in the document pack. The options for disability access from Priory Street to the new development below an ancient wall were poorly conceived and would not work. These options should not be endorsed, in 2020 the developer should be able to find a solution to provide appropriate disabled access.

Councillor Crow attended and with the consent of the Chairman addressed the Committee saying that Colchester should be inclusive for all. Accessibility had been one of the reasons Planning Committee had rejected the scheme. The proposed options would not conform to British Standards. The town had unique heritage and in the past parts of the wall had been lost but in the 21st Century a more enlightened approach should be taken. A 4-metre hole in the wall for an option that would not comply with British Standards should not be agreed. This would be putting commercial gain over heritage. The developer should look at other options to resolve this.

Alistair Day, Planning Specialists Manager presented the report and, together with Simon Cairns, Development Manager assisted the Committee in its deliberations.

The Planning Specialists Manager explained that the report had been brought to Committee for a steer on the two options outlined in the report. The Development Manager added that direction was being sought in terms of the weight members wished to be applied to strict compliance with BS8300 and heritage significance and the approach members wished to be taken in pursuing further negotiations to provide satisfactory means of inclusive access from Priory Street.

The Planning Specialists Manager presented the 2 options in the report. The background to this was the St. Botolph's Masterplan that dated to 2004 that proposed a pedestrian access link to the development site from Priory Street. The Inspector had discussed at length at the Public Inquiry how this access could be provided, including whether a gradient of 1:15 was appropriate and whether this would meet the requirements of the requirements to meet the Equalities Act and concluded that this would and that the detailed design could be controlled through a planning condition. In arriving at the current proposals, consideration had been given to the Planning Inspector's decision letter and the designs presented had taken account of the British

Standard. The British Standard was a guidance document and did not override other legislation. There was a range of legislation and guidance, not all of which was consistent with each other. Building Control had confirmed that that Part M Building Regulations would not apply to the ramp as it was not classed as a building.

It was accepted that this was a complex technical issue to resolve and the Council had engaged an Access Consultant to advise on the proposal to ensure an independent view.

Both access options would comply with the British Standard and were in line in terms of the gradient of 1:15 accepted by the Inspector but in option 2 no guardrail would be provided at the intermediate landing; in Option 3 where a guardrail would be provided the opening in the wall would be significantly wider at 4.8 metres. The wall in question was part of the nineteenth century theatre and not Roman in origin although some Roman rubble may have been reused in the construction of the lower part. Historic England were satisfied with the proposals for Option 2.

The alternative route without the proposed access from Priory Street involved walking along a narrow footpath and up a steep hill, which would not be suitable for people with impaired mobility. The current proposals represented an improvement on this.

Councillor Liddy reassured the Committee that expressing a view in this context would not bind the Committee or prevent it from determining any future application that may be brought forward. It was also confirmed that terms of reference for Planning Committee allowed the Committee to express a view in the way outlined in the Committee report.

Committee members were very concerned with safety issues and it was suggested that the gradient of the ramp provided should be 1:20. The access should comply with the Equalities Act and be safe for all wheelchair users. The steepness of the gradient was an issue and intermediate landings would provide challenges for a manual wheelchair user.

With option 2 shown facing a set of stairs and no guard rail this would prove difficult. Members questioned whether Option 2 contravened the Equalities Act as vulnerable people should be able to access accommodation safely. This should be risk assessed and measures taken. Safe and dignified access to the site and town should be provided.

Members were also concerned about heritage issues and it was pointed out that full Council had recently approved a Strategic Plan stressing the importance of heritage issues. However, both options proposed the loss of part of the historic wall. There was concern around maintaining a sense of enclosure. It was suggested that the breach in the wall as shown in Option 3 be arched to maintain a sense of enclosure. It was acknowledged however that this may give rise to other safety issues such as climbing. Another suggestion was that additional land in Priory Street Car Park be used to facilitate the improvement of the ramp gradient, albeit it was recognised that this fell out the current application site boundary.

The Committee were advised that officers could further explore the issue of gradients and increase of space with the developers.

The Committee noted the recommendation in the report. The Committee unanimously voted AGAINST the recommendation in the Assistant Director's Report, namely that option 2 is supported .

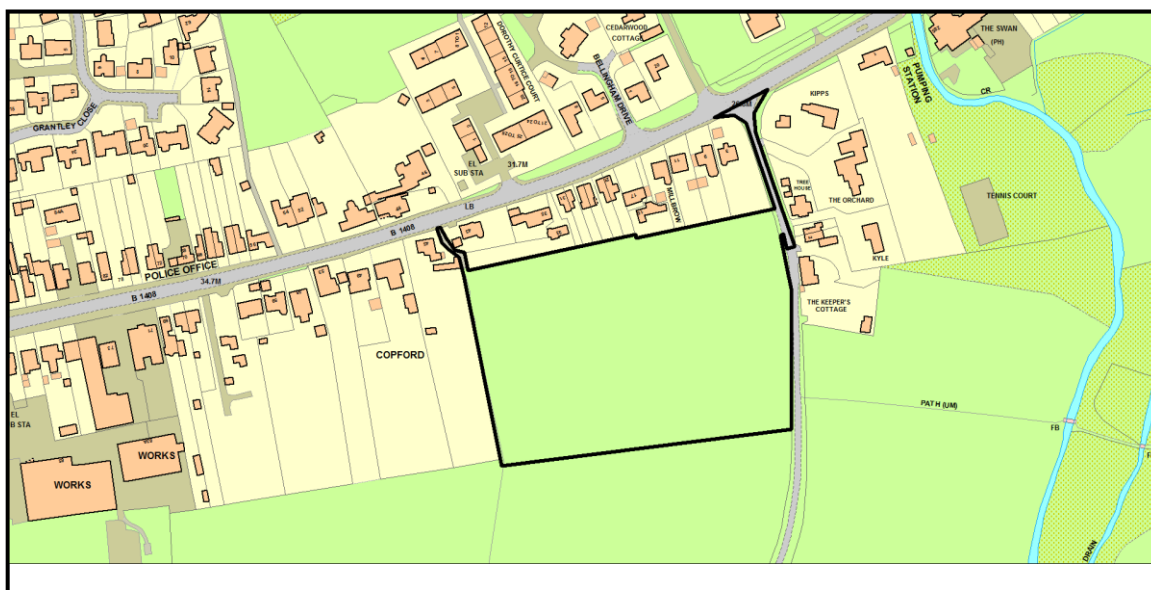
A proposal was then made that option 3 be endorsed, subject to the breach in the wall being arched. On being put to the vote, this proposal was lost (TWO voted FOR, SEVEN voted AGAINST)

813 Applications Determined in Accordance with the Officer Scheme of Delegation

The Committee considered a report by the Assistant Director, Place and Client Services giving details of the applications which have been determined up to 1 October in accordance with the revised scheme of delegation agreed at the Committee's meeting on 18 June 2020.

The Committee had before it a report and detailed amendment sheet in which all information about the applications were set out.

RESOLVED (UNANIMOUS) that the applications listed in the Assistant Director's report and Amendment Sheet which had been determined under the revised scheme of delegation be noted.



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Item No: 7.1

Application: 201236

Applicant: Ms S Harrison

Agent: Mr Roger Hayward, Fenn Wright

Proposal: Outline application for the erection of up to 49 houses and associated highway works.

Location: Hall Road, Copford, Colchester

Ward: Marks Tey & Layer

Officer: James Ryan

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the application is a departure from the adopted local plan and it is a major application where a legal agreement will be required.

2.0 Synopsis

- 2.1 The key issues for consideration is the principle of the development on a site that is outside of the defined development boundary in the adopted Local Plan but allocated for development in the in the Emerging Local Plan. The highway implications of the scheme are also key as access is a matter for consideration now.
- 2.2 The application is subsequently recommended for approval subject to conditions.

3.0 Site Description and Context

- 3.1 The site, approximately 2ha, is situated to the east of the village of Copford and comprises agricultural land currently under arable production. The area, which is irregular in shape but broadly square, sits behind existing dwellings which front onto the London Road and lies to the west of Hall Road. A public right of way runs along the western boundary.
- 3.2 The site is bounded by existing dwellings to the north, north east and north west, whilst the southern aspect is open to adjoining arable land.

4.0 Description of the Proposal

- 4.1 Outline planning approval is sought for the erection of up to 49 houses and associated highway works. All matters apart from access are reserved for future consideration, those being Layout, Landscaping, Appearance and Scale.

5.0 Land Use Allocation

- 5.1 Agricultural Land

6.0 Relevant Planning History

- 6.1 None

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 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. Particular to this application, the following policies are most relevant:

- SD1 - Sustainable Development Locations
- SD2 - Delivering Facilities and Infrastructure
- H1 - Housing Delivery
- H2 - Housing Density
- H3 - Housing Diversity
- H4 - Affordable Housing
- UR2 - Built Design and Character
- PR1 - Open Space
- PR2 - People-friendly Streets
- TA1 - Accessibility and Changing Travel Behaviour
- TA2 - Walking and Cycling
- TA3 - Public Transport
- TA4 - Roads and Traffic
- TA5 - Parking
- ENV1 - Environment
- ENV2 - Rural Communities
- ER1 - Energy, Resources, Waste, Water and Recycling

7.3 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:

- DP1 Design and Amenity
- DP2 Health Assessments
- DP3 Planning Obligations and the Community Infrastructure Levy
- DP4 Community Facilities
- DP12 Dwelling Standards
- DP14 Historic Environment Assets
- DP16 Private Amenity Space and Open Space Provision for New Residential Development
- DP17 Accessibility and Access
- DP18 Transport Infrastructure Proposals
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage
- DP21 Nature Conservation and Protected Lanes
- DP25 Renewable Energy

7.4 Some “allocated sites” also have specific policies applicable to them. The adopted Site Allocations (adopted 2010) policies should be taken into account in the decision making process. This site is not allocated in the adopted local plan.

7.5 The area does not have a Neighbourhood Plan.

7.6 Submission Colchester Borough Local Plan 2017-2033:

The Council is developing a new Local Plan that has been submitted to the Planning Inspectorate for examination (October 2017). In particular emerging policy SS4 is relevant and this will be discussed in the main body of the report.

An Inspector has been appointed and the formal examination commenced in January 2018. The examination is ongoing.

Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to:

1. The stage of preparation of the emerging plan;
2. The extent to which there are unresolved objections to relevant policies in the emerging plan; and
3. The degree of consistency of relevant policies to the policies in the Framework.

The Emerging Local Plan is at an advanced stage and is, therefore, considered to carry some weight in the consideration of the application, but as it is yet to undergo a full and final examination, it is not considered to outweigh the material considerations assessed above in accordance with up-to-date planning policies and the NPPF.

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

The Essex Design Guide
External Materials in New Developments
EPOA Vehicle Parking Standards
Affordable Housing
Community Facilities
Open Space, Sport and Recreation
Sustainable Construction
Cycling Delivery Strategy
Sustainable Drainage Systems Design Guide
Street Services Delivery Strategy
Planning for Broadband 2016
Managing Archaeology in Development.
Developing a Landscape for the Future
ECC's Development & Public Rights of Way
Planning Out Crime
Air Quality Management Guidance Note, Areas & Order

8.0 Consultations

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

8.2 Anglian Water

No objection raised, informatives requested.

8.3 Archaeology

A trial-trenched evaluation was undertaken of this proposed development site in 2016 by Archaeology South-East (HER Event no. ECC3878; ASE Report 2016371) and this followed a geophysical survey (HER Event no. ECC3882). Below-ground archaeological remains dating to the Iron Age period were defined by this work. Groundworks relating to any development have the potential to disturb and damage any archaeological remains.

There are no grounds to consider refusal of permission in order to achieve preservation *in situ* of any important heritage assets. However, in accordance with the *National Planning Policy Framework* (Paragraph 199), 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.

8.4 Cadent Gas

No objection.

8.5 Contaminated Land

It has been concluded that the site could be redeveloped for the proposed residential use, with the requirement for gas mitigation measures still to be subject to further investigation/monitoring. Based on all the information provided to date, this conclusion would appear reasonable.

It would appear that this site could be made suitable for the proposed residential use, with the recommended ground gas risk assessment and any necessary mitigation measures addressed by way of planning condition(s).

8.6 Environmental Protection

No objection, conditions requested.

8.7 Environment Agency

No comment received.

8.8 Essex Police

The published documents have been studied and, unfortunately, do not provide sufficient detail to allow an informed decision. Essex Police would recommend the applicant incorporate Crime Prevention through Environmental Design and apply for nationally acknowledge and police recommended Secure By Design accreditation. (*Officer note: This can be secured through the reserved matters applications*)

8.9 Historic Buildings and Areas

No objection to the scheme but noted that scheme will cause less than substantial harm to the setting of the Grade ii Listed Brewers Cottage and at reserved matters stage this needs to be taken into consideration. The indicative layout is not acceptable in this respect. (*Officer note: The layout is a reserved matter and mitigation can be secured through the detailed layout*)

8.10 Landscape Advisor

No objection in principle but design changes are needed at reserved matters stage.

8.11 LLFA

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we do not object to the granting of planning permission subject to conditions.

8.12 Natural England

No objection subject to securing RAMS contribution if required by the LPA's Appropriate Assessment.

8.13 North Essex Badger Group

I have read through the Ecological Assessment and would point out that there are several badger locations around the proposed development which they are probably not aware of, and the site is regularly accessed by foraging badgers. Should this Application be approved, we would ask in the first instance, that care should be taken when clearing the boundaries. Secondly, we would suggest that once work begins, open excavations are covered at night to avoid any foraging badger falling down and being unable to exit.

8.14 Trees

I am in agreement with the tree survey element of the report provided.

The internal layout of the site also needs to be reviewed. Where trees are close to the built form, particularly in the Northern Boundary/North West corner of the site redesign will be required to give more space to comply DP1 & UR2. (*Officer note: This can be secured through the reserved matters applications*)

8.15 Urban Design

Objects to scheme for a number of reasons – see main body of report. (*Officer note: These matters can be resolved through the reserved matters applications*)

8.16 Essex County Highways

Comment that from a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to conditions and informatives.

9.0 **Parish Council Response**

9.1 The Parish Council have objected to the scheme. The full objection is very detailed and can be read online but in summary:

Hall Road is a 'call for sites' allocated site CBC. Why is it the subject of an Outline Planning Permission now when LP2 has not yet been examined? The current Borough Local Plan is still in operation until the end of 2021 and within this there is no housing allocation for Copford. This planning application is opportunistic, speculative and premature.

Other main reasons for objections:

- Vehicle access/egress from Hall Road to London Road
- Pedestrian/vehicle safety in Hall Road due the 'shared' surface and narrow road
- Number of houses proposed does not work with Hall Road width
- Privacy issues for nearby homes
- Negative impact on historic Grade 2 listed home, and its setting, also on nearby homes
- Negative impact on local landscape - LOWS Conservation area
- Urban sprawl design of homes in a rural area
- Flooding risk on development site
- Possibility of Ground gas
- Negative impact on possible Archaeological remains
- Urban Design Consultation Comments

9.2 Copford with Easthorpe Parish Council strongly objects to this application.

10.0 Representations from Notified Parties

10.1 The application resulted in a number of notifications to interested third parties including neighboring properties. In response 128 objections were received, some from the same address. A support representation was also received. A number of the representation were very detailed and it is beyond the scope of this report to reproduce them all in full but the full text of all of the representations received is available to view on the Council's website. However, a summary of the objections raised is given below.

- The Emerging Plan has not been Examined yet.
- This scheme is premature.
- The site should not have been allocated.
- It will be visually intrusive.
- Other sites were preferable to this one, for example the car boot sale site north of London Road.
- The scheme undermines the Emerging Plan.
- The Council should be confident in it's five-year housing supply.
- The Council should wait for the garden communities.
- Copford is at capacity.
- The Highway network can't cope.
- The Transport Statement is inaccurate.
- The site exceeds the 25 dwellings a shared surface can have.
- Hall Road is a narrow rural lane, not a road, and its intensification is not appropriate.
- Hall Road is used by walkers, runners and cyclists.
- London Road is extremely busy.
- There are lots of other developments in the area so we don't need this this one too.
- The other facilities in the area can't cope, for example schools/doctors/dentists.
- The sewage treatment works cant cope and wont cope with this.
- Harm to setting of listed buildings.
- We were led to believe this site would not be built on.
- The Emergency services are already under pressure.
- The local schools are oversubscribed.
- We don't need any more dwellings.
- 49 is too many dwellings.
- Is this needed in the post Coivd-19 world?
- I endorse all the suggested objections in the newsletter.
- This will result in 100 more cars in the areas which is unacceptable.
- This is developer profit over everything else.
- Is nothing sacred anymore?
- The needs of local families and the wider community are not being considered here.
- The scheme is not in-keeping with the area.
- The applicants have ignored the pre-app advice.

- This is low density development when we should be promoting high density development in more urban areas.
- The density is too high, there should be no more than 25 dwellings.
- The scheme comprises overdevelopment.
- The modern house types are not appropriate in this area.
- Bungalows are needed.
- This is urban sprawl.
- Scheme will be materially harmful to my amenity.
- Light from headlight will be materially harmful.
- Loss of good agricultural land which is actively farmed for food.
- The consultation exercise has not changed anything.
- The water treatment plant cannot cope with 49 more houses.
- The Doctor's surgery can't cope and is highly oversubscribed.
- This will destroy wildlife/ecological impact.
- Loss of important trees.
- Flooding and drainage issues.
- Harm to Archaeology
- Increased off site flood risk.
- How would this scheme be built out without compromising the access to the existing dwellings on Hall Road.
- The design is poor as shown by the Council's own Urban Designer.
- Please see our representation to the Emerging Policy (this is addressed in the principle section of the report below).
- I support the scheme but note a number of concerns some of which are fundamental to the acceptability of the scheme.

11.0 Parking Provision

11.1 This scheme is an application for outline permission only but there is sufficient space to ensure that all dwellings will enjoy parking space numbers that comply with adopted standards; including on site visitor parking provision.

12.0 Accessibility

12.1 At reserved matters stage the scheme will be able to deliver a scheme that is sufficiently accessible to enable the proposal to comply with the Emerging Policy in that regard. The affordable housing request in the 'Development Team' section below sets out what accessibility standards are required and it can be seen that the affordable dwellings meet these requirements (it is appreciated that this may change along with a change in layout however).

13.0 Open Space Provisions

13.1 The site is of a sufficient size to provide 10% on site open space which can be secured at reserved matters stage.

14.0 Air Quality

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

15.0 Planning Obligations

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

The scheme was discussed at the 9/7/2020 Development Team and the following requests were made:

Archaeology - £17,553 Contingent on finds:

£14,400 for museum quality display case, design and display material £2,400 for an interpretation panel

£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 resource.

Communities - £88,200 Project - Copford Village Hall: Needs new flooring, upgrade to kitchen facilities, new lighting, decoration and car park resurfacing. Estimated £40K Alma Community Shop and Hub: The pub created a not for profit community hub during the COVID pandemic and aim to continue to provide the services in partnership with the parish council and local volunteers. Estimates for conversion of the outbuilding are £45K

NHS - No contribution request due to numbers of units falling below our threshold of 50.

Housing – The development is proposed to deliver 49 dwellings on a site which is an emerging allocation, where 30% affordable housing will apply. The affordable housing proposed as it is, is not acceptable because the affordable housing is heavily weighted to the two bed dwellings. The table below sets out what has been proposed and also the affordable housing requested which will deliver a more balanced mix of affordable housing which can be suitable for a range of family sizes.

Dwelling Type	No. Dwellings	Affordable Proposed	30% Policy Requirement	Affordable Requested
Two Bed House	11	9	3.3	5
Three bed House	26	6	7.8	8
Four Bed House	12	0	3.6	2
	49	15	14.7	17

The layout of the dwellings is not available at this stage, but as the affordable three bed houses that have been offered are 102 sqm, I would suggest that it is designed to suit a family of 6 persons. The smallest four bed is 116sqm. I would suggest that the layout is designed to suit a family of 7 persons, or if the size of the four bed is to be reduced down to around 106 sqm, this will be in line with nationally described space standards for a family of 6 persons and would also be acceptable. A four bed 6 person house could be more suitable to house a family where there are children in the household of mixed sexes where they are above the age where they can share a bedroom.

The tenure mix would be expected at no less than 80% for affordable rent and no more than 20% intermediate (shared ownership). This would be the equivalent of no more than 3 dwellings as shared ownership. The shared ownership can be a combination of the two and three bed dwellings.

All affordable dwellings are being designed to meet Part M4 Cat 2 which is in line with policy and all dwellings meet or exceed the nationally described space standards which indicates they are of a good size. A level access shower had previously been requested for one of the Cat 2 dwellings. This is no longer requested as through internal discussions with the allocations team and occupation therapist, it has been concluded that Cat 3 homes are better suited for the provision of level access showers.

Highways – The improvements to Hall Road are required to provide a safe means of access to the proposal site for vehicles, cyclists and pedestrians.

- a) Upgrade to current ECC specification of the two bus stops which would best serve the proposal site (details to be agreed)
- b) Improvements to Public Footpath Copford 2 between the proposal site and London Road (details to be agreed)
- c) Residential Travel Information Packs in accordance with ECC guidance Requirements conditioned and delivered either as part of the site or by a S278 agreement

Parks & Recreation - £294,296 offsite contribution.

We would seek LEAP children's playground to be provided. If adopted a maintenance contribution of £22,772.50

Project - Access and pathway improvements to provide a DDA pathway/gates/car park which is suitable for wheelchair and mobility users from the new development to Copford Pits Wood (Copford Pits Wood Trust) and Copford Village Hall.(Copford Parish Council). @£222,607.00. Based on an access survey of Pits Wood carried out in October 19. Playground improvements to the play equipment at Copford Village Hall Open Space if no on-site provision. @£71,689.00 Supports the Copford Pits Wood Open to All project which also includes a changing places toilet. (see Communities requests) Projects subject to consultation with voluntary groups, trustees and Parish Council.

(It is noted that the Parks and Recreation Spend Purpose is subject to change and this is still open to discussion.

Education – £486, 834.60

No EY&C contribution required.

This development would sit within the Priority Admissions Area of Copford CE Primary School, which has a Published Admission Number of 30 pupils per year. Due to demand, the school has taken over this number in some years and, as of January, had a total of 214 children on roll. The school currently relies upon temporary classbases to accommodate this number. Any further development in the village adds to the case for additional permanent accommodation to be built.

The closest secondary school to this development would be The Stanway School. The school increased their published admission number to 280 in 2018 and last September took slightly over this number. As set out in the Essex School Organisation Service's 10 Year Plan to meet demand for school places, demand for secondary school places in Colchester (Group 1) is increasing. Despite the next cohort being a relatively small year, The Stanway is again expected to fill and already has a waiting list.

14.70 multiplied by £17,268 = £253,839.60

9.80 multiplied by £23,775 = £232,995.00

Indexation from April 2020 is requested.

16.0 Report

Material Planning Considerations

Principle of Development

Introduction

The planning policy approach to the proposal reflects the Council's current position in the plan-making process where both an adopted and an emerging Local Plan are relevant. The relationship of the proposal to each of those plans and the compliance of relevant adopted and emerging policies with the 2019 NPPF are accordingly key variables in assessing the planning balance. The Council considers that it has a 5-year housing land supply and therefore there is no need to apply the tilted balance principle.

It is considered that the fundamental principles of both the Adopted and Emerging Local Plans are compliant with the new NPPF. The analysis below will consider whether there are any relevant non-compliant elements of CBC policy with the NPPF that justify a reduction in the weight to be given to the policy in assessing the planning balance in this case. For the Emerging Local Plan, the following analysis reflects the NPPF criteria on the weight to be given to policies, which depends on the stage of preparation of the plan; the extent to

which there are unresolved objections to relevant policies; and the degree of consistency of the relevant policies to the Framework (see paragraph 48). In terms of the first criteria, the ELP is in the examination stage so can be given some weight

Copford are also preparing a Neighbourhood Plan although in the early stages of preparation having recommenced work in 2018, so no weight can be applied in the context of the Development Plan.

Adopted Local Plan

The NPPF continues to support the Policy approach in the Adopted Local Plan in principle, in respect of the key policies on settlement hierarchy relevant to this proposal, SD1 and ENV1. As the Council is able to demonstrate a 5 year housing land supply these policies are relevant to the decision making on this proposal. Policy SD1 accords with Paragraphs 10-12 of the 2019 NPPF which provide for a presumption in favour of sustainable development. Policy SD1 is consistent with the NPPF's approach to decision-taking which entails approving proposals that accord with the Local Plan unless material considerations indicate otherwise, and which involves the LPA working proactively with applicants. It is noted, however, that the housing and jobs target provided in the policy no longer remain current. Whilst the supply figure itself may be out of date the principle of the overarching spatial strategy and the settlement hierarchy are not and as such weight should still be afforded. SD1 includes Copford as a 'Rural Communities' which lies at the bottom of the spatial hierarchy.

Since the proposal falls outside the settlement boundary for Copford, policy ENV1 covering the countryside outside settlement boundaries is relevant. The requirements of policy ENV1 for the conservation and enhancement of Colchester's natural and historic environment is in accordance with paragraph 170 which clearly recognises the intrinsic character and beauty of the countryside and demonstrates that planning policies should contribute to and enhance the natural local environment via protection, maintenance, and preventing unacceptable risk. It is considered that the criteria-based approach of ENV1 accords with the more flexible approach to countryside development adopted in the NPPF.

Based on the protection afforded to land outside Settlement Boundaries (SBs) and outside of the most sustainable locations in SD1 and ENV1, the proposal is not considered to be compliant with these policies. While Policy ENV2 on rural communities covers rural exception sites, it is of no relevance to this specific proposal which is not based on the rural exception principle. Other policies are relevant to the proposal including those relating to affordable housing and design and layout, which will be dealt with in the relevant section.

Emerging Local Plan (ELP)

The NPPF also advocates consideration of other factors including emerging local plans which can be afforded weight when they reach an advanced stage of preparation. In this respect Paragraph 48 states that authorities may give weight to emerging plans according to the stage of preparation, the extent to which there are unresolved objections to relevant policies (and the significance of these objections - the less significant the greater the weight that can be given) and the degree of consistency of the relevant policies to the NPPF (the closer the policies are to policies in the NPPF the greater the weight that may be given). Testing these criteria will inform the judgement about the weight which should be afforded to the Emerging Local Plan in this case.

In terms of Paragraph 48(a) of the NPPF the ELP is considered to be at an advanced stage having been submitted in 2017 with examination commenced in January 2018. A technical consultation was undertaken from 19 August to 30 September 2019. This consultation was limited to the additional evidence base documents including SA, requested by the Inspector in relation to section 1. Further examination hearing sessions are scheduled from 14 January to 30 January 2020.

Amongst other matters, the ELP seeks to allocate additional land to meet the housing targets up to 2033 of 920 homes per year on sites which are in accordance with the revised Spatial Strategy (SG1).

Copford is identified as a Sustainable Settlement in the spatial strategy. As such policy SS4 proposes the allocation of land for 120 dwellings on 2 sites in Copford. Land West of Hall Road is allocated to provide 50 dwellings and Land East of Queensberry Avenue to provide for 70 dwellings.

The proposed allocation policy SS4 is of particular relevance providing a different policy context than the Adopted Local Plan. The policy wording is set out below:

SS4: Copford

West of Hall Road

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) Up to 50 new dwellings of a mix and type of housing to be compatible with surrounding development;*
- (ii) A single site access via Hall Road;*
- (iii) Detailed flood modelling to assess flood risk at Hall Road from Roman River; and*
- (iv) A safe pedestrian footway agreed with the Highways Authority from the site to London Road to enhance connectivity with Copford.*

(v) A design and layout which complements the listed buildings and their setting as well as any archaeological assets.

The Spatial Strategy Policy SG1 and Policy SS4 are aligned with the NPPF as follows:

- Paragraphs 15 and 16 reinforce that development should be plan led and contribute to the achievement of sustainable development.
- Paragraphs 18 and 28 outline that Local Plans should include non-strategic policies which provide more detail for specific areas and types of development.
- Paragraph 59 reiterates the Government objective of increasing the supply of homes.
- Policy SS4 is one of a number which allocates sites for residential dwellings within Sustainable Settlements as identified by the Spatial Strategy.

The key policies in the Emerging Local Plan relevant to this scheme are accordingly considered to be highly consistent with the NPPF and should therefore in respect of paragraph 48(c), be afforded considerable weight.

The final issue to be considered when determining the weight to be afforded to the ELP is the level of unresolved objection to the relevant policies. Accordingly, further consideration of the issues raised in representations to Policy SS4 is necessary to guide the judgement of the weight which should be given to the emerging policy in this case. There were 38 representations received to Policy SS4. A report was also received from the VOICE Group (Village opinions in Copford and Easthorpe) supported by 221 residents and endorsed by a further 5 respondents. The key issues raised are summarised below:

Development in Copford

- Limited facilities in Copford - oversubscribed schools, no health facilities, lack of shops, post office, lack of employment provision, lack of green and open space including playing fields
- Issues with existing infrastructure capacity including sewage and water capacity, local road network and rail services
- Threat to Forest School and green environment of agricultural fields
- Air quality and health impacts (particularly from increased traffic)
- Proposed sites are not in the right location - north and east of Copford, no provision in Copford Green or Easthorpe
- Growth for Copford exceeds all other village developments
- Poor engagement and publicity of Local Plan, with previous comments not considered.
- Promotion of alternative sites, including Former Car Boot Site, London Road by VOICE Group and others.

Land West of Hall Road allocation

- Developer support for the allocation.
- Brownfield sites in the village should be considered first.
- Hall Road unsuitable to serve a development of 50 additional houses, unable to support two car width road with pavement and visibility concerns of turning right out of Hall Road into London Road at peak times particularly.
- London Road already congested, issues with parking and air quality concerns.
- Hall Road is an important local pedestrian route and bridleway which is designated as a Protected Lane in the adopted Local Plan.
- Impact to listed buildings and archaeological site (Iron Age remains may be present on site)
- Hall Road is a historic route and has recently been deallocated as a historic land status, during the preparation of the Local Plan.
- Existing capacity issues at sewage facility, development would require connection to main Colchester system.
- Existing sewage facility causing odour and air quality impacts.
- Not well placed in relation to secondary school, health services, shops, libraries and Marks Tey Station.
- Existing developments at London Road already pressure on local facilities, roads, traffic flow and other issues. Further development in this area along with the Garden Village at West Tey is not appropriate.
- Hall Road development would infringe on sports provision.
- Impact to existing biodiversity, birds and wildlife particularly to Roman River, Pits Wood (LoWS) and Copford Wood
- Hall Road site has been under an environmental stewardship scheme to help increase biodiversity (agricultural land)
- Hall Road and Hall Lane are full of wildlife and accessed via local people encompasses village life to engage in walking, cycling and other leisure activities would result in a major local amenity impact.
- Development will threaten setting of Copford Green Conservation Area and does not recognise importance of Roman River Valley Conservation Area.
- Development would remove the break between large scale developments off London Road, would result in the merging of Copford Village with Colchester.
- Historic flooding to the north west corner of the site on several occasions.
- Impact to air, water and soil quality are uncertain as outlined the SA.
- Development would set a precedent for further applications to extend the built area further to the south and south east of Copford.
- Current housing development in area is of ribbon type and not built up as stated at paragraph 14.149

- Highways England - Copford and Copford Green development of the scale proposed is unlikely, on its own, to have a severe impact on the strategic road network.
- Copford with Easthorpe Parish Council - welcome reduction in housing numbers for 180 to 120 but does not result in improved local infrastructure. Supports intention of protecting green spaces, but suggest Car Boot site for 40 units as alternative to other sites. Two locations proposed are amongst worst fit although consideration of other sites off School Road could provide similar level of housing and less issues than those proposed.

It is considered by the Council that the scale of development proposed at Copford through the Emerging Local Plan is consistent with the level of development proposed for other Sustainable Settlements. However, there were a high number of representations to the Regulation 19 Local Plan Consultation, including the promotion of a number of alternative sites; most frequently the former Car Boot Sales field, London Road.

The Council are also aware that there have been contamination issues historically in the Copford area. As per ELP Policy ENV5, this will require specialist consideration and investigation to inform a planning application. It is noted that Environmental Protection did not raise any concerns on this issue in their response to this planning application.

The Council need to consider whether the proposed development is able to address these objections in order for these to be considered resolved, in line with paragraph 48 of the NPPF. The policy requirements in ELP Policy SS4 and other relevant policies, provide the framework to do this to ensure ecological, agricultural and heritage assets are addressed with the necessary mitigation. There is also a requirement to consider infrastructure requirements including wastewater treatment and sewage infrastructure as required by ELP Policy PP1.

The key concerns regarding infrastructure capacity appear to be related to the local road network and access road, education, sewage and water capacity and flood risk. In order to resolve a number of these responses, the view of the relevant infrastructure providers will therefore be an important consideration in weighing up the balance to be afforded to these issues. The most relevant agencies are listed below:

- Essex County Council - Highways Authority;
- Highways England;
- Environment Agency;
- Anglian Water;
- Essex County Council - Local Education Authority; and
- Essex County Council - Lead Local Flood Authority.

The Colchester Water Cycle Study (AECOM, 2016) to support the ELP, provides a RAG rating for each proposed site in terms of wastewater and water supply network. The Hall Road, Copford site are scored with an 'amber' rating for both assessments. An amber rating for wastewater network concludes that "*Pumping*

station or pipe size may restrict growth, or non sewerred areas, where there is a lack of infrastructure: a pre-development enquiry is recommended before planning permission is granted". An amber rating for water supply concludes that "infrastructure and/or treatment upgrades required to serve proposed growth or diversion of assets may be required."

The response from Infrastructure providers to planning applications and the Local Plan is the best measure of the extent to which there is capacity for the planned growth. This also provides the context for considering whether any objections to the Local Plan proposals remain unresolved. The responses from the relevant infrastructure providers is therefore an essential element in determining the balance and the weight to be afforded to the ELP. In the event that either support/no objection or appropriate mitigation is available from all relevant infrastructure providers, this would suggest that there was capacity for the growth proposed, and any objections lodged against the proposed allocation in the ELP are capable of being resolved and this is the case.

Planning Balance

The Adopted Local Plan did not include the proposal site as an allocation and the proposal is therefore contrary to policies SD1 and ENV1 restricting development outside of development boundaries. Both policies are considered to be up-to-date in so far as they relate to the proposal.

It is also the case that the Council is able to demonstrate it has a 5- year housing land supply. The Council's latest published Annual Housing Position Statement (April 2020) demonstrates a housing supply of 5.4 years based on an annual target of 1,078 dwellings which is calculated using the Standard Methodology. This equates to a need for 5,659 dwellings over the 5 year period when a 5% buffer is added. We can demonstrate 6,108 dwellings. This relates to the current monitoring period which covers the period 1.4.20 to 31.3.25. The Council's 5-year supply has been tested at appeal and found to be robust.

As the Council is able to demonstrate a 5- year Housing Land Supply, paragraph 11(d) of the NPPF is not engaged.

It is also relevant to consider the extent to which the application is compliant with the ELP. Policy support for any proposal is unlikely to be afforded unless it is fully compliant with all of the relevant emerging policy requirements as indicated in the ELP. In this case, there are not specific infrastructure requirements listed in the allocation policy (SS4), these are addressed in other policies such as PP1 (infrastructure and mitigation requirements) and DM8 (affordable housing) in the ELP. However, concerns regarding infrastructure capacity of the proposed site have been raised to Policy SS4.

The allocation policy in the ELP for the site at Hall Road, Copford includes a range of requirements including a single access road and pedestrian footway and consideration of the listed buildings and their setting and archaeological assets; with other policies in the plan requiring acceptable measures which would include ensuring any development was of an acceptable design and layout and

appropriately landscaped for example. A scheme of 49 units at this site which is fully policy compliant in respect of all relevant ELP policies, is likely to be able to satisfactorily mitigate against the impacts raised in the objection to the ELP which are specific to this site.

The Council is increasingly faced with applications for speculative development on sites which are not allocated in the Adopted or ELP, including a number of these going to Appeal. A number of speculative applications have been made in other Sustainable Settlements, including Tiptree and West Bergholt. It is anticipated that pressure from speculative development is only likely to increase until the Emerging Local Plan has been Adopted in locations throughout the Borough, which could include Copford. Therefore, a pragmatic approach to proposed allocations is required. It is preferable to allow schemes on allocations in the Emerging Local Plan where they are policy compliant. The Emerging Local Plan allocations have been through a Sustainability Appraisal, public consultation and other rigorous assessment as part of the Local Plan process. Whereas speculative proposals are usually, in locations which received less favourable Sustainability Appraisal/or other assessment or, have not been through such assessments as part of the Local Plan process.

The ELP is considered to be relevant to this proposal since it changes the planning context for the site through a proposed site allocation. It makes up one of two sites proposed to accommodate planned growth for Copford with the key requirements set out in Policy SS4. In respect of Paragraph 48 of the NPPF, it is considered that the ELP can be given weight due to its stage of preparation and consistency with the NPPF. The final consideration in the weight to be given to the ELP is the level to which representations can be resolved. It is noted that objections made to the proposal at the Local Plan stage have continued with a large number of objections at the planning application stage. Weighing up the weight to be given to these concerns involves consideration of the responses by the infrastructure providers and Council's specialists to a planning application to determine if there is capacity for the development with mitigation where appropriate. In this instance, while it is noted that statutory providers are largely satisfied with the level of infrastructure to be provided, subject to condition, the Council's Urban Designer continues to raise significant objections to the scheme on design, access, visual amenity, layout and architecture which compromise the extent to which the proposal meet policy requirements but as an outline proposal is not held to be reasonable to refuse this scheme on the basis of design which can be dealt with at reserved matters stage. On that basis the scheme is held to be acceptable in principle.

Highways

Aside from the principle of development, the only matter for approval at this stage is the access. It is therefore also important to consider the impact on the highway network.

Core Strategy policy TA4 seeks to make the best use of the existing highway network and manage demand for road traffic. The policy makes it clear that new development will need to contribute towards transport infrastructure improvements to support the development itself and to enhance the broader network to mitigate impacts on existing communities. Development Plan policy DP17 requires all development to maintain the right and safe passage of all highways users. Development Plan policy DP19 relates to parking standards in association with the Vehicle Parking Standards SPD (see Section 11 of this report for details of parking requirements).

The highway works as set out on the plans that accompany the application and make up the Transport Assessment have been carefully considered by the Highway Authority. They do not object to the scheme on the basis that the internal layout is for future consideration, subject to a number of conditions that have been suggested at the end of this report.

This scheme will require some improvements to the Hall Road/London Road junction and to do this a number of trees will need to be removed to improve the currently poor vehicular visibility – in particular the visibility east when exiting Hall Road onto London Road in either direction. The arboriculture implications of this are discussed in the relevant section below.

There have been some detailed comments about the acceptability of the highway geometry proposed, For example:

“The access design proposed is substandard. The Essex Design Guide Street Type Table 6.1 requires 5.5m carriageway plus 2 no 2m footpaths as shown in the submitted site plan. Yet the access from London Road relies on a section of adopted highway restricted to a total width of 5.3m including one 1.2m footpath with a crossover and with no effective physical demarcation from the carriageway. Two modern cars (combined width including mirrors an average of 4.2m with zero separation between them) cannot pass without overrunning the footpath. A large van is 2.4m wide including mirrors. 25mm high kerbs are proposed (intentionally to permit overrunning) which will imply a priority to vehicles and deter pedestrians and cyclists therefore not promoting the use of public transport, contrary to policy. Footpath overrun areas are normally only provided for service vehicles with deterrent paving for other vehicles. The proposed design effectively encourages overrunning of the already substandard width single footpath by vehicles. Reference is only made to the Street Manual to justify minimal widths and only considers the concept of "Movement" with no regard to "Place". There is no reference in the design to avoid disability discrimination.”

The applicants argue that it is accepted that the current proposed highway works to Hall Road do not adhere to the Essex Residential Design Guide (2018) for a Type E Access Road that provides design parameters for roads serving development between 25 to 200 dwellings in a cul-de-sac format. However, this is a 'Guide' not a definitive highway design document such as that set out in the

Design Manual for Roads and Bridges for Trunk Roads. Should the highway authority allow it, relaxations to the design parameters set out in the Design Guide can be acceptable. As set out in Manual for Streets 2 in section 3.2 'Design Guidance and Professional Judgement' in respect to the use of adhering to guidance, it states:

"3.2.1 For some time there have been concerns expressed over designers slavishly adhering to guidance regardless of local context. Local Transport Note 1/08 (para 3.2.1) specifically advises: 'Regulations and technical standards have a key role in the delivery of good design, but, if used as a starting point, they may serve to compromise the achievement of wider objectives. A standards-based template view of road junction design, for example, is inappropriate.'

3.2.2 In reality, highway and planning authorities may exercise considerable discretion in developing and applying their own local policies and standards. LTN 1/08 3.2.3 goes on to state that 'Designers are expected to use their professional judgement when designing schemes, and should not be over-reliant on guidance.'... 'Available guidance is just that, guidance, and cannot be expected to cover the precise conditions and circumstances applying at the site under examination.'"

The Highway Engineers employed by the applicants (Richard Jackson Ltd) therefore undertook pre-application consultation (including an on-site meeting) with a Essex Highways Development Engineer (who considers it from a policy and design perspective) and a Highway Engineering Team Leader (who considers it from a technical, adoption and maintenance perspective). The pre-app advice was undertaken at the request of the LPA and as it was known that the necessary improvements to Hall Road would not adhere to the Essex Design Guide parameters, therefore requiring input and support from the Highway Authority.

Through the pre-app process the plans were revised to show a 4.3m carriageway with a 1.2m over runnable footway area at the request from ECC; as it was originally 4.1m with a 1.2m footway area. The proposed highway works were also subject to an independent Road Safety Audit (to the relevant industry standard) at the request of ECC, which did not identify any safety points that needed addressing (as noted by the Transport Statement).

To ensure deliverability of the works within highway controlled land, the applicants obtained highway record plans from ECC to determine the highway boundary. The determined highway boundary has been set out on the provided highway drawings as best as we can and was submitted to the highway officers to confirm again the highway boundary. These plans can be provided to you on request or can be requested by any member of public via the ECC website.

They applicants argue that the total width of Hall Road infrastructure therefore proposed is 5.5m rather than that suggested in the public comment above of 5.3m. The current road width (with no current footway area) of Hall Road ranges from 3.8 to 4.3m between the site access and the London Road junction bell mouth. As set out in Manual for Streets (MfS) 1 and 2, the suggested minimum width requirements of different types of passing vehicles are indicated in Figure 7.1 of MfS 1. A 4.1m road will allow two cars to pass and a large goods vehicle / cyclist to pass each other, at slow speeds. Should a large goods vehicles need to pass another vehicle a recommended minimum width is 4.8 to 5.5m. The proposed 4.3m road carriageway width will allow two cars to pass at low speeds without the need to overrun on to the footway area. Hall Road is not a through road with the only key attractor for vehicles beyond the Site is the Anglian Water pumping station. The automatic traffic survey undertaken on Hall Road did not identify any Heavy / Large Goods Vehicles over a full 7-days. A refuse truck is likely 1-2 times per week with a few large box vans per day (i.e. food delivery) expected as a result of the proposed development post-completion. The likelihood of the use of the footway overrun area when a Large / Heavy Good Vehicle arrives / departs is therefore minimal and is only over a short distance of 50m. Overrunning of the footway is therefore not encouraged, only acknowledged it might need to occur on a very occasional basis and therefore accounted for to reduce maintenance issues.

The traffic survey commissioned by the applicants also picked up the 7-day average of total vehicles on Hall Road was 30 in either direction (and less than 5 in any one hour period) per day; the Transport Statement identifies vehicular movements will increase and therefore it was acknowledged that the existing geometry of Hall Road would not be sufficient to account for the increase in vehicles, pedestrians and cyclists; hence the proposed highways works submitted within the planning application. Even with the higher vehicle numbers on Hall Road, the chances of an LGV, a car and a pedestrian being within the 50m section of highway at the same time are minimal.

It should be noted that Hall Road will increase in width for the last 15m of the road as it approaches London Road to enable easier vehicle passing in this critical area and reduce the chance of any backing up on to London Road.

The applicants Engineers argue that by strictly adhering to the design parameters set out in the ECC design guide of two footways and a 5.5m carriageway it will encourage higher vehicle speeds along Hall Road compared to the current vehicle speeds recorded and wished to be retained. Hall Road would then become more urbanised rather than trying to retain a more rural feel to the road given its history and context. The proposed highway works would provide an improvement over the existing situation whilst being sensitive to the nature of the area and how the road has been used to date.

The design approach used here has the aim of giving priority to pedestrians / cyclists rather than vehicles but one key aspect is vehicle speeds less than 20mph. The traffic survey on Hall Road identified that average vehicle speeds were under 20mph. The current 30mph speed limit on Hall Road is suggested to be extended further south and past the proposed access point, but could also be considered to be reduced to 20mph given the current excellent adherence to the speed limit already.

With regards to the footway width, the suggested 1.2m width will allow a wheelchair user on their own; a visually impaired person with cane or assistance dog / person; or a school child with parent to walk along the route adequately which is an improvement over the existing situation given there is no hardstanding for pedestrians other than within the carriageway, should a vehicle be passing. This 1.2m footway width is also only over a 65m distance before a pedestrian joins the slightly wider footways on London Road, which is a more significant and well used road category compared to Hall Road. The 25mm kerb upstand between the carriageway area and the footway area is a standard minimum dimension used to demarcate the edge of the footway area albeit is low enough to allow easy vehicle mounting. It is also held to be sufficient height for those who are visually impaired to highlight the area to keep to, although the kerb upstand could be increased up to 40mm (with the exception of private accesses – which will need to be 25mm) to demarcate the pedestrian area more, should it be required. The use of asphalt surfacing rather than the typical block paving used in shared use roads, provides not only less maintenance issues for ECC but reduces the risk of uneven surfaces and trips / falls as well making the use of mobility / wheelchairs more comfortable and efficient.

To access the development site from Hall Road, there is an uncontrolled crossing point which will include flush kerbing and tactile paving to enable pedestrians and those with visual / mobility disabled to access and egress the site towards London Road.

It is also noted that the proposed highway works will be subject to a Section 278 agreement with the Highway Authority. As long as an appropriately worded condition is imposed (as is suggested at the end of this report) the works will be completed prior to first occupation of the proposed dwelling. Officers would also suggest that adequate access to the Public Right of Way on the western side is catered for prior to first occupation as this will be another pedestrian route to London Road and a desire line to the nearest train station.

The applicants have also noted that there is a separate public objection that refers to the withdrawn DfT Local Transport Note 1/11: Shared Space. It should be noted that this is temporarily withdrawn due to a ministerial request following publication of the DfT Inclusive Transport Strategy to suspend advice on shared spaces until further consultation and assessment work is undertaken and with regard to those with mobility / visual impairment. However, this document relates to completely level shared surface areas with no upstand to assist pedestrians. It is also more related to areas where there is high pedestrian footfall like a high street. As Hall Road will have low pedestrian and vehicular movements and

there is a compliant kerb upstand to the define the footway area, albeit would occasionally be over runnable, this is technically not 'Shared Space' as referred to in LTN 1/11.

Public Right of Way

A Public Right of Way runs north/south along the western end edge of the site, within the red line. From the north west corner of the site it connects to London Road between existing dwellings. The reserved matters submission will be able to take this right of way into consideration and will preserve its setting. It will provide a very useful pedestrian link to London Road from the site. It will mean that pedestrians will be able to exit and enter the along London Road without using the Hall Road junction. This additional pedestrian permeability is a benefit of the scheme.

Design and Layout

In considering the design and layout of the proposal, Core Strategy policy UR2 and Development Plan policy DP1 are relevant. These policies seek to secure high quality and inclusive design in all developments, respecting and enhancing the characteristics of the site, its context and surroundings.

As an outline application with all matters except for access reserved, details of design and layout would be put forward at reserved matters stage and would be assessed in accordance with relevant planning policy to ensure that the proposals are acceptable. There is no further detail required at outline stage as it essentially determines the principle of development rather than the detail. In this instance however a great deal of detail has been supplied including a full layout and house types.

The Council's Locum Urban Designer objected to the scheme for a number of reasons and a number of the public representations quote his response. Following this the Council has a new full time Urban Designer and this scheme has been discussed with him also.

The issues raised by the Locum Urban Designer are all accepted and have been relayed to the applicants. The layout as proposed is overly rigid and is generally uninspiring with little sense of place created. Cars dominate the layout. The house types are somewhat lacking in detailed and have little local distinctiveness.

Fundamentally, is important to note that these issues are not a reason for refusal of outline permission when landscape, layout, appearance and scale is reserved for further consideration.

It has been agreed with the applicants to assess the layout as a proofing drawing and capacity study. On that basis the layout is sufficient to demonstrate that it is possible to comfortably fit 49 dwellings on this circa 2ha site resulting in a relative low density of around 25 dwellings per hectare. An informative is suggested to be imposed on any permission setting out how the layout in the submitted drawings is not satisfactory and would be expected to be significantly improved if a reserved matters submission is to be approved. The Council's Urban Designer is

happy to work with the applicants via the Council's pre-app service to improve both the layout and the house types.

Flood Risk/SuDS

The site is within Flood Zone 1. As such, it is at the lowest risk of fluvial or tidal flooding in accordance with the Technical Guidance that accompanies the NPPF and is suitable for residential development from a flood risk perspective.

The Emerging Local Plan (Paragraph 15.125) states that the overall aim of national policy and guidance on flood risk is to steer new development towards land on the lowest risk from flooding (Flood Zone 1). As noted above the site specific policy SS4 specifically requires the scheme to be safe in flood risk terms. The scheme has been accompanied by a flood risk assessment by Richard Jackson Engineering Consultants.

The FRA notes that The finished floor levels of the dwellings will be sufficient to raise the residential dwellings well above the level of the 1.0% annual probability storm event, in accordance with the NPPF. Access and egress to the site will not be impeded during these events. It is recommended that all buildings have finished floor levels which are at least 300mm above the local sewer network.

In terms of any residual risk (ie the portion of overall risk that remains once risk mitigation measures have been implemented) there is always the very low risk potential for storm events greater than a 1.0% annual probability event. Overflow of surface water would fall generally towards the northern boundary of the site and along the route of the highway towards Hall Road. Sufficient capacity volume has been allowed for in the SuDS features and appropriate factors of safety applied to accommodate the design storm event and a following 10% annual probability event as required by the LLFA guidance. The residual risk to the development is therefore considered to be low.

As noted above, as part of the proposals, SUDs are proposed. These features are strategically located to work with the existing topography of the site in order to manage surface water runoff and to ensure the site manages surface water entirely within the site to reduce the risk of flooding elsewhere. The detail of this arrangement can be dealt with at reserved matters stage and it is hoped that a more natural solution where water is kept on the surface can be proposed (as opposed to buried plastic crates as shown on the proofing layout) however the solution will depend on the layout.

The LLFA are satisfied with the scheme and have recommended conditions. At outline stage, this matter is held to be acceptable.

Impact on Heritage Assets

Policy DM16 states that the historic environment should be conserved where possible through new development proposals. This includes preserving and enhancing Listed Buildings as per the statutory test (s.66(1) PI (Lb & Ca) Act 1990 requiring special regard to be paid to the desirability of preserving listed buildings together with their settings.

The scheme has been accompanied by a Heritage Statement carried out by John Bell Design and Conservation. This stated that following an assessment of historic maps, it is concluded that the application site is a parcel of arable agricultural land that is of no historical significance. The application site may have had previous uses that pre-date 800AD, due to the close proximity to London Road, however this can only be ascertained through archaeological methods (see relevant section of this report).

The Grade II Listed Brewers Cottage is located adjacent to the boundary of the site, but due to number 33 being constructed to the South of the cottage it is argued that is very little connection between the application site and the listed building. It is therefore concluded It is concluded that the level of impact can be categorized at such a low amount, within the scale of 'less than substantial harm', that the proposals will have no material harm to the significance of the setting, character or appearance of Brewers Cottage. Whilst the in house Historic Buildings and Areas Officer does not concur that there is little connection between the site and Brewers Cottage, they do concur that any harm would be 'less than substantial' and outweighed by the public benefits of delivering this quantum of new homes.

The Heritage Statement concludes that the proposed scheme has been re-designed following pre-application discussions so the proofing layout responds to the setting of Brewers Cottage, and the other buildings to the South of London road, by re-orientating the dwellings to ensure views of the countryside from 1st floor windows are retained and the amount of built form adjacent the site boundary to the North is reduced to an insignificant level. Notwithstanding this, it is held that the layout could be improved further to allow a greater level of 'breathing space' to be afforded to the heritage assets in the vicinity as requested by the in house Historic Buildings and Areas Officer. This can be achieved at reserved matters stage. On that basis it is held that an acceptable layout can be designed and the setting of the adjacent Brewers Cottage not a manner that would reasonably warrant refusal of this outline scheme.

Ecology

Section 40 of the Natural Environment and rural Communities (NERC) Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity and a core principle of the NPPF is that planning should contribute to conserving and enhancing the natural environment. Development Plan policy DP21 seeks to conserve or enhance biodiversity and geodiversity in the Borough. New developments are required to be supported by ecological surveys where

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appropriate, minimise the fragmentation of habitats, and maximise opportunities for the restoration, enhancement and connection of natural habitats. Policy ENV1 of the emerging Local Plan states that the Local Planning Authority will conserve and enhance Colchester's natural and historic environment, countryside and coastline. Furthermore, proposals for development that would cause direct or indirect adverse harm to nationally designated sites or other designated areas, protected species or result in the loss of irreplaceable habitats such as ancient woodland, important hedgerows and veteran trees will not be permitted.

A Preliminary Ecological Appraisal has been prepared by Ecology Solutions. This sets out how on the basis of the current evidence there is no overriding ecological constraint to the development of the allocated site. The survey work that was undertaken identified the site as being of limited ecological value. The proposed loss of part of a hedgerow to facilitate the new access element proposals will be offset through the provision of new replacement habitats and bolstering of retained features which aim to significantly improve the site's ecological interest. The development has scope to offer biodiversity net gains and meet with all relevant planning policy. The report considers that there is therefore no ecological justification to refuse planning permission.

Habitats Regulations Assessment (HRA) /Appropriate Assessment (AA)

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 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 AA. On that basis it is held that the scheme will mitigate the potential off site impact to off-site protected areas. This will also be secured by the Legal Agreement.

Landscape and Trees

Core Strategy Policy ENV1 seeks to conserve and enhance Colchester's natural and historic environment, countryside and coastline, with Development Plan Policy DP1 requiring development proposals to demonstrate that they, and any ancillary activities associated with them, will respect and enhance the character of the site, context and surroundings in terms of (inter alia) its landscape setting.

The scheme has come with a Landscape Visual Impact Assessment (LVIA) carried out by Southern Ecological Solutions.

This states that the Site lies on the edge of the plateau and is flat to gently sloping towards the south east where lower lying land surrounds the Roman River. The character of the area, is generally of a linear village (eastern end of

Copford) along the London Road merging into an arable and wooded landscape beyond the built up areas. Hall Road generally dissects the Roman River Valley from the plateau landscape, whilst the A12 cuts through the valley to the north of the Site. Existing features within the site (boundary hedgerows) are limited, but are important for their landscape, ecological and amenity value.

The LVIA noted that the principal change will be experienced at the site level where the existing land use will be replaced by a residential development with associated buildings, strategic landscape and open space. In accordance with planning policy and landscape guidelines the landscape elements which are important to the site and character of the area will be retained and enhanced and along with new planting will provide an establishing landscape structure from the outset, containing the majority of the built form from the surrounding landscape in the medium- to long-term. The LVIA considers that the overall effect on the site is subsequently Moderate-Substantial Adverse decreasing to Minor Adverse over time. Whilst noticeable, the change is considered acceptable in the local context.

The LVIA concluded that the site provides a suitable, sustainable location for the proposed residential development from a landscape and visual perspective.

The in-house Landscape Advisor originally raised a number of concerns with regards to the layout. Following further discussions, the Landscape Officer has stated:

The preferred option in landscape terms would still be that unit's face/side onto the proposed southern hedge. However, if the Urban Design Officer agrees the layout cannot be amended to achieve this then units backing onto but set back from the hedge will need to be considered. If this 'backing onto' option is agreed, then the offset space might be designed to ecologically enhance the site through the proposal of species rich grasses & wildflower. The fencing off of this offset area would need to be agreed by the Urban Design Officer with regard to site permeability and secure by design requirements.

In short, it is held that it is possible to design a reserved matters submission that is not harmful to the interests of the landscape.

In terms of trees, the scheme has been accompanied by a Tree Survey and Arboricultural Impact Assessment (AIA). Officers have met on site with the applicants Arboricultural Consultant to discuss the trees that are proposed to be removed. They are all low category trees with limited lifespan, rated as category U and category C. They are within the highway boundary and have not been well maintained for years. As can be seen in drawing EAS 034 TPP in the AIA, they are recommended to be removed but the majority actually sit outside of the area where highway works would require them to be removed.

The new access point in Hall Road will also require a break to be inserted into the existing hedge. The front of this hedge will also require facing back to achieve vehicular visibility splays. It is therefore suggested that at reserved matters stage it is bolstered from behind with additional hedge planting.

Whilst this scheme will result in the loss of some vegetation that has a beneficial softening in the streetscene, in particular from London Road, no trees with a realistic possibility of long term longevity are to be removed. As part of the landscaping scheme it will be ensured that good quality tree planting will be secured.

Loss of Agricultural Land

Some representations have argued that the scheme will result in the loss of good quality agricultural land. The LVIA rates the land as Grade 2. This scheme will therefore result in the loss of good quality agricultural land however at roughly 2ha this loss is not held to be significant and is outweighed by the public benefits associated with delivery of new homes in the planning balance.

Contamination

Development Plan policy DP1 requires new development to undertake appropriate remediation of contaminated land.

In this instance the application has been accompanied by a ground investigation report by Richard Jackson Sept 2019.

This report makes reference to an earlier Phase 1 Desk Study report, *Richard Jackson, 'Phase One Desk Study Report', Land off Hall Rd, Copford, Final, Ref. 49896, dated 02/08/19*. Whilst not submitted in support of the current application, it was reviewed by Environmental Protection with reference to an earlier PE application (192689), and a summary is included in the ground investigation report. The Ground Investigation Report seeks to evaluate the potential contamination risks identified in the initial Conceptual Site Model.

It is noted that representative soil samples have been recovered and appropriately analysed and laboratory results compared to relevant generic assessment criteria. None of the chosen determinants exceeded the target values and no asbestos was detected. It was concluded that there are no unacceptable risks to end users or to controlled waters and remediation action for soils is not considered necessary.

Despite a potential risk from ground gases having been identified in the Desk Study, ground gas monitoring was not undertaken as a part of this intrusive investigation and it has been concluded that this risk cannot be excluded at this time. It has been recommended that an appropriate gas monitoring programme be undertaken to clarify the risks to the proposed development. The Contaminated Land officer has requested that if gas monitoring takes place at the sites as specified on the map, attention is drawn to the North West Corner of the site to include gas monitoring in that area as currently there is no sampling point in this location.

On the basis of the information currently submitted, the site considered suitable for its proposed use in accordance with paragraph 178 of the National Planning Policy Framework, subject to conditions as requested by the Contaminated Land Officer.

Impact on Amenity

Development Plan policy DP1 requires all development to be designed to a high standard that protects existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, and daylight and sunlight.

The only matter for consideration at this stage is access. The position of the access point is considered to be sensible as forcing it further down Hall Road would result in further erosion of the rural character of the lane. It is accepted that the existing residents will notice the increased in traffic movements including headlights from cars pulling out of the access onto Hall Road. This has been carefully considered but the impact on amenity is not to a point that is held to be unacceptable. It is noted that the bell mouth of the proposed access it is in a position that is close to other residential dwellings – directly opposite Trewe House, the access to Kyle and 1 and 2 Hall Road, but on balance that is not held to cause demonstrable harm in term of its impact on amenity.

The proofing layout supplied demonstrates that there is enough space on site to provide a layout that complies with the back to back guidance as set out in the Essex Design Guide. Whilst officers have concerns about the layout in urban design terms, the proofing layout demonstrates that at the density it will be possible to provide an internal layout that does not materially compromise neighbouring residential amenity.

Health

Representations have addressed the oversubscription of Doctors surgeries and the local school. Adopted Development Policy DP2 does not require a Health Impact Assessment for development under 50 such as this and the Emerging Policy DM1 (Health and Wellbeing) does not require one for under 100 units. The NHS have not requested a contribution to this scheme as it falls below their threshold of interest and therefore they do not consider this scheme to result in a level of additional need that warrants mitigation. The scheme us therefore acceptable in that regard.

Education

The Education Authority (ECC) has made a request for a financial contribution as set out in the Development Team section of this report. This will be secured via a legal agreement and will be necessary to mitigate the impact of the scheme on the local school provision. The scheme us therefore acceptable in that regard.

Environmental and Carbon Implications

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 National Planning Policy 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 NPPF. This scheme has limited detail as it is an outline proposal however it is hoped to be possible to secure good quality tree planting on site as part of the landscape element which is a reserved matter.

In addition to this Environmental Protection have suggested EV charging points to be conditioned and the applicants have agreed to a condition requiring approval of a scheme for EV charging. This will help facilitate the uptake of ultra-low emission vehicles.

It is therefore considered that on balance the application is considered to represent sustainable development.

17.0 Conclusion and Planning Balance

17.1 National policy requires planning to be genuinely plan-led. The proposal is considered to accord with the emerging Local Plan but is contrary to the adopted Local Plan as the site is outside the current settlement boundary of Copford. The National Planning Policy Framework (the Framework) makes it plain that the purpose of the planning system is to contribute to the achievement of sustainable development and identifies three dimensions to sustainable development: economic, social and environmental. 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. 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.

17.2 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. In respect of the third dimension (environmental), the proposal will provide housing in a sustainable location so that future residents would not be reliant on private car, being able to walk or use public transport to access necessary services and facilities, thereby minimising environmental impacts; ecological enhancements can also be secured as part of the development.

- 17.3 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. The design shortcomings raised in the report above can reasonably be addressed as part of any future reserved matters application. Whilst the proposed development would have an impact on the existing character of the site (i.e. by introducing built development where there is none currently) through a general suburbanising effect on the wider setting, which weigh against the proposal, the positive economic and social effects, as well as the sustainability of the proposal would weigh in favour of this scheme and could reasonably be judged to clearly outweigh the shortcomings identified given the weight afforded to the supply of new homes in the Framework.
- 17.4 In conclusion, it is considered that the benefits of the scheme convincingly outweigh any adverse impacts identified and the proposal is considered to be acceptable on this basis. 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. The permission will also be subject to the following conditions the precise details of which are also requested to be the subject of officer delegation:

1. Time Limit for Outline Permissions Part 1 of 3

No development shall be commenced until plans and particulars of "the reserved matters" referred to in the below conditions relating to the APPEARANCE, LANDSCAPING, LAYOUT AND SCALE have been submitted to and agreed, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: The application as submitted does not provide sufficient particulars for consideration of these details.

2. Time Limit for Outline Permissions Part 2 of 3

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

3. Time Limit for Outline Permissions Part 3 of 3

The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004

4. Development to Accord With Approved Plans

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

Site Location plan: 8871 / 01

Tree Protection Plan: EAS-034 TPP contained within the AIA

Access Plan: 49896/PP/001 Rev B contained within the Transport Statement.

No other drawings are hereby approved.

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

5. Control of Mix

Any reserved matters application seeking approval of scale and layout shall include a detailed schedule of the proposed housing mix, to be agreed by the Local Planning Authority through the approval of that reserved matters application. No development shall commence until the housing mix schedule has been agreed as part of the reserved matters and the development shall be carried out in accordance with the approved details. The detailed schedule shall include the following:

- >The plot number,
- >The type of dwelling,
- >The number of storeys,
- >The number of bedrooms and bedspaces,
- >The size of the outdoor private amenity space,
- >The number and sizes of parking/garage spaces provided

Reason: Whilst this application contains a good degree of detail the layout and elevation drawings are not acceptable in urban design terms and do not form part of the approved plans. It is expected that this schedule is submitted as part of any reserved matters submission.

6. Archaeology

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

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

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

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

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development, in accordance Adopted Development Policy DP14 (2010, Revised 2014) and the Colchester Borough Adopted Guidance titled Managing Archaeology in Development (2015).

7. ZPA – Construction Method Statement

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

the parking of vehicles of site operatives and visitors;

hours of deliveries and hours of work;

loading and unloading of plant and materials;

storage of plant and materials used in constructing the development;

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

wheel washing facilities;

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

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

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

8. ZPD - Limits to Hours of Work

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

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working.

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

9. EV Charging points

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

Reason: To encourage the uptake of low emission vehicles in the interests of sustainability and in line with the Council's Climate Emergency.

10. Highways

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

- a) A priority junction off Hall Road to provide access to the proposal site as shown in principle on the planning application drawings
- b) Improvements to Hall Road between the proposal site access and London Road as shown in principle on the planning application drawings
- c) Upgrade to current Essex County Council specification of the two bus stops which would best serve the proposal site (details shall be agreed with the Local Planning Authority prior to commencement of the development)
- d) Improvements to Public Footpath Copford 2 between the proposal site and London Road (details shall be agreed with the Local Planning Authority prior to commencement of the development)
- e) Residential Travel Information Packs in accordance with Essex County Council guidance

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

11.ZGX - Contaminated Land Part 1 of 4 (Site Characterisation)

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

- (i) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos;
- (ii) an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

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

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

12.ZGY - 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

13. ZGZ - 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

14. ZG0 - 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 11 and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 12, 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 13.

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.

15.ZG3 - *Validation Certificate*

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

16. SUDS

No works 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 approved scheme shall subsequently be implemented prior to occupation and should include but not be limited to:

- Discharge via infiltration all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change.
- Demonstrate sufficient structural engineering and geotechnical advice as part of the detailed design process to appropriately design and assess the permeable paving and foundations for discharge via infiltration.
-
- Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

Reason: To prevent surface water flooding and to mitigate any environmental harm that may be caused to the local water environment. To ensure the effective operation of SuDS features over the lifetime of the development. To provide mitigation of any environmental harm which may be caused to the local water environment. Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

17.SuDS

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

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

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

18.SuDS

Prior to occupation a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

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

Failure to provide the above required information prior to occupation may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

19. SuDS

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

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

20.Tree and Hedgerow Protection: General

All existing trees and hedgerows shall be retained throughout the development construction phases, unless shown to be removed on the approved drawing (Tree Protection Plan: EAS-034 TPP) and all trees and hedgerows on and immediately adjoining the site shall be protected from damage as a result of works on site in accordance with the Local Planning Authorities guidance notes and the relevant British Standard. All existing trees and hedgerows shall then be

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

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

21. Landscape Management

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

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.

22. Ecology

No development shall take place except in complete accordance with the submitted ecology report by Ecology Solutions May 2020 ref 8818.EcoAs.vf, including the 'mitigation and enhancement' sections of the species specific paragraphs of chapter 5.

Reason: In the interests of ecology and biodiversity.

23. Z1A – Street Name Signs

Prior to the first occupation of any of the dwellings hereby approved street name signs shall have been installed at the junction of the new highway with the existing road network.

Reason: To ensure that visitors to the development can orientate themselves in the interests of highway safety.

19.0 Informatives

19.1 The following informatives are also recommended:

1. Design Informative

The layout and elevational drawing submitted with this application are not acceptable in design terms. It is strongly suggested that discussions between the applicant and the LPA occur prior to taking a Reserved Matters submission any further. The approval of outline permission including the access point must not be taken as an indication that the indicative layout or house types are acceptable. They are not.

2. 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.

3. 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.

4. Informative on Any Application With a Site Notice

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

5. Anglian Water Informative

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

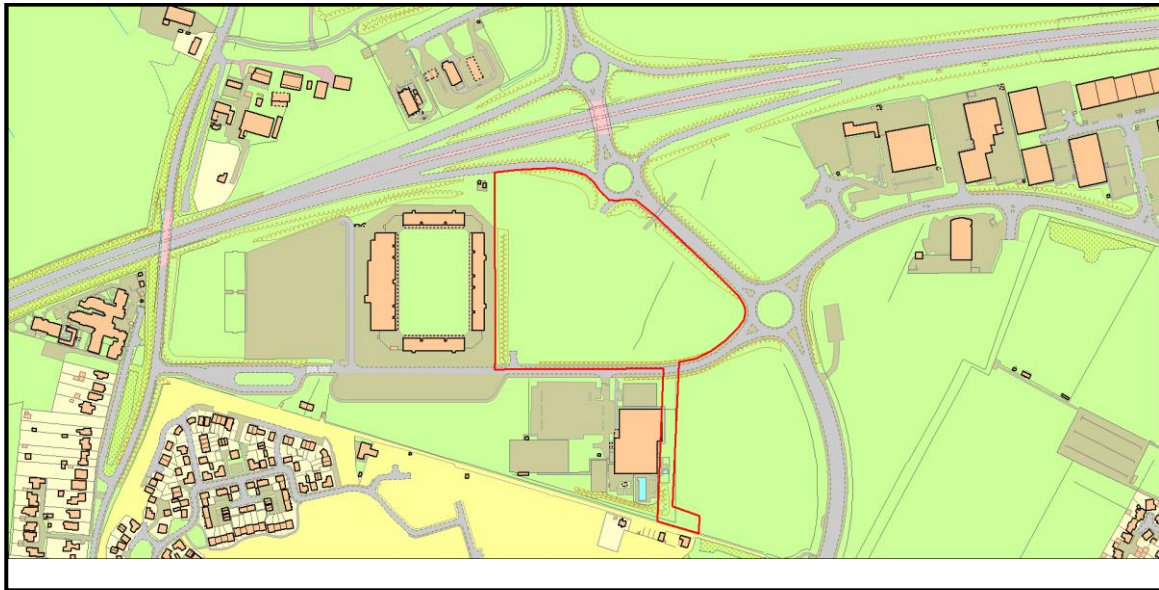
1) INFORMATIVE -

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

606 6087. (2) INFORMATIVE - 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. (3) INFORMATIVE - Protection of existing assets -

A public sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers will not be permitted (without agreement) from Anglian Water. (4) INFORMATIVE -

Building near to a public sewer - No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087. (5) INFORMATIVE: The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact our 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.



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Item No: 7.2

Application: 201631

Agent: Paul Belton, Carter Jonas LLP

Proposal: Redevelopment of the site to provide a Cinema (use class D2), active leisure units (D2), a hotel (C1), restaurants (A3) and/or hot food takeaways (A5), including drive through units, and/or a Public House (A4) in the alternative as well as flexible A3/A5 and/or D2 floorspace in the alternative, together with the provision of a single decked car park, a landscaped plaza with associated hard and soft landscaping, cycle parking, service laybys and drop off zones, the creation of a pedestrian and cycle link connecting United Way with Tower Lane and the installation/construction of balancing ponds, substations and associated infrastructure

Location: Colchester Northern Gateway, Land at Cuckoo Farm West, United Way, Colchester

Ward: Mile End

Officer: Chris Harden

Recommendation: Approve subject to completion of a Section 106 legal agreement.

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it is a major full planning application, elements of which are a Departure from the adopted Local Plan. It is also on an area of land that is currently owned by Colchester Borough Council and the proposal has received objections and is recommended for approval. Furthermore, in the event that the Officer recommendation is agreed by Members it would also be necessary to secure a s.106 Agreement to mitigate impacts of the development. Members have to endorse a proposed commitment of the Council to be party to an agreement of this type.

2.0 Synopsis

- 2.1 The issues explored below are the planning context of the application site established through its land use allocation and the previous planning history, together with material considerations pertaining to the planning application. In recognising that elements of the proposed development are partly a Departure from the adopted Local Plan, i.e. proposed cinema and the food and beverage uses, it is considered that material considerations merit a recommendation of approval of the planning application. Approval for a similar scheme but not including the drive through hot food units, was granted in 2017 under application 160825. Policy considerations at a National and Local level remain broadly the same as at the time of the previous approval in respect of this scheme. The Emerging Local Plan is now more advanced and offers additional support to the proposal. The revised NPPF also emphasises the importance of building a strong competitive economy. Accordingly it is considered that the principle of the proposal is acceptable and that, as before, the impact upon Town and District centres is acceptable and the Sequential and Impact Test has been complied with.
- 2.2 The design, scale, form and layout of the proposal is considered appropriate for this context and would have an acceptable impact within the landscape. An appropriate landscaping scheme will be conditioned. The proposal incorporates a mixture of contemporary building forms that are similar in character to the previous approval and incorporate some design improvements, including material detailing. There are no objections from a highway safety point of view and the impact of traffic generation is acceptable, including upon the capacity of A12 junction 28. The impact upon ecology, vegetation and archaeology is considered acceptable. There will be the loss of some Category B trees but this has been justified and a replacement planting scheme will mitigate the impact of this loss. It is not considered there will be any material detriment to neighbouring residential amenity.
- 2.3 If Members agree with the Officer recommendation, it will also be necessary for the proposal to be referred to the Secretary of State under the current call-in procedure owing to the cinema and beverage uses being a technical Departure to the Local Plan, as was the case on the previously approved application.

3.0 Site Description and Context

- 3.1 The application site is approximately 4.97 hectares in size and forms part of the former Severalls land holding identified as the Colchester Northern Gateway (previously known as Cuckoo Farm). The majority of the site is located adjacent to the Weston Homes Community Stadium. Immediately to the north the site is bounded by junction 28 serving the A.12 trunk road, while to the east is the Northern Approach Road identified as Via Urbis Romanae (VUR). The application site is divided by United Way (which links VUR with Boxted Road). The majority of the site is located to the north of this road, with a linear finger of land forming the southern portion of the site that extends from United Way to Tower Lane, which has public right of way and bridleway status. To the south of Tower Lane is the former Severalls Hospital site that has planning permission for residential development and is now largely built out.
- 3.2 The site is generally level, but there are significant differences in height where it meets VUR, the road sitting above the level of the site. United Way is also set at a slightly higher level than the application site.
- 3.3 The majority of the site is currently given over to rough grass, it having been used in the past for agricultural purposes. There are also established hedges and trees on the land that reflect the historic field boundaries associated with the former agricultural use.
- 3.4 To the north of the application site, beyond the trunk road, is the County Council park and ride development, together with a petrol filling station and a fast food restaurant with ancillary 'drive-thru' takeaway facility. To the east, on the opposite side of VUR and to the south, on the opposite side of United Way is the land on which there is a current application 190665 for mixed uses including residential, commercial and health care uses. Permission for the infrastructure element of that site has been granted under application 200079. Facing the application site is the recently completed David Lloyd tennis leisure centre.

4.0 Description of the Proposal

- 4.1 This full planning application seeks permission for the following:
- Redevelopment of the site to provide a Cinema (use class D2),
 - Active leisure units (D2),
 - a hotel (C1),
 - restaurants (A3) and/or hot food takeaways (A5), including drive through units, and/or a Public House (A4) in the alternative as well as flexible A3/A5 and/or D2 floorspace in the alternative,
 - provision of a single decked car park,
 - a landscaped plaza with associated hard and soft landscaping, cycle parking, service laybys and drop off zones, the creation of a pedestrian and cycle link connecting United Way with Tower Lane

- the installation/construction of balancing ponds, substations and associated infrastructure.
- 4.2 Regarding the layout of the development, the 90 bed, four storey hotel and the A3 restaurant buildings are set in two curved blocks towards the Eastern end of the site, adjacent to the proposed attenuation pond. Public open space is proposed between this restaurant block and the proposed buildings comprising the cinema, active leisure units and two more restaurant units. This would be hard and soft landscaped. **Appendix 1** shows the proposed floorspace of the respective elements alongside the floorspace previously approved under similar application 160825.
- 4.3 The westernmost part of the site would, as before, comprise a two storey car park. Overall, 758 car parking spaces would be provided on site along with 114 cycle spaces. To the North of the multi-storey car park the two drive-thru buildings would be located with their associated parking and maneuvering areas.
- 4.4 In terms of the proposed opening hours, 24 hour use is sought for the drive thru restaurants and the hotel. Regarding the cinema, active leisure and restaurant/takeaway units located within the main part of the development, a repeat of the hours of operation agreed in respect of the 2018 Approval, is sought, as follows these being as follows:
- Sunday – Thursday 0630am, -02.00am
 - Fridays, Saturday and Sundays (where followed by a Bank Holiday or other statutory holiday) – 06.30am – 03.30am
- 4.5 Owing to the nature and extent of the development proposal it is accompanied by an Environmental Statement. The Statement has been submitted to meet the requirements of the Town and Country Planning (Environmental Impact Assessment) (Amendment) Regulations 2017. Issues covered include flood risk, noise, leisure impact assessment, ecology, arboriculture, landscape impact, archaeology, transport and a travel plan. Details of the application submission and the Environmental Statement are available to view on the Council's website.
- 4.6 Included within the submitted application are also the following documents and reports:
- BREAM Assessment Report
 - Design and Access Statement
 - Energy Strategy
 - Landscape strategy
 - Statement of Community Involvement
 - Utilities summary report

5.0 Land Use Allocation

- 5.1 Within the adopted Local Development Framework the site for this proposal is located within the North Colchester Strategic Employment Zone which itself forms part of the North Colchester Growth Area.
- 5.2 Within the Emerging Local Plan the site is in the following zone: Policy NC1: North Colchester and Severalls Strategic Economic Area Zone 2.

6.0 Relevant Planning History

- 6.1 The most relevant Planning History

160825 Latest approval:

- Erection of Use Class A3/A5 restaurant/hot food takeaway units (in the alternative) totalling 3 808 sq. m (of which no more than 400 sq. m shall be used as A5 floorspace within a single unit)
- Erection of a Use Class C1 hotel (80 beds)
- Erection of a Use Class D2 Cinema (12 screens)
- Erection of Use Class D2 leisure units (3 286 sq. m)
- Erection of Use Class A3/D2 restaurant/leisure uses (in the alternative) (688 sq. m)

160623 Reserved matters application following outline planning permission O/COL/01/1622 for the erection of Use Class A3 restaurant units (10,400sq m), erection of Use Class C1 hotel (80 beds), provision of a landscaped piazza and associated landscaped areas, erection of an ancillary multi-storey car park and the provision of separate drop off/parking areas. Approved 24/11/16

Background relevance:

152711- Application for variation of condition 05 of planning permission O/COL/01/1622 which would entail allowing floorspace previously assigned for A3 uses to be developed for D2 uses. (Jan. 2016)

7.0 Principal Policies

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

- 7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

- SD1 - Sustainable Development Locations
- SD2 – Delivering Facilities and Infrastructure
- SD3 - Community Facilities
- CE1 - Centres and Employment Classification and Hierarchy
- CE3 - Employment Zones
- UR1 - Regeneration Areas
- UR2 - Built Design and Character
- PR1 - Open Space
- PR2 – People-friendly Streets
- TA1 - Accessibility and Changing Travel Behaviour
- TA2 - Walking and Cycling
- TA3 - Public Transport
- TA5 - Parking
- ENV1 - Environment
- ER1 - Energy, Resources, Waste, Water and Recycling

- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):

- DP1 Design and Amenity
- DP2 Health Assessments
- DP3 Planning Obligations and the Community Infrastructure Levy
- DP4 Community Facilities
- DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses
- DP10 Tourism, Leisure and Culture
- DP17 Accessibility and Access
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage
- DP21 Nature Conservation and Protected Lanes
- DP25 Renewable Energy

- 7.4 Further to the above, the adopted Site Allocations (adopted 2010) policies set out below should also be taken into account in the decision-making process:

- SA NGA1 Appropriate Uses within the North Growth Area
- SA NGA3 Employment Uses in the North Growth Area
- SA NGA4 Transport measures in North Growth Area

- 7.5 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:

Air Quality Management Guidance Note
Community Facilities
Vehicle Parking Standards
Sustainable Construction
Open Space, Sport and Recreation
External Materials in New Developments
Cycling Delivery Strategy
Sustainable Urban Drainage Systems Design Guide
North Colchester Growth Area Supplementary Planning Document

Myland Design Statement

- 7.6 The Myland and Braiswick Neighbourhood Plan has been completed and is adopted by Colchester Borough Council as part of the Development Plan.
- 7.7 Submission Colchester Borough Local Plan 2017-2033:
The Council is developing a new Local Plan that has been submitted to the Planning Inspectorate (October 2017). An Inspector has been appointed and the formal examination commenced in January 2018. The examination is ongoing.

Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to:

- 1.The stage of preparation of the emerging plan;
- 2.The extent to which there are unresolved objections to relevant policies in the emerging plan; and
3. The degree of consistency of relevant policies to the policies in the Framework.

The Emerging Local Plan is at an advanced stage and is, therefore, considered to carry some weight in the consideration of the application, but as it is yet to undergo a full and final examination, it is not considered to outweigh the material considerations assessed above in accordance with up-to-date planning policies and the NPPF.

A key Emerging Plan is Policy NC1: North Colchester and Severalls Strategic Economic Area Zone 2 which includes the application site.

8.0 Consultations

- 8.1 **Spatial Policy Team** have made the following comments (precised- full comments incorporated in the officer's report [see Principle section])

8.2 The following comments reflect and as necessary update Planning Policy comments made to the following applications:

Site History: Applications ref: 152711 and 160825

Policy Background

Adopted Local Plan

The site lies within an area designated in the adopted Local Plan as the North Colchester Strategic Employment Zone. The following policies are of particular relevance to the planning policy considerations of changing the balance of uses within a Strategic Employment Zone:

- Core Strategy Policy CE1 (plus Table CE1b) (Centres and Employment Classification and Hierarchy)
- Core Strategy Policy CE3 (Employment Zones)
- Development Policies Policy DP5 (Appropriate Employment Uses and protection of Employment Land and Existing Businesses)
- Site Allocations Policy SA NGA 3 (Employment uses in the North Growth Area)

Previous comments made on application 160825 noted that adopted policies had been affected by changing policy in the NPPF and that the consideration of the proposed town centre uses should be guided by the sequential test and impact tests contained in the 2012 NPPF, with the caveat that other material considerations also needed to be taken into account.

Emerging Local Plan

This provides a revised spatial strategy for the Northern Gateway area which changed its profile to introduce a role for it as a Borough-wide sports and leisure hub.

Policy NC1: North Colchester and Severalls Strategic Economic Area Zone 2 includes the application site.

Policy considerations

Previous application 160825

Site allocated for Employment use

Comments on 160825 noted that the proposal for leisure uses would still allow employment land delivery targets in North Colchester to be met.

Sequential test and impact assessment

On 160825, the Council concluded Tollgate Village did not emerge as a sequentially preferable site because it did not meet the market and locational requirements of the sequential test as it was specific to a named operator with specific requirements generic to the type of operation and with limited potential for other operators to occupy the scheme. Also concluded Northern Gateway would not have a significant impact on any Town or District Centre.

Policy observations on current proposal 201631

The current proposal is broadly similar in nature to the earlier extant planning permission. Leisure Impact Assessment within the EIA that has not identified any significant impacts arising from leisure uses on the Town Centre or on the viability of the cinema scheme being developed in the Tollgate District Centre. The variations in the accommodation schedule and mix of uses not considered to raise any new policy issues concerning the principle of development.

- 8.3 **The Highways Agency** “offers no objection” and states: “We have reviewed the Transport Assessment submitted with the application, the proposal will not have a severe impact upon the Strategic Road Network, we note that Essex County Council have recommended a travel plan we fully support that recommendation.”

- 8.4 **The Highway Authority** has made the following comments:

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

- Submission of a Construction Management Plan;
- Contribution to a bus service;
- Bus stops provision and turning facilities;
- Visibility splays;
- Access arrangements at Junction 28;
- Appropriate pedestrian links;
- Travel Plan.

- 8.5 **Natural England** has confirmed that it has “no objection to the proposal on the basis of potential impacts on statutory nature conservation sites. The Council's attention is also drawn to standing advice with regard to protected species and also the opportunity to provide green infrastructure and biodiversity and landscape enhancements to improve the potential ecological value of the site.”

- 8.6 **ECC as SUDS authority** has confirmed it has no objection to the proposal subject to the imposition of conditions on a grant of planning permission:

The conditions relate to:

- Surface water drainage;

- Offsite flooding;
 - Maintenance arrangements and yearly logs.
- 8.7 **The Environment Agency** have made no observations (previously confirmed no objections).
- 8.8 **Historic England** has advised that it does not wish to comment on the application.
- 8.9 **The Council's Landscape Officer** has suggested revisions to wildflower and long grass areas and that landscape proposals should be developed further.
- 8.10 **Environmental Protection** have no objections and recommend conditions relating to :
- Hours of work;
 - Site boundary noise levels;
 - Control of fumes and odour;
 - Light Pollution;
 - Hours of delivery;
 - Substation.
- 8.11 **Contaminated Land Officer** states:

The above is included on the planning file and is acceptable for Environmental Protection's purposes. I note that some potential sources of contamination requiring further ground investigation and risk assessment have been identified. It has been considered that there are a lack of ground gas sources and that gas monitoring is therefore unlikely to be required, but will be kept under review during the proposed investigations. It has been concluded that the site is of overall low contamination risk for the proposed development and it has been recommended that these investigations and risk assessments (and any resultant remediation, where relevant) should occur post planning.

Based on the information provided, this conclusion would seem reasonable.

Consequently, should this application be approved, Environmental Protection would recommend inclusion of the following Conditions:

- ZGX - Contaminated Land Part 1 of 4 (Site Characterisation)
- ZGY - Contaminated Land Part 2 of 4 (Submission of Remediation Scheme)
- ZGZ - Contaminated Land Part 3 of 4 (Implementation of Approved Remediation Scheme)
- ZG0 - Contaminated Land Part 4 of 4 (Reporting of Unexpected Contamination)
- ZG3 - *Validation Certificate*

8.12 **The Council's Archaeologist** states: No material harm will be caused to the significance of below-ground archaeological remains by the proposed development. There will be no requirement for any archaeological investigation.

8.13 **Tree Officer** initially stated that additional information was required to justify tree loss.

Following receipt of additional information, the following comment was made:

"I can agree all the comments made within this document.
As such I can agree the proposed tree loss subject to the landscape officer being in agreement with the landscape strategy."

8.14 **The Council's Urban Designer** has made comments relating to the following:

- Western elevation of parking structure and connectivity;
- Public realm;
- Scale & Materials options of the cinema and bowling alley;
- Landscaping and physical enclosure to the North and South of the leisure curve;
- Definition of public plaza;
- North Eastern access vista;
- Totem advert detail.

8.15 **Anglian Water** states: there are no objections and states: "

"There are assets owned by Anglian Water or those subject to an adoption agreement within or close to the development...and would ask that the following text be included within your Notice should permission be granted." The suggested text will be included with the decision notice.

8.16 **Transport and Sustainability Team** makes the following observations

It is good to see the commitment to employ a Travel Plan Coordinator for the site. However there are a number of areas of the Travel Plan that need revisiting- recommendations are listed.

"In summary the development is going to attract a large number of vehicle movements through having a large number of parking spaces that will be free to staff and users. We would like to see a robust approach to the Travel Plan to mitigate this impact and really encourage behaviour change."

Comments about cycle parking, safe crossing and buses are also made.

8.17 The Ramblers state:

“Comment: Walking to the south, east & west has been considered. Little effort has gone into creating or connecting to walking possibilities to the north. How about routes for the hotel guests to meander? How about residents of Boxted & Langham using the facilities? How about making sure that the A12 is permeable to all? In particular making the junction safe to pedestrians and creating routes towards the sports facilities area and Runkin's Corner.”

8.18 Essex Police state:

“...with regard this planning application in respect of the potential for Designing Out Crime in pursuance of the guidance offered within National Planning Policy Framework (NPPF).

The applicant and the Essex Police are already involved in constructive pre-application consultation and Essex Police is content the ethos of Crime Prevention Through Environmental Design (CPTED) is being addressed adequately.”

8.19 Essex Police Counter Terrorism Officer states

“I would be interested to have further involvement and discussion about this development as it progresses. Part of my role as a Counter Terrorism Security Advisor is to ensure the ongoing security of our crowded places and engagement in developments such as this plays a big part in that. I believe there are factors such as Hostile Vehicle Mitigation (HVM) and blast effects on glazing which need to be considered. Please feel free to contact me should you wish to do so.”

8.20 In addition to the details reported above, the full text of all consultation responses is available to view on the Council's website.

9.0 Parish Council Response

9.1 Myland Community Council made the following comment:

“Reason for comment: Support the proposal

Comment: MCC maintains its support of this important development but wishes to continue to express its concerns over the access to the car park from the current blind exit on Junction 28 of the A12 which will be exacerbated on Colchester United match days and concert events.”

10.0 Representations

10.1 One letter of objection has been received which makes the following points:

- previously the promoters were made to agree to support a bus service. Now appears that layby within site is supposed to be shared between a

bus stop, a set down and pick up car point, and delivery lorries (meaning not clear?). Not evident how this is to be done nor does it look practicable.

- Should be requirement to extend layby as necessary if turns out to be inadequate. (If condition is possible). [As it is not a public highway (?) ECC will presumably not be involved in what happens here?]
- Promoters seem keen to have buses stop on the NAR (VUR) instead, 400 yards away at point where they have to run across the road when returning home. Will scarcely encourage bus use. Nor is there any sign that ECC has agreed to provide stops on that road anyway.
- Promoters presumably hope that existing P&R service can be used instead of them having to fund a separate service. However, experimental evening P&R service of 2018-2020 is unlikely to be restored given usage was only 1-2 per bus (dependent on London commuters who are now far fewer).
- The chronic financial deficit into which the ill-advised Colchester scheme as a whole has now pushed the ECC P&R 'account' means (in combination with the impending LA money crisis at large) that no heavy subsidies will be possible henceforth.
- In principle, sharing the NG service with other developments so NG promoters do not bear the full cost is no bad idea, as higher usage would make the service more viable. Should be noted that the Severalls Hospital development service is imminent. ECC/CBC/operators quarterly meetings, which are supposed to be especially focused on getting services into new developments in a rational way, still have a record of 100% failure!

The full text of all of the representations received is available to view on the Council's website.

11.0 Parking Provision

- 11.1 The proposed development would be served by 758 car parking spaces (includes 8 rapid electric charging points and 15 active with potential for 171 to be converted) and 114 cycle parking spaces.

12.0 Accessibility

The proposal has the ability to comply with the provisions of the Equalities Act in respect of access.

13.0 Open Space Provisions

- 13.1 The nature of the development is such that there is no specific policy requirement for open space provision to accompany the proposals. There is however a significant area of public open space included.

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. It should be noted that the issue of impacts of the proposed development on air quality is an element

that was considered in the Environmental Statement submitted as part of the planning application. Furthermore this has not given rise to concerns from the Council's Environmental Protection team.

15.0 Development Team and Planning Obligations

15.1 This application is classed as a "Major" application and therefore there was a requirement for it to be considered by the Development Team. It was considered that Planning Obligations should be sought via Section 106 (S106) of the Town and Country Planning Act 1990. The Obligations that would be agreed as part of any planning permission would relate to the following.

15.2 From liaison between the applicant company, ECC and officers, the s106 agreement would seek to achieve the Bus Service Level criteria as outlined in the Highways Section of this report (or variation that is agreed by ECC and CBC):

- Public Transport - Contribution to fund bus improvements (current requested sum £543,000).

15.3 Other:

- (i) Agreement with regard to target a number of job opportunities in leisure and hospitality on jobseekers/returners/college leavers in the Borough.
- (ii) Contribution to ensure litter from site does not impact upon amenity outside of the site.

15.4 Lastly the S106 agreement would include a clause whereby the developer would agree to sign a 'no poaching' agreement that would prevent relocations of Class A3 uses from the town centre to the application site.

15.5 Parks and Recreation have recommended Maintenance contribution of £170,177 if amenity areas are to be adopted. The agent has confirmed the areas are not to be adopted

16.0 Report

Principle of the Development

16.1 Principle - Summary

In terms of the principle of the uses proposed on site, the current proposal is broadly similar in nature to the earlier extant planning permission (160825) which could be implemented as a fallback option. This is a material planning consideration. The site lies within an area designated in the adopted Local Plan as the North Colchester Strategic Employment Zone. Local Plan policies and National Planning Policies remain very similar and the Emerging Local Plan is at a more advanced stage which adds further support to the principle of the proposal. The

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revised National Planning Policy Framework (2019) also emphasises the importance of encouraging economic growth by ‘building a strong competitive economy’ (Section 6). The drive-thru units are an additional element not included in the previous scheme but do not undermine policy support.

- 16.2 In addition to previous impact assessment work, the current application is supported by a Leisure Impact Assessment within the EIA that has not identified any significant impacts arising from leisure uses on the Town Centre or on the viability of the cinema scheme being developed in the Tollgate District Centre. The independent Leisure Impact Assessment has confirmed that “the application proposals meet the sequential and impact tests set out in the NPPF (and PPG)” and that “There are no sequentially preferable sites capable of accommodating the proposed development; and no existing centre is likely to face a ‘significant adverse impact’ on its vitality and viability and/or planned investment as a result of the proposed development.”
- 16.3 It is considered that the variations in the accommodation schedule and mix of uses to respond to changes in the leisure market are not considered to raise any new policy issues concerning the principle of development that have not already been afforded consideration in the determination previous application. The proposal can therefore be supported in principle.

16.4 *Principle- Key policies*

By way of specific Local Policy background to confirm support of the proposal, the site is located within the North Colchester Growth Area and forms part of an identified Regeneration Area. As mentioned above, the site is also part of the North Colchester Strategic Employment Zone (SEZ). Previous analysis undertaken on behalf of the Council has established that this SEZ is the highest rated employment site (CBC Employment Land Needs Assessment 2015). In the case of the North Colchester SEZ the relevant adopted policy in the adopted Site Allocations document of the Local Plan is:

SA NGA3 – Employment Uses in the North Growth Area which identifies the range of uses that would be acceptable in the SEZ as follows:

(a) Research and Development, Studios, Laboratories, High-Tech (B1b), Light Industrial (B1c), General Industrial (B2), Storage and Warehousing (B8). Any such development will be restricted by way of condition to prevent change of use to B1a.

(b) Display, repair and sale of vehicles and vehicle parts, including cars, boats and caravans.

(c) Indoor sport, exhibition and conference centres.

(d) A limited amount of retailing only where this is ancillary to another main use in Class B1b, B1c, B2 or B8.

(e) Services and facilities to meet the needs of employees in the Employment Zone.

(f) Business Uses (B1, B1a) only where already consented

(g) At Cuckoo Farm planning permission exists for a range of uses including a hotel (C1), a public house/restaurant (A3/4) a health and fitness centre (D2) and business units (B1).

- 16.5 Having regard to the above policy the application does not entirely accord with the Local Plan land use allocation (as was the case previously) in the currently adopted local plan e.g. the proposed cinema and the food and beverage uses. Accordingly, the planning application has again been advertised as a Departure from the Plan. To reiterate, in the event that the recommendation to Members is agreed, the resolution on the proposal will have to be referred to the Secretary of State in order that a decision can be made as to whether the proposal is to be called-in for determination by the Secretary of State. This appears unlikely in the context of the extant permission.
- 16.6 In respect of the above policy and as noted at the time of the previous application 160825, it is concluded following further assessment by the Council's Policy team that **the proposal for the leisure uses within the latest application would still allow employment land delivery targets in North Colchester to be met.** As before it is concluded that the extent of the employment use allocation in the Northern Gateway SEZ reflects the Council's latest employment land supply and demand evidence, which is contained in the January 2015 Employment Land Needs Assessment (ELNA) and May 2017 Employment Land Trajectory. The 2015 study found that overall, Colchester had a sufficient quantitative supply of employment land to meet future demand to 2033. This finding was echoed in the Inspector's conclusion on the Stane Park appeal, which found no justification for safeguarding employment land on a 6.8 ha site in the Stanway SEZ due to lack of demand and sufficiency of supply elsewhere.
- 16.7 The 2015 ELNA study recommended that the Council should consider rationalising the existing and future supply of industrial space by seeking to concentrate this space in the Borough's key locations and areas of strongest market demand. The study identified Northern Gateway as the highest-ranking location in its evaluation of Colchester employment sites. Development of allocations for the Northern Gateway area has accordingly reflected this potential. The Council has been proactive in further enhancing the market desirability of the area by improvements to digital connectivity to attract inward investment. On that basis, higher density office development is considered deliverable, so land requirements for business use land reflect the lower need created by tall office buildings rather than land-hungry warehouse/logistics developments.
- 16.8 The May 2017 Employment Land Trajectory shows two sites adjacent to the application site providing approximately 48,000 sqm of office floorspace

on 8.2 ha. This is considered to be an appropriate proportion of the 39.4 ha of employment land to be delivered in Colchester in the plan period (outside of Garden Communities). The proposal is therefore not considered to undermine the above policy.

- 16.9 In terms of the Emerging Local Plan, this is at a more advanced stage than at the time of the previous approval and offers further support to the principle of this proposal. Policy NC1 is a material consideration weighing in favour of the proposed application and states as follows:

Policy NC1: North Colchester and Severalls Strategic Economic Area Zone 2 includes the application site.

Policy for Zone 2: The area defined on the policies map as zone 2 (adjacent to the Stadium) is being developed by the Council as a leisure/community hub and will be safeguarded for a mix of uses including sport, leisure and recreation. Uses will be permitted where they clearly demonstrate the potential for job creation and provided that they do not undermine or constrain the main purpose of the economic function of the wider area. Uses may include an appropriate scale of leisure and commercial space, open space and green infrastructure to enhance connectivity. No retail use will be permitted unless it is ancillary to another use and meets the requirements of the sequential test and impact test if required.

- 16.10 This policy reflects the contribution that the Northern Gateway site could make as a sustainable and comprehensively planned location to deliver on Local Plan objectives for the delivery of employment land; new sports and leisure facilities; and associated infrastructure improvements. The Northern Gateway is well-located at a key growth area for urban Colchester and benefits from good transport access, including public transport/road access to the Town Centre via the Northern Approach Road and bus corridor as well as adjoining junction 28 of the A12. Accordingly, the proposal is considered to be in line with this Policy NC1 of the Emerging Local Plan. Other principle policies are outlined in the Policies section and Planning Policy consultation section of this report and point to support for this application.

16.11 *Principle- Sequential test and impact assessment*

Following a series of legal and consultant opinions on the previously approved application 160825, the Council concluded that while the Tollgate site could be considered sequentially preferable, ultimately Tollgate Village did not emerge as a sequentially preferable site because it did not meet the market and locational requirements of the sequential test as it was specific to a named operator with generic requirements to this type of operation and limited potential for other operators to occupy the scheme. Work completed on town centre impact did not find that the proposed development at Northern Gateway would have a significant impact on any Town or District Centre. (Appendix 2 contains an extract from the Committee report from the approved 160825 outlining the

considerations assessed at time in respect of the sequential test and impact upon the Town centre.) The same conclusion is considered to apply to the current application which is similar to that previous approval.

16.12 The revised NPPF Section 7 aims to ensure that the vitality of town centres is maintained and, as with the previous proposal, the current proposal is concluded to be acceptable in this respect for the reasons outlined above and as expanded upon below.

16.13 More specifically Paragraph 86 of the NPPF states that the sequential test should be applied:

“...to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.”

Paragraph 87 requires applicants and local planning authorities to demonstrate flexibility on issues such as format and scale when applying the sequential test.

Paragraph 89 refers to the impact test:

When assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m² of gross floorspace). This should include assessment of:

- a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
 - b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme). Paragraph 90 makes it clear that a planning application should be refused where it fails to satisfy the sequential test or is likely to have a significant adverse impact on one or more of the considerations in NPPF paragraph 89.
- 16.14 The conclusions of the Independent Leisure Impact assessment for the current application (copies of full report available on the Council's website) state:
- “ We assess that, whilst the proposed development will draw trade from Colchester Town Centre (in particular cinema and F&B expenditure), it is unlikely to have a significant adverse impact on the Town Centre's cinema and F&B offer. This recognises:

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(a) The Odeon continues to operate despite (i) Curzon opening in 2017 and (ii) the planning permissions granted, and the operators confirmed for new large-format cinemas at Northern Gateway (Cineworld) and Tollgate Village (The Light) respectively. It remains the case that there is no evidence to suggest Odeon would be forced to close due to a loss of trade to the Northern Gateway, which we accept provides an opportunity to deliver a cinema experience not currently available in Colchester. We reach the same judgement in respect of Curzon, which opened in the light of a competition 'risk' from Northern Gateway and Tollgate Village and offers a much smaller, boutique-style cinema experience than the cinema proposals for the Northern Gateway.

(b) The F&B offer at the Northern Gateway (no A3/A5 operators identified) is likely to comprise casual dining operators that would complement – and cater for visitors to – the cinema, hotel and active leisure uses. Whilst the proposed development would draw trade from existing A3/A5 uses in Colchester Town Centre, it is unlikely to have a significant adverse impact on this sector given the scheme would function (differently) as a major regional leisure hub. Our judgement also considers the fact that the revised application includes a substantial reduction in A3/A5 floorspace (compared to the 2018 Approval) and introduces two drive-thru restaurants, which are unlikely to directly compete with the Town Centre on a like-for-like basis.

- “Overall, therefore, we assess that the application proposals meet the sequential and impact tests set out in the NPPF (and PPG) based on the information provided by LSH. There are no sequentially preferable sites capable of accommodating the proposed development; and no existing centre is likely to face a ‘significant adverse impact’ on its vitality and viability and/or planned investment as a result of the proposed development.”

16.15 The conclusion also comments that the applicant should clarify the latest position in respect of Cineworld’s commitment to the Northern Gateway (following its recent decision to temporarily close its cinemas across the UK). Accordingly, the agent has responded to this comment and submitted supplementary information with revised growth rates taking into account the impact of Covid-19. The report shows a projected drop in growth rates in 2020 but a significant rebound in 2021. The report accordingly states “Cineworld remain committed to the scheme and there is a strong expectation that Cineworld will open within the proposed scheme, which will come at a time (i.e. 2022/2023) to when the cinema market has recovered audience numbers.” It is also stated that the applicant is confident another cinema operator could fill the gap in the ‘unlikely event’ that Cineworld cannot proceed. The Independent Consultant agrees with these conclusions.

16.16 Accordingly, overall, given the above planning policy analysis and independent assessment it is considered that the proposal passes the sequential test, as defined in the NPPF and that there would not be a significant impact upon any Town or District Centre, as was also concluded on the previous scheme. The proposal therefore complies with Local Plan and National policy in this respect.

16.17 *Principle - Other material considerations*

The planning policy response to 160825 also noted the following material considerations which weighed in favour of the application and its overall acceptability and these considerations remain relevant to the current application and offer further support to the proposal:

- Delivery of Local Plan objectives -Northern Gateway Masterplan and corporate commitment to delivery of a comprehensively planned package of new employment and leisure facilities and supporting infrastructure.
- Financial benefits - The financial receipts to the public purse may be a material consideration, although at this stage it is not possible to fully assess financial benefits. The scheme will help with repayment of funding for the earlier stadium scheme and associated infrastructure. It will also serve as an anchor to attract further development and inward investment to the wider area.
- Job creation benefits – The proposed development would deliver full time jobs (indicated as 455) along with further direct and indirect economic benefits.

Design, layout, scale and landscape impact

16.18 In terms of the design, layout, scale and landscape impact of the proposal the scheme is considered acceptable. There are a number of Local Plan policies that are relevant to the case:

Core Strategy Policy SA NGA1 – Appropriate Uses within the North Growth Area requires that ‘...All new development should seek to draw on the character of the existing landscape, within and adjacent to individual sites. Proposals should seek a comprehensive integration of identified existing and new green links and desire lines which link both public and private open spaces. All new development will be expected to provide on-site infrastructure as well as provide or contribute towards off site infrastructure improvements to ensure the North Growth Area objectives are achieved.’

16.19 The ‘Vision’ document for the location was produced on behalf of the Council by Allies and Morrison. The vision document was approved by Cabinet in September 2012 and included the following key aspirations:

- A new gateway for Colchester
- A cutting-edge destination for sport and leisure
- A distinctive place defined by memorable buildings and spaces

- An exemplary approach to sustainability

- 16.20 Accordingly it is considered the location of this site at a 'gateway' to the town, requires a development of appropriate presence and quality in order to enhance the overall character of the area and ensure its attractiveness as a destination, both locally and regionally. This is reflected in the relevant Core Strategy policy UR2 provides that the Borough Council will promote and secure high quality and inclusive design in all developments and that the design of development should be informed by context appraisals and should create places that are locally distinctive enhance the built character and public realm of the area. The policy also provides that creative design will be encouraged.
- 16.21 Policy DP1 of the Local Plan provides that all development must be designed to a high standard, including respecting and enhancing the character of the site, its context and surroundings in terms of architectural approach height, scale, massing and must respect landscape setting.
- 16.22 The NPPF has similar provisions and Para 124 emphasises that the creation of high-quality buildings and places is fundamental to what the development process should achieve. It also provides that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area. Section 15 of the framework covers the protection of the wider landscape stating that the planning system should contribute to and enhance the natural and local environment.
- 16.23 Against this Policy backdrop and the context of the surroundings, the architectural approach taken follows an exciting contemporary character, similar to the scheme previously approved. In the context of the surroundings it is considered that this approach remains appropriate. The surrounding form of development generally follows a contemporary approach (for example the Community Stadium, David Lloyd Health and Fitness Centre and nearby commercial development). In addition, the use of this type of architecture, within an extensive green 'parkland' setting has considerable interest and presence.
- 16.24 The overall scale, form and massing of the proposed buildings is considered appropriate for the context. They would have the appropriate level of presence in terms of their scale within the relatively open landscape whilst not be overtly dominating, including when viewed from the A12, junction 28 and from the VUR. They would relate satisfactorily to the stadium nearby and would result in a striking Northern gateway to the town. As before, the position of buildings is such that important spaces such as United Way and also Via Urbis Romanae are directly addressed by built form.
- 16.25 The proposal features an attractive mixture of elements such as curved forms and varied roof shapes using a mixture of high-quality materials that give an exciting, striking and attractive appearance to the buildings. The brick proposed to be used on the cinema would be a beneficial visual contrast to the coloured sheeting and other materials used on the site. Furthermore, the provision of a high-quality public realm, as part of a

bespoke landscaping approach, would further augment the overall visual value of the scheme with attractive and well landscaped spaces between the buildings and additional water features adding to the visual interest. The drive-thru buildings are also considered to respect this context and would be relatively unobtrusive in this location and set against a backdrop of enhanced landscaping. The fenestration of the multi storey car park has been improved to give an enhanced level of visual interest and there will be landscaping alongside it to ensure it would not dominate this part of the VUR.

- 16.26 Some relatively minor changes to the scheme have been suggested including enhanced brick detailing to the cinema building and definition of spaces with additional planting. A meeting has also been held with the Council's Landscape Officer to discuss the concerns expressed within the consultation response. These matters related to the extent of the wildflower areas to the central space and secondly, the creation of a destination space, referencing well known horticulturalists/designers. In response, the landscape design has been amended to reduce the quantum of wildflower to the central space. It now relates to the existing oak trees/ditch line which was agreed as being more appropriate.
- 16.27 The remaining soft landscaped areas have been designed to include informal paths cutting through them, providing further hierarchy of routes on site. The paths would be lined with herbaceous planting and provide a scattering of benches set in the soft landscape areas.
- 16.28 Overall, subject to the revisions as outlined above, the proposal is considered to represent a high quality and exciting contemporary development that would relate well to its context and provide a striking gateway to the Northern approach to Colchester. Accordingly it would comply with the abovementioned Local Plan Policies, the Neighbourhood Plan and the NPPF.

Highway Matters and Sustainable Transport

- 16.29 The Highways Authority and Highways England have raised no objections and conclude that the volume of traffic, impact upon the road network (including junction 28 and the A12) visibility splays and parking provision is acceptable subject to conditions. These conditions which will be applied include:
- Submission of a Construction Management Plan
 - Contribution to a bus service
 - Bus stops provision and turning facilities
 - Visibility splays
 - Access arrangements at Junction 28
 - Appropriate pedestrian links
 - Travel Plan
- 16.30 In addition Para 109 of the NPPF is relevant and states "Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative

impacts on the road network would be severe.” Given the positive comments received from the Highways Authority and Highways England it is not considered the provisions of Para 109 would be contravened subject to conditions.

- 16.31 A Transport Assessment has been submitted within the Environmental Statement and this concludes:

“It is considered that the development will take up opportunities for non-car driver means of travel through its proximity to the existing built-up area of North Colchester and the adoption of a Travel Plan. There will be suitable access to the site, and improvements can be undertaken that cost effectively limit the impacts of the development. The transport impact of the development is less than that already assessed and accepted within the consented scheme’s TA.”

- 16.32 To ensure an appropriate sustainable transport strategy is in place the conditions suggested by the Highway Authority will be applied. As per the previous application, the level of bus service proposed would need to ensure that the application site is properly accessible by a mode of transport other than the private car.

- 16.33 The applicant has confirmed a continuing commitment to providing financial support towards a new/improved bus service to serve this development. Essex County Council (ECC) is preparing a holistic public transport strategy for the Northern Gateway Area and in light of this on-going work, ECC has confirmed that a financial contribution is to be made by this development to help fund new/improved services.

- 16.34 ECC’s preferred strategy is to pool funding from each of the emerging developments to provide a comprehensive bus service(s) for the area in order to deliver the most effective bus mitigation strategy for the wider northern gateway area. The final detail of the improved bus service is being developed and the bus mitigation strategy for this development at this stage would aim to achieve the following (or very similar):

- A bus service or services providing a frequency of one bus every 30 minutes seven days a week;
- The first bus arriving no later than 09.30 on any day and the last bus leaving no earlier than 23.30;
- Calls at bus stops either on-site or no further than 400 metres actual walking distance from the site;
- Providing a connection between the site and the Colchester railway station, Colchester town centre and residential areas in Colchester near to the site;

- 16.35 If the optimum solution is for buses to enter the site, the bus stop north of the cinema has been designed to be of sufficient size to accommodate a double decker bus. The layby will function as a dual-use bus stop and servicing bay, with deliveries able to use the northern layby prior to the first bus arriving on site. This will be managed through the delivery and

servicing management of the site. The southern layby on United Way can provide unrestricted delivery times and thus ensure that all units can always be serviced although servicing will occur “out of hours”.

- 16.36 If it is ECC’s preference to have stops on the VUR (maintaining a rapid bus service) new stops will be created on the VUR. Funding is being provided by this development to create up to 2 new bus stops to serve this development. These stops will be accessed utilising the existing footpaths and crossing points along/across the VUR and will be located within 400m of the site. If stops are provided on the VUR, the Park and Ride Service could potentially serve these new stops during its operational hours.
- 16.37 In terms of car parking provision, 758 spaces are proposed, and this includes 37 disabled spaces. The proposed parking provision for the development has been guided by Essex Planning Officers Association (EPOA) Parking Standards 2009, adopted by Colchester Borough Council as a Supplementary Planning Document (SPD) in November 2009 which have maximum rather than minimum standards. This level of parking is similar to that previously approved and is considered adequate to serve the proposed development in accordance with Local Plan Policy DP19. No objections in this respect have been received from the Highways Authority.
- 16.38 With regard to electric charging points, 15 active electric charging spaces are proposed initially. In addition to these there will be the 8 rapid charging spaces proposed near the drive thru restaurants. The submitted plan in section 14 of the DAS shows how a further 171 spaces are to be provided as passive EV charging spaces (the blue spaces). These spaces have the duct work etc and can be easily converted to EV spaces should the demand arise. This level of provision is considered acceptable. The 114 cycle spaces (as before) will also be provided.
- 16.39 With regard to the ongoing management of car parking on-site a car parking management plan has been submitted which includes the following details:
- Currently anticipated that the operation of the car park will be tendered out to appropriately qualified national operators who will be responsible for ensuring the smooth operation of the car park, cleanliness, lighting levels and that all payment equipment is fully serviced and maintained to ensure the continuity of operations.
 - Car park will be operated using barrierless, automatic number plate recognition (ANPR) technology. ANPR cameras would be situated at the entrance and exits of all.

Impact on neighbouring properties

- 16.40 In terms of the impacts of the proposed development on the amenity of neighbouring properties it is concluded that the proposal would not cause any significant harm. In terms of amenity impact generated mainly by noise from traffic generated by and visitors to the development and from commercial operations (i.e. smell, pollution, deliveries), it is considered

that the proposal would be acceptable. The environmental impacts of the development have been quantified through the Environmental Statement that accompanied the application submission. Therefore, issues such as noise and air pollution were considered in detail and Environmental Protection have raised no objections.

- 16.41 The nearest existing development to the application site is the Football Stadium and the David Lloyd development. It is considered that the proposed development would not have a detrimental impact on the amenity of these existing developments – not least due to their shared commercial nature. In terms of the nearest residential development, this is located along Boxted Road to the west, with an enclave located further north on this road, to the north of the trunk road. Significant newer residential development is located to the south east including Severalls Lane. It is considered that the relative remoteness of the development would mean that the amenity of the occupiers of these dwellings would not be significantly impaired by the proposed development. The proposal would therefore accord with Policy DP1 which aims to protect existing public and residential amenity.

Trees and Vegetation

- 16.42 There will be some removal of existing vegetation on site but overall its loss is considered to be acceptable and justified with replacement landscaping considered to satisfactorily mitigate this loss. The locality of the site includes a series of field boundaries formed of defunct hedgerows and lines of mature trees, most of which are oak. A tree survey was undertaken and submitted to establish the quality of all the trees within the site at the start of the project.
- 16.43 The agent has confirmed that the masterplan has evolved to provide a central landscaped plaza space where the best oaks are retained from the existing trees found on site, (Trees T13, T14 and T15 - all category B trees. These oaks have been assessed as having 40+ years of life and are retained in soft landscaping with hard landscaping located outside of their root protection areas.
- 16.44 The three individual oaks to be removed (T16, T17 and T18) are all Category C trees and have significant crown die back and are declining generally. Each tree has been estimated to have only 10-20 years of life left. Two groups of trees are also to be removed. These are G7, a hedgerow of Holy, Blackthorn and Oak and G8, a line of 7 coppiced oak stools. Both Groups are category B trees and form part of the hedgerow which bisects through the site, G7 being to the south and G8 being to the north. Both groups of trees conflict in part with the footprint of the proposed development and are proposed for removal.
- 16.45 The agent has confirmed that it was “agreed during the consideration and approval of the 2018 application, there is a conflict between retaining the hedgerow and delivering the proposed leisure units. The submitted scheme is for a leisure destination. To be successful, the two distinct

buildings located on either side of the hedge must have strong physical and visual relationships with one another. Maintaining visibility across the plaza and preserving views between the leisure units is key to the creation of a comprehensive leisure offering. The masterplan development has therefore been clear that having a dense landscaped hedgerow bisecting through the site which would have the affected of visually separating the two buildings cannot be accommodated. “

- 16.46 As per the previous permission the agent considers the removal of large parts of the hedgerow is therefore essential to provide the required visibility across the development and states that “Even if the proposed buildings were moved to avoid any physical conflict with G7 and G8, these trees would still need to be removed. “
- 16.47 Since permission was granted in 2018 the agent has however revisited the landscape strategy to test if any additional trees can be retained. The changes made to the site layout have enabled the retention of T15 and additional category B Oak tree. Accordingly, it is noted that the 2018 consent gave permission to remove all trees on the land north of United Way other than T13 and T14. If implemented, that permission would therefore result in the loss of an additional category B Oak tree. The current application is therefore an improvement on the previous approval and allows for an additional category B Oak tree to be retained.
- 16.48 The landscape strategy that has been developed is focused upon the provision of more appropriately located, well-spaced tree planting in soft landscape areas across the site as a whole. This is considered to provide appropriate replacement landscaping that mitigates the loss of the trees and would provide a benefit to the landscape in the longer term. The Council’s tree officer has analysed the submitted justification for the removal of the trees and vegetation and is in agreement subject to the Council’s landscaping officer agreeing the landscaping strategy. The landscaping strategy has been slightly amended, as outlined earlier, and is considered satisfactory and will be the subject of a condition.

Environmental and Carbon Implications

- 16.49 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 National Planning Policy 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. The consideration of this application has taken into account the Climate Emergency and the sustainable development objectives set out in the NPPF. It is considered that on balance the application can contribute to achieving sustainable development. The site is considered to be in a sustainable location, being within the Northern Gateway growth area and adjacent to a main trunk road and the Sustainable Transport Strategy demonstrates there will be good and improved links to Colchester Town

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Centre. The large number of new homes in northern Colchester will be readily accessible on foot and cycle to the new facilities and this will reduce the need for trips further afield.

Myland Neighbourhood Plan

16.50 The Myland Neighbourhood Plan forms part of the adopted Development Plan for Colchester. As it was adopted in December 2016 and provides an up to date Development Plan position on the Northern Gateway leisure proposal. The Neighbourhood Plan supports the general principle of sports and leisure facilities at Northern Gateway, as Myland Community Council and Braiswick Residents Association 'identify the emerging Northern Gateway proposals as having the potential to deliver an array of sport and leisure facilities which will provide much needed opportunities for sport and recreation and which will make an important contribution to the sustainability of the Neighbourhood Plan Area.' It is considered that the current proposal would help deliver on this Neighbourhood Plan objective and therefore accords with the provisions of the Neighbourhood Plan.

16.51 The following policy statement is also included:

SPL1 – In harmony with active lifestyles afforded by greenspace provision MCC and BRA will encourage developers and CBC to enable the provision of sport and leisure facilities, as far as possible on the Chesterwell, Severalls Phase 2 and Northern Gateway developments.

Ecological Issues

16.52 With regard to ecological issues, an ecological appraisal has been submitted. This confirms that there will be a small net loss of biodiversity, similar to the previous scheme and accordingly mitigation recommendations have been put forward. These measures can be conditioned ensuring the proposal is implemented in accordance with these measures. Natural England have made no objections to the scheme.

16.53 Accordingly the proposal would not conflict with Wildlife Policy DP21 which aims to conserve and enhance biodiversity.

Other Matters

16.54 In terms of surface water drainage and flooding, the site does not lie within a Flood Zone 2 or 3 and Essex SUDS have no objections subject to conditions. Accordingly there are no flood risk issues so the proposal does not conflict with Policy DP20. It is considered that surface water drainage conditions should be applied.

16.55 There would be no impact upon Heritage Assets or their setting and Historic England have raised no objections.

16.56 There are no archaeological implications and so the proposal complies with Policy DP14 in this respect.

- 16.57 With regard to complying with Breeam standards (sustainability rating of buildings) the submitted assessments indicate a 'Very Good' rating would be achieved. This meets the requirements of Colchester Borough Council's Core Strategy policy "ER1 Energy, Resources, Waste, Water and Recycling", which encourages non-residential developments to achieve a BREEAM rating of Very Good.
- 16.58 Conditions relating to contaminated land will be applied.
- 16.59 The Police Counter Terrorism officer has been contacted but has not recommended any conditions.

17.0 Conclusion

- 17.1 Whilst some elements of the proposed development are partly a Departure from the adopted Local Plan (as before), i.e. proposed cinema and the food and beverage uses, it is considered that material considerations strongly merit a recommendation of approval of the planning application. Approval for a similar scheme but not including the drive through units, was granted in 2017 under application 160825. Policy considerations at a National and Local level remain broadly the same as at the time of the previous approval in respect of this scheme. The Emerging Local Plan is now more advanced and offers additional support to the proposal. The revised NPPF also emphasises the importance of building a strong competitive economy. Accordingly, it is considered that the principle of the proposal is acceptable and that, as before, the impact upon Town and District Centres from the proposal is acceptable and the Sequential Test has been complied with.
- 17.2 The design, scale, form and layout of the proposal is considered appropriate for this context and would have an acceptable impact within the landscape. An appropriate landscaping scheme will be conditioned. The proposal incorporates a mixture of contemporary building forms that are similar in character to the previous approval and some design improvements, including material detailing. There are no objections from a highway safety point of view and the impact of traffic generation is acceptable, including upon the capacity of junction 28. The impact upon ecology, vegetation and archaeology is considered acceptable. There will be the loss of some Category B trees but this has been justified and a replacement planting scheme will mitigate the impact of this vegetation loss. It is not considered there will be a detriment to neighbouring residential amenity.
- 17.3 If Members agree with the Officer recommendation, it will be necessary for the proposal to be referred to the Secretary of State under the current call-in procedure owing to the cinema and beverage uses being a Departure to the Local Plan, as was the case on the previously approved application.

18.0 Recommendation

18.1 Members area advised that under the Town and Country Planning (Consultation) (England) Direction 2009 if the recommendation of approval is accepted it will be necessary to refer the application to the Secretary of State in order that a decision can be made with regard to whether the application is to be called in for determination. The following recommendation is made:

1. Delegated AUTHORITY to APPROVE subject to minor design detailing revisions and potential minor changes to conditions and 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 Environmental and Protective Services to refuse the application, or otherwise to be authorised to complete the agreement to provide the following:

From liaison between the applicant company, ECC and officers, the s106 agreement would seek to achieve the Bus Service Level criteria as outlined in the Highways Section of this report (or variation that is agreed by ECC and CBC):

- Public Transport - Contribution to fund bus improvements (current requested sum £543,000).

18.2 Other:

- Agreement with regard to target a number of job opportunities in leisure and hospitality on jobseekers/returners/college leavers in the Borough.
- Contribution to ensure litter from site does not impact upon amenity outside of the site.

18.3 Lastly the S106 agreement would include a clause whereby the developer would agree to sign a 'no poaching' agreement that would prevent relocations of Class A3 uses from the town centre to the application site.

18.4 On completion of the legal agreement, the Head of Service be authorised to grant planning permission subject to the following conditions (with delegation to officers for minor amendments to conditions if required):

19.0 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:

To be confirmed

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

3 - Access for Disabled Persons *

No works shall take place until a scheme indicating the provisions to be made for disabled people has been submitted to and approved, in writing, by the Local Planning Authority. The agreed scheme shall be implemented before the development hereby permitted is brought into use.

Reason: To ensure that convenient provisions to facilitate access for all.

4 - Materials to be Agreed *

No works shall take place until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction have been submitted to and approved, in writing, by the Local Planning Authority. Such materials as may be approved shall be those used in the development.

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

5 - Surfacing Material to be Agreed *

Prior to commencement of the development hereby approved full details of the surfacing materials to be used for all private, non-adoptable accessways, driveways, footpaths, courtyards, parking areas and forecourts shall be submitted to and agreed, in writing, by the Local Planning Authority. The development shall thereafter be carried out in accordance with the agreed details.

Reason: There is insufficient information within the submitted application to ensure that these details are satisfactory in relation to their context and where such detail are considered important to the character of the area.

6 - Non-Residential BREEAM (Part 1 of 2) *

No works shall take place until evidence that the development is registered with a BREEAM certification body and a pre-assessment report (or design stage certificate with interim rating if available) has been submitted indicating that the development can achieve a final BREEAM rating level of at least Very Good.

Reason: To ensure that the completed development is sustainable and makes efficient use of energy, water and materials.

7 -Non-Residential BREEAM (Part 2 of 2) *

Within 6 months of the occupation of the development, a final Certificate shall have been submitted to the Local Planning Authority certifying that BREEAM rating Very Good has been achieved for this development.

Reason: To ensure that the completed development is sustainable and makes efficient use of energy, water and materials.

8 - Refuse and Recycling As Shown *

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

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

9 - Communal Storage Areas *

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

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

10 – Litter *

Prior to the first occupation of the development hereby permitted, equipment, facilities and other appropriate arrangements for the disposal and collection of litter resulting from the development shall be provided in accordance with details that shall have previously been submitted to, and agreed in writing by, the Local Planning Authority. Any such equipment, facilities and arrangements as shall have been agreed shall thereafter be retained and maintained in good order.

Reason: In order to ensure that there is satisfactory provision in place for the storage and collection of litter within the public environment where the application lacks sufficient information.

11 - Non-Standard Condition/Reason - Foul Water Strategy **

No development shall commence until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the works have been carried out in accordance with the foul water strategy so approved unless otherwise approved in writing by the Local Planning Authority.

Reason: To prevent environmental and amenity problems arising from flooding.

12 - ZUM - Surface Water Drainage Scheme

No works 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 suitably qualified person(s) or the Lead Local Flood Authority (ECC), the statutory consultee in relation to SuDS.

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 LPA. The approved scheme shall subsequently be implemented prior to occupation and should include but not be limited to:

- Run-off from the site restricted to a maximum of 24.5l/s for all events up to the 1 in 100 inclusive of climate change (40%) storm event.
- Infiltration testing across the site area, in accordance with BRE 365, to support the SuDS hierarchy.
- Control of all surface water run-off generated within the development for all events up to and including the 1 in 100 year event inclusive climate change (40%).
- An appropriate amount of treatment in line with the CIRIA SuDS Manual C753.
- Final detailed modelling of the whole drainage network on site.
- A drainage plan highlighting final conveyance and exceedance routes, location and sizing of storage features, discharge/infiltration rates and outfall/s from the site.

Reason: To prevent surface water flooding and to mitigate any environmental harm that may be caused to the local water environment.

13 - Non-Standard Condition/Reason - 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 has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall subsequently be implemented as approved in accordance with a timescale previously agreed in writing with the Local Planning Authority.

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

14 - Non-Standard Condition/Reason - Surface Water Maintenance Plan **

Prior to first occupation of the development hereby approved, a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, shall be 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.

15 - Non-Standard Condition/Reason - Yearly Maintenance Logs *

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

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

16 - Non-Standard Condition/Reason - Removal of Permitted Development Rights **

Notwithstanding the provisions of Article 3, Schedule 2 Part 3 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended or any Order revoking and re-enacting that Order with or without modification) the development hereby approved shall be used solely as described in the planning application submission documents and supporting materials and for no other purpose(s) in the Schedule to the Town and Country Planning (Use Classes) Order 1987 and The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (or in any provision equivalent in any Statutory instrument revoking and re-enacting that Order with or without modification).

Reason: This is the basis on which the application was submitted and subsequently considered and the Local Planning Authority would need to give further full consideration to the appropriateness of a different use or uses on this site at such a time as any future change of use were to be proposed.

17 - Full Landscape Proposals TBA **

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

- PROPOSED FINISHED LEVELS OR CONTOURS;
- MEANS OF ENCLOSURE;
- CAR PARKING LAYOUTS;
- 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 TOTEM, ETC.);
- PROPOSED AND EXISTING FUNCTIONAL SERVICES ABOVE AND BELOW GROUND (E.G. DRAINAGE POWER, COMMUNICATIONS CABLES, PIPELINES ETC. INDICATING LINES, MANHOLES, SUPPORTS ETC.);
- RETAINED HISTORIC LANDSCAPE FEATURES;
- PROPOSALS FOR RESTORATION;
- PLANTING PLANS;
- WRITTEN SPECIFICATIONS (INCLUDING CULTIVATION AND OTHER OPERATIONS ASSOCIATED WITH PLANT AND GRASS

ESTABLISHMENT);

- SCHEDULES OF PLANTS, NOTING SPECIES, PLANT SIZES AND PROPOSED NUMBERS/DENSITIES WHERE APPROPRIATE; AND
- 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

18 - Landscape Management Plan **

Prior to the first occupation of the development, a landscape management plan including long term design objectives, management responsibilities and maintenance schedules for all landscape areas 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.

19 – Earthworks *

No works shall take place until details of all earthworks have been submitted to and agreed, in writing, by the Local Planning Authority. These details shall include the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform. The development shall thereafter be carried out in accordance with the approved details.

Reason: To ensure that any earthworks are acceptable in relation to their surroundings.

20 - Tree and Natural Feature Protection: Protected Areas *

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

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

21 - Tree and Natural Feature Protection: Entire Site *

No burning or storage of materials shall take place where damage could be caused to any tree, shrub or other natural feature to be retained on the site or on adjoining land (see BS 5837).

Reason: To protect the health of trees, shrubs and other natural features to be retained in the interest of amenity.

22 - Tree Canopy Hand Excavation *

During all construction work carried out underneath the canopies of any trees on the site, including the provision of services, any excavation shall only be undertaken by hand. All tree roots exceeding 5 cm in diameter shall be retained and any pipes and cables shall be inserted under the roots.

Reason: To protect trees on the site in the interest of visual amenity.

23 - Public Art *

No works shall take place until a scheme indicating the provision of public art and including a timetable for implementation has been submitted to and approved, in writing, by the Local Planning Authority. This scheme shall thereafter be carried in accordance with the detail approved and retained as such thereafter unless otherwise agreed, in writing, by the Local Planning Authority.

Reason: To ensure that this development scheme makes a contribution to the Borough in the field of arts and culture and to enhance the appearance of the development and visual amenity.

24 - Construction Method Statement *

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

the parking of vehicles of site operatives and visitors;

hours of deliveries and hours of work;

loading and unloading of plant and materials;

storage of plant and materials used in constructing the development;

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

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

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

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

25 - Limits to Hours of Work *

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

Weekdays: 8am - 6pm

Saturdays: 8am - 1pm

Sundays and Public/Bank Holidays: Not at all

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.

26 - Restriction of Hours of Operation **

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

Use	Monday to Friday	Saturday	Sunday and Bank Holidays
A3 - Restaurants and cafes	Start Time: 06:30 End Time: 02:00	Start Time: 06:30 End Time: 03:30	Start Time: 06:30 End Time: 03:30
C1 - Hotels	Start Time: 00:00 End Time: 23:59	Start Time: 00:00 End Time: 23:59	Start Time: 00:00 End Time: 23:59
A5 - Hot food takeaways	Start Time: 00:00 End Time: 23:59	Start Time: 00:00 End Time: 23:59	Start Time: 00:00 End Time: 23:59

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise including from people entering or leaving the site, as there is insufficient information within the submitted application, and for the avoidance of doubt as to the scope of this permission. Note: Premises requiring a License will need to apply to the Licensing Authority and each application will be assessed on its own merits; there is no guarantee that the above hours would be approved.

27 - Restricted Hours of Delivery **

Prior to first operation, precise details of delivery hours shall be submitted to and agreed in writing by the Local Planning Authority. No deliveries shall thereafter be received at, or despatched from, the site outside of the approved details.

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

28 - Food Premises (Control of Fumes and Odours) *

Prior to the first use of the development hereby permitted, control measures shall be installed in accordance with a scheme for the control of fumes, smells and odours that shall have been previously submitted to, and agreed in writing by, the Local Planning Authority. This scheme shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems. Such control measures as shall have been agreed shall thereafter be retained and maintained to the agreed specification and working order.

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

29 - Grease Traps Required *

Prior to the first use of the development hereby permitted, any foul water drains serving the kitchen shall be fitted with grease traps that shall at all times thereafter be retained and maintained in good working order in accordance with the manufacturer's instructions.

Reason: To prevent unnecessary pollution of the groundwater environment quality in the area and/or blocking of the drainage system.

30 - Site Boundary Noise Levels **

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

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

31 - Restriction of Amplified Music *

Prior to the first use or occupation of the development hereby permitted, the level of internal amplified sound shall be restricted by the installation and use of a noise-limiting device that complies with details that shall have been submitted to and agreed, in writing, by the Local Planning Authority. Thereafter, such devices shall be retained and operated in accordance with the approved specification and working order at all times.

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

32 - Self-Closing Doors *

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

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

33 - Sound Insulation on Any Building **

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

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

34 - Light Pollution for Major Development *

Prior to the first use of the development hereby permitted, a validation report undertaken by competent persons that demonstrates that all lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) fully complies with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note for zone EZ3 SMALL TOWN CENTRES OR URBAN LOCATIONS shall be submitted to, and agreed in writing by, the Local Planning Authority. Any installation shall thereafter be retained and maintained as agreed therein.

Reason: In order to allow a more detailed technical consideration of the lighting at the site, as there is insufficient information submitted within the application to ensure adequate safeguarding of the amenity of nearby properties and prevent the undesirable, disruptive and disturbing effects of light pollution.

35 - Details of Floodlighting **

Prior to their installation details of any floodlighting shall have been submitted to and agreed, in writing, by the Local Planning Authority. The development shall thereafter be carried out and maintained in accordance with the approved details.

Reason: To ensure that any floodlighting at the site is of a satisfactory specification and to ensure that it will not cause any undue harm or loss of amenity to the surroundings area.

36 - Illuminated Signs

Any externally illuminated sign shall comply with the guidelines in the current "Institution of Lighting Engineers Guidance TR5 Brightness of Illuminated Advertisements".

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

37 - External Light Fixtures *

No external lighting fixtures shall be constructed, installed or illuminated until details of all external lighting proposals have been submitted to and approved, in writing, by the Local Planning Authority. Thereafter, no lighting shall be constructed or installed other than in accordance with those approved details.

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

38 - Non-Standard Condition/Reason – External Lighting *

All external lighting serving the buildings hereby approved shall only be illuminated during the authorised hours of opening of those buildings.

Reason: To control periods of illumination in order to reduce the risks of any undesirable effects of light pollution.

39 - Contaminated Land Part 1 of 4 (Site Characterisation) **

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

- (i) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos;
- (ii) an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

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

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

40 - 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

41 - Contaminated Land Pt. 3 of 4 (Implementation of Approved Remediation) *

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

42 - 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 39, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 40, 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 41.

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.

43 - Validation Certificate *

Prior to the first OCCUPATION/USE of the development, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 40.

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.

44 - Oil Interceptor Required *

Prior to being discharged into any watercourse, surface water sewer or soakaway

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all surface water drainage shall be passed through an oil interceptor designed and constructed to have a capacity compatible with the site being drained. Roof water shall not pass through the interceptor.

Reason: To prevent unnecessary pollution of the groundwater environment quality in the area and/or blocking of the drainage system.

45 - Ecological Survey **

Prior to the commencement of development, precise details of wildlife mitigation and enhancement measures (as referenced in the submitted ecological report dated July 2020) shall be submitted to and agreed, in writing, by the Local Planning Authority. The development shall thereafter be carried out in accordance with such agreed details.

Reason: To allow proper mitigation and enhancement of the impact of the development on the contribution of nature conservation interests to the amenity of the area.

46 - Non-Standard Condition/Reason – Electric Charging Points **

Prior to first use of the site, the electric charging points for vehicles as shown on the submitted plans shall be provided and thereafter be maintained and retained as such. Prior to first use of the site details of a mechanism for deciding the requirement for implementing the use of the additional 171 electric charging points shall be submitted to and agreed in writing by the Local Planning Authority. The approved implementation mechanism shall thereafter be complied with and any electric charging spaces so implemented shall thereafter be maintained and retained as such.

Reason: In the interest of promoting sustainable transport modes and reducing pollution.

47 – Non-Standard Condition/Reason – Construction Management Plan *

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

Reason: To protect highway efficiency of movement and safety.

48 – Non-Standard Condition/Reason – Public Transport Improvements *

No commencement of the development shall take place until details of the following have been submitted to and approved in writing by the Local Planning Authority:

- a) a bus service or services or a contribution towards a public transport strategy for the site and surrounding area
- b) on site bus stop locations and specification
- c) any required new off site and/or improved existing off site bus stops
- d) any required on site bus turn round and/or layover facilities (temporary and/or permanent) and;
- e) a crossing facility or facilities in United Way

No occupation of the development shall take place until the agreed details have been provided.

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.

49 – Non-Standard Condition/Reason – Visibility Splay requirement *

Prior to occupation of that part of the development which utilises it, the access off United Way at its centre line shall be provided with a minimum 2.4 x 70 metre visibility splay to the right, as measured from and along the nearside edge of the carriageway. There shall be no obstructions within the splay more than 600 mms in height.

Reason: To provide adequate inter-visibility between vehicles using the access and those in existing highway in the interest of highway safety.

50 – Non-Standard Condition -Index linked contribution

No occupation of the development hereby approved shall take place until precise details of the following shall be submitted to and approved in writing by the Local Planning Authority:

- a. on-site bus stop locations as shown in principle on planning application drawing C174 / 3005 p11 produced by CMP Architects
a specification which shall accord with Essex County Council's together with a specification for the bus stops
- b. up to two new off-site or improved existing off-site bus stops if required and;
- c. an on-site bus turn around facility as shown in principle on planning application drawing C174 / 3005 p11 produced by CMP Architects

The approved details shall thereafter be implemented prior to occupation of the development hereby approved (save for the occupation of the hotel, the drive thru restaurants and/or the electric vehicle charging station).

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.

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51. - Access Arrangements

No occupation of the drive thru restaurants and/or the electric vehicle charging station shall take place until the access arrangements off the southern

roundabout at Junction 28 on the A12 as shown in principle on the planning application drawings have been provided and completed in accordance with details to be agreed by the Highway Authority.

Reason: To protect highway efficiency of movement and safety.

52. Access requirements

No occupation of the development (save for the occupation of the drive thru restaurants and/or the electric vehicle charging station) shall take place until the following have been provided or completed:

- a) the vehicle access arrangements, including lay-by in United Way, as shown in principle on planning application drawing C174 / 3005 pl1 produced by CMP Architects
- b) the Tower Lane cycle and pedestrian link as shown in principle on planning application drawing 841_PL_001 P03 produced by PLACE
- c) a crossing facility on United Way as shown in principle on planning application drawing number 3776-WSP-00-GF-DR-TP-0006 produced by WSP and;
- d) an overarching site wide Framework Travel Plan in accordance with Essex County Council guidance

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

53. Lane Allocation Markings

Within 12 months of occupation of the development (save for the occupation of the hotel, the drive thru restaurants and/or the electric vehicle charging station), the lane allocation road markings and signs on the Via Urbis Romanae north approach to the United Way/Axial Way roundabout as shown in principle on the planning application drawings shall be completed unless an alternative junction improvement scheme has already been completed as part of planning application reference 190665.

Reason: To protect highway efficiency of movement and safety.

19.0 Informatives *

(1) ZT0 – Advisory Note on Construction & Demolition

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

(2) – 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.

(3) – Informative on any application with a site notice *

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

(4) Informative on Noise and sound Insulation Competent Persons *

PLEASE NOTE that, with regard to and noise measurement and sound insulation, a competent person is defined as 'someone who holds a recognised qualification in acoustics and/or can demonstrate relevant experience'.

(5) – 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.

(6) – Informative on works affecting Highway land**

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

Prior to any works taking place in the highway the developer should enter into an agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works.

All or some of the above requirements may attract the need for a commuted sum towards their future maintenance (details should be agreed with the Highway Authority as soon as possible).

(7) Informative on Public Rights of Way *

PLEASE NOTE: The applicant/developer is advised that the application site is, or appears to be, affected by the existence of a public right of way. It should be noted that:

(i) it is an offence to obstruct or divert a public right of way (or otherwise prevent free passage on it) without the proper authority having been first obtained. In the first instance contact should be made with the Public Rights of Way Office,

Highways and Transportation Services, Essex County Council, County Hall, Chelmsford, Essex CM1 1QH. The telephone number is 01245 437563. (ii) The granting of planning permission does not authorise the undertaking of any work on a public right of way. Where it is necessary for a right of way to be stopped-up or diverted in order that development may take place, no work may take place upon the line of the right of way until an appropriate order has been made and confirmed (see (i) above). The applicant/developer should note that there is a charge for making a change to the rights of way network. (iii) Where a private means of access coincides with a public right of way, the granting of planning permission cannot authorise the erection of gates across the line or the carrying out of any works on the surface of the right of way and that permission for any changes to the surface must be sought from the highway authority (Essex County Council).

(8) – Informative on Bats *

PLEASE NOTE that it is understood that bat roosts exist within the application site. Bats are a statutorily protected species, and it is the developer's responsibility to ensure the requirements of the Wildlife and Countryside Act 1981 which relate to the protection of bats and their roosts are fully complied with.

(9) Non Standard Informative *

Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.

(10) - Non Standard Informative *

- Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting may be obtained from ECC as Lead Local Flood Authority.
- Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to suds@essex.gov.uk.
- Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.
- It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.
- You may require ordinary watercourse consent for the removal of the ditch and any works to existing ditches. Please see the following link: <https://flood.essex.gov.uk/maintaining-or-changing-a-watercourse/apply-for-a-watercourse-consent/>

(11) - Non Standard Informative **

The applicant's attention is drawn to the contents of the Anglian Water letter received on this application. An application to discharge trade effluent must be made to Anglian Water and must have been obtained before any discharge of trade effluent can be made to the public sewer. Anglian Water recommends that petrol / oil interceptors be fitted in all car parking/washing/repair facilities. Failure to enforce the effective use of such facilities could result in pollution of the local watercourse and may constitute an offence.

Anglian Water also recommends the installation of a properly maintained fat traps on all catering establishments. Failure to do so may result in this and other properties suffering blocked drains, sewage flooding and consequential environmental and amenity impact and may also constitute an offence under section 111 of the Water Industry Act 1991.

(12) -ZU1- Informative SUDS Suitably Qualified Person

A Suitably Qualified Person(s) must have a background in flood risk and be assessed by staff at Essex County Council before reviewing and providing any supporting statements to say that an application is technically acceptable. The assessment of a suitably Qualified Person will be carried out by members of the Development and Flood Risk team and may be liable to a charge. Following the initial assessment of a Suitably Qualified Person(s) subsequent reviews will take place and if deemed necessary Qualified Person status may be withdrawn or the person(s) assessed may be required to carry out further training and assessment at additional charge. The applicant may use ECC SuDS Planning Written Advice service to have their FRA/ Drainage strategy reviewed to provide a formal letter confirming this is acceptable issued. Further details on the SuDS Planning Advice service can be found at: <https://flood.essex.gov.uk/new-development-advice/apply-for-suds-advice/>

APPENDIX 1 Proposed floorspace compared to previous approval 160825.

Current Proposal:

Use Class	Total gross new internal floorspace proposed (including changes of use) (square metres)
A3 - Restaurants and cafes	2885
C1 - Hotels	3078
D2 - Assembly and leisure	13553
Other N/A	7828
Total	27344

Previous Approval 160825:

Use Class/type of use	Total gross new internal floorspace proposed (including changes of use) (square metres)
A3 - Restaurants and cafes	4,543
C1 - Hotels	3,410
D2 - Assembly and leisure	10,274
Other	12,193
Total	30,420

APPENDIX 2 160825 COMMITTEE REPORT EXTRACT- Sequential Test and Impact Upon Town Centre conclusions:

15.40 Leading on from this it is considered that the provision of the cinema element accords with the requirements of the NPPF Sequential Test as sites that are sequentially preferable are not suitable – and this suitability issue properly includes the commercial requirements of an applicant – and are not viable for the mix of uses that are proposed under this planning application that are required for the cinema use. Specifically, in relation to this point the Lichfield's Critique concludes that '...In our view, collectively, the evidence presented provides a robust justification that market and

locational requirements mean the proposed development cannot be located at TV (Tollgate Village), and the sequential test has been satisfied...'

- 15.41 Additionally whilst there will be an impact on the town centre resulting from the development, the independent consultant's opinion in relation to the existing cinema provision in the town is that this would not result in closure of the Odeon or postponement of the Curzon facility. In combination with the proposed food and beverage uses, the main impact would be during the evening as opposed to daytime periods when the main retail function of the town would not be adversely impacted. The following comment is included within the Lichfields Critique:

'...Lichfields' impact sensitivity analysis...indicates that the solus and cumulative impacts of the NG application proposal with commitments will not have a significant adverse impact on Colchester town centre or other centres...'

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it has been called in by Cllr Barber who has concerns about impact upon wildlife, the site being on agricultural land not earmarked for development, visual amenity, design, floodplain, a precedent being set and highway safety.

2.0 Synopsis

- 2.1 The key issues for consideration are whether an appropriate scale and design of development is proposed that ensures its compatibility with the rural character of the site and mitigates its impacts upon the wider landscape setting. Impact upon highway safety, neighbouring residential amenity, vegetation and ecology also needs to be considered.
- 2.2 The application is subsequently recommended for approval. It is concluded that the principle of the proposal accords with Local Plan and National Planning Policy in terms of its location, on sustainability and transport grounds. It is a small scale tourist use that helps the rural economy and such proposals are supported in the National Planning Policy Framework (NPPF). The landscape impact is acceptable and an appropriate landscaping scheme will increase screening and mitigate the loss of the minor extent of vegetation that is to be removed. The design and scale of the lodges is considered visually acceptable for this countryside location and there will be no impact of significance upon highway safety, the setting of heritage assets, neighbouring residential amenity or wildlife. The site also does not lie within a floodzone so there are no issues in this respect.

3.0 Site Description and Context

- 3.1 The site lies within the countryside and Bakers Lane essentially connects the Spring Lane roundabout to the B1508 and has the character of a rural lane. A golf complex sits to the east and residential properties to the north and south.

4.0 Description of the Proposal

- 4.1 The proposal seeks permission for the change of use of the land within the application site from agriculture and the erection of three holiday lodges along with associated landscaping, parking and access arrangements. Access to the site would be from an existing access off Baker's Lane.

5.0 Land Use Allocation

- 5.1 Countryside/Agricultural Land.

6.0 Relevant Planning History

- 6.1 Planning Application 172873 - Change of use of land from agriculture and erection of 6 holiday lets. (This related to two parcels of land, one on the opposite side of Bakers Lane and the other on the current application site.) The application was recommended for Approval at Committee but was refused for the following reasons:

The application site lies within an important area of open countryside of unspoilt rural character to the north of the conurbation of greater Colchester within the Colne river valley served by a rural lane of substandard width and alignment and lacking footways. The proposed development by reason of the change of use of agricultural land and the introduction of built form and domestic activity in this isolated location would serve to harm the essential qualities of the locality and the landscape character as set out in the Colchester Landscape Character Assessment (2005) and associated guidelines thereby failing to recognise the intrinsic character and beauty of the countryside and to enhance the natural and local environment as required by Section 15 of the NPPF. The site falls within an area identified as a High Value Landscape within the Review of Countryside Conservation Areas in Colchester Borough (2005). Accordingly, the proposals are contrary to Development Plan policies ENV1, ENV2, UR2 of the Adopted Core Strategy(2008, selectively revised 2014) and Adopted Development Policies (2010, Selectively revised 2014) DP1 and DP17 that together seek to ensure that the intrinsic character of the countryside is respected and development served by safe and sustainable modes of transport that minimise trips by the private car.

- 6.2 The proposal was dismissed on appeal. The Inspector referred to the land to the east of Bakers Lane as 'Parcel A' (the current application site) and the land to the west of Bakers Lane as 'Parcel B'.
- 6.3. With regard to 'Parcel A' (current application site), the Inspector concluded the following:

"14. Consequently, I am not persuaded that the appeal site and its immediate surroundings have the physical characteristics which would take it beyond countryside. As such, the **appeal site does not lie within a valued landscape**, which paragraph 170(a) of the Framework seeks to protect and enhance. Nevertheless, paragraph 170(b) of the Framework explains that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

15. In terms of the proposed lodges within **Parcel A**, the positioning of the two lodges that would be located within the grassed area near to the existing access onto Bakers Lane would respond to the pattern of development established by the neighbouring properties to the side of the site. In addition, the existing hedgerow and trees would provide a significant degree of screening which would limit views of the proposed lodges from Bakers Lane.

16. In terms of the third lodge within Parcel A, owing to its close position to the side of the existing dwelling, which in itself would provide a large degree of screening, and the single storey nature of the proposed building, I consider that the building would appear as part of the existing farmstead and thus the proposal would conserve the intrinsic character of the countryside. **Therefore, the proposed holiday lodges within Parcel A would not cause harm to the area's semi-rural character when viewed from localised and wider viewpoints."**

6.4 The Inspector concluded that the land at Parcel B was more exposed and that:

"19. Overall, the proposed holiday lodges within **Parcel B would change the landscape and scenic qualities of the local area** by introducing an out of keeping and sporadic form of development within the open countryside, which would not relate to the local area's existing semi-rural character. As such, I am not persuaded by the conclusion of the appellant's Landscape and Visual Assessment which states that the proposal would fit comfortably into the surrounding landscape.

6.5 Overall the Inspector concluded the proposal was small scale and was "satisfied that the proposed holiday lodges would support existing rural services in the local area by providing overnight accommodation for visitors to the golf course and tennis centre."

6.6 With regard to sustainability and transport options the Inspector concluded the following:

33 In conclusion, for the reasons set out above, **I conclude that the proposal would provide a suitable location for holiday accommodation.** As such, the proposal would accord with Policy DP10 of the DP which supports small-scale visitor accommodation in rural areas, even in areas which have poor accessibility. I recognise that there is a tension between Policies DP10 and DP17 of the DP from an accessibility point of view. As I have not been able to find that the proposal would be accessible to a choice of sustainable modes of transport, there would be some conflict with Policy DP17 of the DP. **However, this 'small scale' proposal would accord with Policy DP10 and it is of note that paragraph 103 of the Framework** states that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making. Therefore, I do not find that the conflict with Policy DP17 of the DP would in itself be a reason to refuse planning permission.

6.7 In conclusion the Inspector dismissed the appeal solely on the grounds of the harm caused to the character and appearance of the countryside from development on 'Parcel B.' He concluded the locality itself was suitable for holiday accommodation in terms of sustainability and transport grounds and that 'Parcel A' (the current application site) "would not cause harm to the area's semi-rural character when viewed from localised and wider viewpoints.", going on to state that: "However, very significant harm would be caused to the character and appearance of the area when the development is considered as a whole and this is a matter of overriding concern.

Accordingly, I conclude that the appeal should be dismissed.”

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 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations

UR2 - Built Design and Character

7.3 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:

DP1 Design and Amenity

DP8 Agricultural Development and Diversification

DP10 Tourism, Leisure and Culture

DP14 Historic Environment Assets

DP17 Accessibility and Access

DP19 Parking Standards

DP20 Flood Risk and Management of Surface Water Drainage

DP21 Nature Conservation and Protected Lanes

7.4 Some “allocated sites” also have specific policies applicable to them. The adopted Site Allocations (adopted 2010) policies set out below should also be taken into account in the decision making process:

N/A

7.5 The Neighbourhood Plan for Boxted / Myland & Braiswick/ Wivenhoe/ West Bergholt is also relevant. This forms part of the Development Plan in this area of the Borough.

7.6 Submission Colchester Borough Local Plan 2017-2033:
The Council is developing a new Local Plan that has been submitted to the Planning Inspectorate (October 2017). An Inspector has been appointed and the formal examination commenced in January 2018. The examination is ongoing.

Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to:

1. The stage of preparation of the emerging plan;

- 2.The extent to which there are unresolved objections to relevant policies in the emerging plan; and
- 3.The degree of consistency of relevant policies to the policies in the Framework.

The Emerging Local Plan is at an advanced stage and is, therefore, considered to carry some weight in the consideration of the application, but as it is yet to undergo a full and final examination, it is not considered to outweigh the material considerations assessed above in accordance with up-to-date planning policies and the NPPF.

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

The Essex Design Guide
 External Materials in New Developments
 EPOA Vehicle Parking Standards
 Open Space, Sport and Recreation
 Sustainable Construction
 Sustainable Drainage Systems Design Guide
 Managing Archaeology in Development.
 Developing a Landscape for the Future

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 **Archaeologist states:** No material harm will be caused to the significance of below-ground archaeological remains by the proposed development. There will be no requirement for any archaeological investigation.
- 8.3 **The Landscape Officer** has “no objections to this application on landscape grounds”. A condition to ensure the implementation of the submitted landscape details is recommended.
- 8.4 Environmental Protection have no objections subject to conditions relating to a construction method statement and limits to hours of work (construction). It is also recommended that a scheme for the disposal of sewage is submitted prior to development.
- 8.5 Tree officer: requested submission of an updated Tree Plan (submitted) and has raised no objections.
- 8.6 **Contaminated Land Officer** has “ no comments for the proposal.”
- 8.7 **Essex Suds** team states that comments for such minor application do not fall within their remit.
- 8.8 **Natural England:** No comment and refers to standing advice.

8.9 Highway Authority:

The impact of the proposal is acceptable from a highway and transportation perspective subject to conditions:

- Vehicular access shall be constructed to a width of 5.5m and shall be provided with an appropriate dropped kerb.
- No unbound materials shall be used in the surface treatment of the proposed vehicular access within 6m.
- Gradient stipulations.
- Vehicular visibility splays of 33m by 2.4m by 33m.
- Gates erected at the vehicular access shall be inward opening only and recessed a minimum of 6m.
- Car parking.
- Refuse/Recycling provision.
- Boundary hedge visibility splays.
- Wheel wash facility.

9.0 Parish Council Response

9.1 The Parish Council have made no observations.

10.0 Representations from Notified Parties

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

10.2 **Cllr Lewis Barber** has stated: "I have been asked to call this in on behalf of the community. The main material planning issues raised against the proposals are the impact on wildlife, the proposal is on agricultural land which is not appropriate nor in an appropriate location for these proposals, this land is not earmarked for development in the current or emerging local plan, visual amenity and design, flood plan issues, the precedent this proposal would cause in this rural location and highways safety."

10.3 **7 letters of objection** have been received which make the following points:

- Permission denied last year
- Field floods heavily
- Out of character. Layout does not respect existing layout.
- Colne River Valley is undeveloped and should remain so. Will urbanise valley and damage countryside.
- Traffic problems on busy lane.
- Highways condition will require further hedging removed.
- Design and layout is crass. Amendments to design could partially mitigate.
- 172873 Appeal decision should be revisited.
- Unauthorised chicken sheds erected.
- Biodiversity impact.

- Question need.
- Contrary to NPP, DP8 and P10.
- Sustainability and accessibility concerns.
- No business plan. Economic benefit unproven.
- Sequential test should be applied.
- Potential to use as semi-permanent housing.
- Letters of support are from friends.

10.4 **8 letters of support** have been received which make the following comments:

- Appeal decision indicated the lodges on this site were acceptable.
- New scheme scaled down from appeal decision.
- Difficult to carry week's holiday items by public transport.
- Locale already quite urbanised.
- Holiday makers tend to cycle and walk a lot.
- Negligible noise.
- Low light pollution compared to A12.
- Farm needs an income to carry on with Conservation work. Farm diversification.
- Economic benefit- need to support businesses in these difficult times.
- Family business in excess of 100 years.
- Ecology covered by sureys.
- Site fully screened.
- Not in flood zone.
- Call in unjustified.
- Use well suited to location
- Would work well with the surrounding facilities at the Playgolf and Making Aces tennis academy.
- Log cabins in keeping with countryside.
- High demand for this type of high quality accommodation.

11.0 Parking Provision

11.1 Parking matters are addressed at paragraphs 16.12-16.15 of this report

12.0 Accessibility

12.1 The proposal has the ability to comply with the provisions of the Equalities Act in respect of access.

13.0 Open Space Provisions

13.1 N/A

14.0 Air Quality

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

15.0 Planning Obligations

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

16.0 Report

The Principle of the Development

- 16.2 The site lies in the countryside and involves the provision of three holiday lodges in an undesignated countryside location. Accordingly, it is considered that the principle of the proposal should be judged having regard to Policies DP10 (Tourism, Leisure & Culture), DP17 (Accessibility) and the provisions of the National Planning Policy Framework. The planning history of the site also needs to be carefully considered and in this case this relates to the appeal decision as outlined in detail in the Planning History section of this report.
- 16.3 Importantly the Inspector concluded on appeal 17287 (detailed above) that in principle “the proposal would provide a suitable location for holiday accommodation.” Accordingly he concluded that the site was appropriately located in terms of sustainability and transport grounds. This remains the case for the current application which formed just part of that previous appeal case.
- 16.4 Policy DP10 provides that in rural areas, tourism can help the economy although it emphasises that the proposal must be compatible with the rural character of the area and avoid causing undue harm to the open nature of the countryside or designated sites “Where accessibility is poor, proposals should be small scale...”. The Inspector concluded that the previous larger scheme was small scale so and it is clear that the current reduced scheme can be classified as small scale. Accordingly it is considered the proposal accords with Policy DP10 in principle and the proposal should thus be judged on its merits having regard to the criteria in this policy. The Inspector recognised that there was some conflict with Policy DP17 (accessibility) on the larger appeal proposal but that this on own was not sufficient to warrant a refusal. It is not considered the current reduced scheme could be refused on accessibility reasons, particularly as the scheme is smaller and that inevitably, tourism frequently occurs in rural areas and this site is not particularly remote in itself.
- 16.5 Policy DP8 also offers support for this proposal and it provides that appropriate farm diversification proposals will be encouraged where they are compatible with the rural environment and help to sustain the existing agricultural enterprise
- 16.6 The revised NPPF also gives considerable support to encouraging the rural economy. In terms of National Policy, Para 83 of the revised NPPF aims to support a prosperous rural economy, including “sustainable rural tourism and leisure developments which respect the character of the countryside”.

- 16.7 It should also be noted that the site lies directly adjacent to a golf facility and close to a tennis facility so there could be economic benefits to these adjacent businesses and a potential reduction required travel.

Landscape Impact and Design

- 16.8 It is considered that the proposal is acceptable in terms of its impact within the landscape of this part of the countryside which lies within part of the Cole valley. The development is located as far above the river valley as is practicable, sits amongst an existing ribbon of development and would be enclosed by planting. Additional planting on the boundary with the adjacent golf club can also help minimise any visual intrusion. The lodges would be single storey and typical of tourist cabins, with visually acceptable gable widths, roof pitches and materials and finishes. Thus overall, it is considered that the development would not have any significant detrimental impact on the landscape character of its surroundings by virtue of its self-contained and generally well screened setting. The Council's landscape officer has no objections to the proposal subject to landscaping as proposed.
- 16.9 This conclusion was backed up by the Inspector on the previous appeal and he made clear comments in this respect for 'Parcel A' which this latest proposal comprises. The Inspector was "not persuaded that the appeal site and its immediate surroundings have the physical characteristics which would take it beyond countryside. As such, the appeal site does not lie within a valued landscape....".
- 16.10 The Inspector was clear that the positioning of lodges on 'Parcel A' would, in his view "respond to the pattern of development established by the neighbouring properties to the side of the site. In addition, the existing hedgerow and trees would provide a significant degree of screening which would limit views of the proposed lodges from Bakers Lane." He also concluded that the lodge nearest the existing dwelling would be partly screened by the existing dwelling and would appear as part of the existing farmstead. Importantly he concluded overall that the proposed holiday lodges within Parcel A "would not cause harm to the area's semi-rural character when viewed from localised and wider viewpoints." This is considered to remain the case and therefore the proposal is considered acceptable on landscape impact grounds within this part of the Colne Valley.
- 16.11 The proposal would therefore accord with the provisions of Policy DP1 which provides that development should respect and enhance the character of the site, its context and surroundings including in terms of design, layout and landscape setting. It would also accord with the Policy DP10 which provides that such development should be compatible with the rural character of the surrounding area and avoid causing undue harm to the open nature of the countryside. The proposal would also accord with Policy ENV1 which aims to conserve Colchester's natural and historic environment and the countryside..

Highway Safety and Parking:

- 16.12 The intensity of use of the site in terms of vehicular movements is likely to be quite low as only three holiday Lodges are proposed. Nevertheless, adequate access arrangements, including visibility splays, will still be required. It is considered that access and egress to and from the site for the holiday accommodation use should be restricted to the access to the south of the site as this has very good visibility splays in either direction. The required splays as outlined in the Highway Authority comments can be provided in either direction without loss of any significant vegetation. There will need to be a slight widening of the access just within the site to 5.5 m in total but this will result in only a small element of vegetation either side of the access needing to be removed and nothing along the frontage. The works required to the access would not undermine the rural character of this part of Bakers Lane and a condition requiring details of the element that needs to be hard surfaced to be submitted and agreed will be applied.
- 16.13 The existing access to the North-East of the site would need some hedging to be removed to achieve the suggested Highway Authority visibility splays and this would not be visually desirable and so the condition will be applied limiting the vehicular exit use of holiday accommodation traffic to the access to the South. This condition is considered reasonable and enforceable.
- 16.14 There is room to provide adequate parking and turning provision within the site and this will be conditioned. It is not considered significant works would be required to meet the gradient conditions, as outlined by the Highway Authority.
- 16.15 Overall, the proposal is therefore considered acceptable from a highway safety point of view and complies with Local Plan policies DP10, DP1 (safe development) and DP19 (parking). The provisions of Para 109 of the NPPF are not contravened. Para 109 provides that "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe." Neither is the case for this scheme.

Impact upon neighbouring residential amenity

- 16.16 It is not considered there would be any significant disturbance to neighbouring residential amenity from the use. This is a quite low intensity of use, being three holiday lodges only. The vehicular access points are far enough away from the nearest neighbour's dwelling to avoid disturbance from noise, headlights or dust. There is also a substantial existing planting belt between the site and the nearest neighbours and this will be helpful in terms of noise, outlook and overlooking which it is considered would not represent any significant detriment to neighbouring residential amenity. The Environmental Protection team have raised no objections and the suggested conditions will be applied, including a Construction Management Plan and Hours of Work Policies DP1 and DP10 are therefore complied with in this respect which have criteria regarding amenity impacts.

Environmental and Carbon Implications

- 16.17 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 National Planning Policy 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. The consideration of this application has taken into account the Climate Emergency and the sustainable development objectives set out in the NPPF. It is considered that on balance the application can contribute to achieving sustainable development, particularly given the Inspector's comments in respect of the previous appeal (see paragraphs 16.2-16.7 of this report).

Ecological Issues

- 16.18 With regard to ecological issues, an ecological appraisal has been submitted. This confirms that no operational development or construction works impact on any statutory or non-statutory sites (due to the distance between site and Nature Reserves, low ecological connectivity (intervening infrastructure) and low impact on the proposals. .” It also states that “The footprint of the proposed lodges and access track is improved, species-poor grassland managed as a mown lawn and of low ecological value.” Precautionary mitigation measures are recommended and these can be conditioned by ensuring the proposal is implemented in accordance with these measures.
- 16.19 Accordingly the proposal would not conflict with Wildlife Policy DP21 which aims to conserve and enhance biodiversity.

Trees and Vegetation

- 16.20 With regard to impact upon trees and vegetation an updated Arboricultural Impact Assessment (AIA) has been submitted and the tree officer has raised no objection. A short piece of hedging either side of the access to be used would be removed to give an appropriate width of access point, as mentioned earlier but no vegetation of significance would be required to be removed to achieve appropriate visibility splays.
- 16.21 The report confirms that it is proposed to remove the mixed plantation broadleaves vegetation within the site close to the existing dwelling and confirms that these trees are “young to semi-mature and form part of a shelter belt situated within the site.” The assessment continues: “Their removal represents minimal loss of amenity and can be compensated for as part of landscaping of the site, e.g. by a native hedgerow planted between the proposed access track and the site's boundary.” The loss of this short element of vegetation is thus considered acceptable and will be more than compensated for by the proposed landscaping.

- 16.22 One Poplar (T1), which is immediately adjacent the footprint of a proposed holiday let, is to be removed. The AIA confirms that this tree is “semi-mature and healthy, but of low landscape significance.” Given that it does not have significant landscape value it is not considered there is an objection to its removal. It would also be too close to the nearest lodge and could potentially be in an unsafe proximity. Again, nearby boundary planting would compensate for its removal.
- 16.23 Overall, the extent of vegetation to be removed is quite minimal and only involves Category C vegetation and no Category A or B trees would be removed. One relatively small branch on the Category B Oak tree by the entrance would be removed as there is a slight overhang on the access.

Other Matters

- 16.24 There are no archaeological implications and so the proposal complies with Policy DP14 in this respect.
- 16.26 The site does not lie within a Flood Zone 2 or 3 and accordingly there are no flood risk issues so the proposal does not conflict with Policy DP20. It is considered that a surface water drainage condition should be applied to ensure, in particular that there is not unacceptable run off onto Bakers Lane.
- 16.27 The site is far enough from any public right of way to avoid any impact.

17.0 Conclusion

- 17.1 To summarise, it is considered that the principle of the proposal accords with Local Plan and National Planning Policy including in terms of its location on sustainability and transport grounds. It is a small scale tourist use that helps the rural economy and such proposals are supported in the NPPF. The landscape impact is acceptable and an appropriate landscaping scheme will increase screening and mitigate the loss of the minor extent of vegetation that is to be removed. The design and scale of the lodges is considered visually acceptable for this countryside location and there will be no impact of significance upon highway safety, neighbouring residential amenity, wildlife or historical assets. The site also does not lie within a floodzone so there are no issues in this respect.

18.0 Recommendation to the Committee

- 18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions (with DELEGATED AUTHORITY) being given to amend the pre-commencement conditions as necessary in accordance with the Town and Country Planning (pre-Commencement conditions) Regulations 2018):

1. ZAA - Time Limit for Full Permissions

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

2. ZAM – Development To Accord with Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers: 18-121-1104-P3, 18-121-1102, 1001, NC17.325-P-20B-A2L received 10.6.20, Arboricultural Impact Assessment (*subject to condition 4*) received 24.7.20.

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

3.Z00- Tree and Hedge Retention

All existing trees and hedgerows shall be retained throughout the development construction phases, unless shown to be removed on the approved drawing and all trees and hedgerows on and immediately adjoining the site shall be protected from damage as a result of works on site in accordance with the Local Planning Authorities guidance notes and the relevant British Standard. All existing trees and hedgerows shall then be monitored and recorded for at least five years following contractual practical completion of the development. In the event that any trees and/or hedgerows die, are removed, destroyed, fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed, in writing, with the Local Planning Authority. Any tree works agreed to shall be carried out in accordance with BS 3998.

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

4. Tree and Hedgerow Protection: General

All works shall be carried out in accordance with the submitted Arboricultural Impact Assessment received 24.7.20 unless otherwise agreed, in writing, by the Local Planning Authority with the exception that, notwithstanding the submitted details, precise details of the exact extent of vegetation to be removed at the Southern access entrance shall be submitted to and agreed in writing by the Local Planning Authority prior to removal in this location and only the approved detail shall be implemented.

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

5 - Ecological Recommendations

All works shall be carried out in accordance with the Key Recommendations and Precautionary Methods set out within the submitted Ecological Survey (ref: REP16024.3) unless otherwise agreed, in writing, by the Local Planning Authority (LPA).

Reason: To ensure appropriate mitigation of the developments impact upon the sites ecology and nature conservation interests.

6. Non Standard Condition - Vehicular Access

Prior to the first occupation of the proposed holiday lodges, the vehicular access at the Southern end of the site shall be constructed to a width of 5.5m, the precise details of which shall be submitted to and agreed in writing by the Local Planning Authority in conjunction with condition 4. The access shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority. Only the approved details shall be implemented.

Reason: To ensure that all vehicles using the private drive access do so in a controlled manner, in the interests of highway safety.

7. Access Restriction

There shall be no use of the access at the Northern end of the site for the exit of holiday accommodation vehicular traffic and prior to occupation of the lodges, precise details of appropriate restrictive signage shall be submitted to and agreed in writing by the Local Planning Authority. The approved signage shall be installed prior to first occupation of the holiday lodges and thereafter retained as such.

Reason: In the interest of highway safety.

8. Unbound Materials

No unbound materials shall be used in the surface treatment of the proposed vehicular access within 6m of the highway boundary and precise details of the material to be used shall be submitted to and agreed in writing by the Local Planning Authority prior to implementation. Only the approved details shall be implemented.

Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety and in the interests of visual amenity.

9. Access Gradient

The gradient of the proposed vehicular access shall be not steeper than 4% (1 in 25) for at least the first 6m. from the highway boundary and not steeper than 8% (1 in 12.5) thereafter.

Reason: To ensure that vehicles using the access both enter and leave the highway in a controlled manner, in the interests of highway safety.

10. Visibility Splays

Prior to the proposed Southern access being brought into use to serve the holiday accommodation, vehicular visibility splays of 33m by 2.4m by 33m as measured along, from and along the nearside edge of the carriageway, shall be provided on both sides of the centre line of the access and shall be retained and maintained free from obstruction clear to ground thereafter.

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

11. Gates

Any gates erected at the vehicular access shall be inward opening only and shall be recessed a minimum of 6m. from the highway boundary.

Reason: To ensure that vehicles using the access may stand clear of the

carriageway whilst those gates are being opened/closed, in the interests of highway safety.

12. Parking

The development shall not be occupied until such time as the car parking and turning area, has been provided in accord with the details shown in Drawing Numbered 18-121-1102 and in precise accord with the details contained within the current Parking Standards being provided within the site which shall be maintained free from obstruction and retained thereafter. The car parking areas shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

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

13. Refuse/Recycling Provision

Prior to the occupation of the proposed development the applicant shall provide a refuse/ recycling / bin store within 15m of the vehicular accesses within the site for each part of the proposed development, which shall be maintained free from obstruction and retained thereafter.

Reason: To limit and reduce the time a refuse freighter is left waiting within the highway causing congestion and obstruction in the interests of highway safety.

14. Boundary Hedging

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

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

15. 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;

wheel washing facilities;

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

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

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

16. Limits to Hours of Work

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

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working.

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

17. Foul Drainage details

Prior to occupation of the development hereby approved, precise details of foul drainage arrangements shall be submitted to and agreed in writing by the Local Planning Authority. The approved details shall be implemented prior to first occupation of the lodges hereby approved and shall thereafter be retained as such.

Reason: To avoid pollution of the water environment.

18. Landscaping

The landscape details as shown on the approved drawing(s) NC17.325-P-200BA2L.b lodged on 12/06/20 shall be carried out in full prior to the end of the first planting/seeding season following the first occupation of the development or in such other phased arrangement as shall have previously been agreed, in writing, by the Local Planning Authority and its implementation shall be in compliance with the recommendations set out in the relevant British Standards current at the time of submission. Any hard or soft landscape works which, within a period of 5 years of being implemented fail, are removed or seriously damaged or seriously diseased shall be replaced, like for like, in the next planting season with others of similar size and species, unless the Local Planning Authority agrees, in writing, to a variation of the previously approved details.

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

19. Landscape Management Plan

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

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

20. No External Light Fixtures, Boundary features, structures or gates

No external lighting fixtures, boundary features, structures or gates shall be constructed, installed or lighting illuminated at any time unless otherwise agreed, in writing, by the Local Planning Authority.

Reason: To ensure that there are no undesirable effects of light pollution or detriment to visual amenity from additional structures.

21. Holiday Accommodation Occupancy Restriction

The Holiday Accommodation hereby permitted shall not be used continuously by any person(s), family, families or other group(s) for any period exceeding 28 days in any 90 day period. The owner of the site shall maintain a log of the names, addresses and duration of stays of all users of the units hereby approved. This log shall be made available to the Local Planning Authority upon request in order to demonstrate compliance with this condition.

Reason: The site lies in an area where new development is strictly controlled and the proposal has only been justified on the grounds of its benefit to local tourism.

22. External Materials

The external facing and roofing materials to be used shall be those specified on the submitted application form and drawings and precise details of the colour finish of the wooden boarding and other external joinery shall be submitted to and agreed in writing by the Local Planning Authority prior to occupation of the lodges. The approved finishes shall thereafter be retained as such.

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

23. Surface Water Drainage

Prior to first occupation of the holiday lodges, details of surface water drainage shall have been submitted to and approved, in writing, by the Local Planning Authority. No part of the development shall be first occupied or brought into use until the agreed method of surface water drainage has been fully installed and is available for use. It shall thereafter be retained as such.

Reason: To minimise the risk of flooding.

24. Levels

Prior to the installation of the lodges, detailed scale drawings by cross section and elevation that show the development in relation to adjacent property, and illustrating the existing and proposed levels of the site, finished floor levels and identifying all areas of cut or fill, have been submitted and agreed, in writing, by the Local Planning Authority. The development shall thereafter be completed in accordance with the agreed scheme before the development is first occupied.

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

19.0 Informatives

19.1 The following informatives are also recommended:

1. Advisory Note on Construction & Demolition

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

2.Highway Informative:

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

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to:

SMO1 – Essex Highways
Colchester Highways Depot,
653 The Crescent,
Colchester
CO4 9YQ

3. 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.

Planning Committee

Item
8

Date 10 December 2020

Report of	Place and Client Services	Author: Jane Thompson	01206 506964
Title	Deed of Variation Planning Application Hythe Mills Student Accommodation		
Wards affected	Greenstead		

This report concerns a proposed variation to the S106 agreed for the Hythe Mills Student accommodation development. It is proposed to vary the agreement to allow the contribution to be used towards cycling and walking improvements in the area, better benefitting the accommodation residents.

1. Decision(s) Required

- 1.1 Members are asked to endorse the proposed deed of variation.

2. Reasons for Decision(s)

- 2.1 The existing agreement listed measures which are not considered to represent the best use of funds. Officers consider that the contribution clause should be amended to include walking and cycling infrastructure improvements in the area. This allows enhancements to deliver active travel improvements to benefit resident students more effectively than the existing agreement. To formalise this a Deed of Variation to the s.106 agreement needs to be signed.

3. Alternative Options

- 3.1 Not to agree to the Deed of variation will mean the S106 funds will be tied into schemes which are considered to be of lesser benefit to residents including students occupying the development.

4. Supporting Information

- 4.1 Officers have been in conversation with the Hythe Mills student accommodation developer (former Aim Hire site) and the accommodation manager concerning potential changes to the approved S106 agreed via Planning applications 171646 and 181096.

- 4.2 The existing agreement listed measures which are not considered to represent the best use of funds, in hindsight. Officers now consider that the contribution should be amended to include walking and cycling infrastructure improvements in the area. This facilitates delivery of active travel improvements which will benefit their students more significantly than those in the existing agreement. To formalise this change a Deed of Variation needs to be signed.
- 4.3 The Hythe Mills student accommodation manager is supportive of changes as they understand the greater benefit the investment in walking and cycling in the area will bring to the residents.
- 4.4 The existing S106 clause detailed –
- i) Transport Contribution; - foot/cycle bridge crossing the River Colne
 - ii) Footpath Contribution; walking route to University and safe secure route to Old Custom House
 - iii) Student Travel matters – the Borough Council to prepare a Travel plan or provide a bus shelter.
- 4.5 It is now unlikely that a river bridge will be prioritised, and the route to the Old Custom House is less attractive to residents as a foot bridge north of the accommodation allows better access to the town centre. The Borough Council have now prepared a travel plan and a bus shelter is not recommended in the vicinity of the site. The funds remaining, following travel planning and minor walking improvements in the area is around £205,000.
- 4.6 It is now proposed to combine the requirements into a single contribution to support measures for sustainable transport for students comprising walking and cycling between the development, University of Essex campus and the town centre. and no additional funds are required from the developer.
- 4.7 The developer has applied for a Deed of Variation, which officers support with a view to commissioning alternative walking and cycling improvements in the immediate area. This application was prompted at the request of officers.

5. Strategic Plan References

- 5.1 Promoting sustainability and reducing congestion is an important corporate objective within the Strategic Plan. The delivery of high quality and safe environment is also an important corporate objective. These objectives reflect the climate emergency declared by the Council.

6. Consultation

- 6.1 Legal Services has advised that the required variation falls outside the existing scheme of delegation in relation to s106 agreements and therefore requires Member approval.
- 6.2 The student accommodation manager has been consulted on and supports the proposal.

7. Publicity Considerations

- 7.1 None.

8. Financial Implications

8.1 There are no financial implications for the Council as these funds are already secured.

9. Equality, Diversity and Human Rights Implications

9.1 None directly arising from this report.

10. Community Safety and Health and Safety Implications

10.1 None arising.

10th December 2020

Report of	Assistant Director of Place and Client	Author	Karen Syrett
Title	Temporary Changes to Planning Scheme of Delegation		
Wards affected	All		

1. Executive Summary

- 1.1 This report reviews the temporary measures that were introduced to allow planning decisions to be made during the Covid-19 lockdown and changes to the scheme of delegation while virtual committees are in operation. It also details all those applications that have been determined under the delegated arrangements since the last update in October.

2. Recommended Decision

- 2.1 The Committee are asked to agree an extension to the revised scheme of delegation for a period of approximately 6 months.
- 2.2 Planning Committee are also asked to note those applications that have been determined under the emergency delegation.

3. Reason for Recommended Decision

- 3.1 To allow Council decision making to continue in the most efficient manner whilst ensuring those applications which are controversial or contrary to policy are determined in the public domain.

4. Alternative Options

- 4.1 The Committee could decide to change the proposed scheme of delegation or the length of time it operates.

5. Background Information

- 5.1 In March 2020 due to the Coronavirus pandemic and in response to Government advice on social distancing etc, the Council cancelled all scheduled formal decision-making meetings for the remainder of the 19/20 Municipal Year. However, it was recognised that it was important to ensure that the Council's ability to determine planning applications which would ordinarily have been considered by members of the Planning Committee could still function during this period. Accordingly, Interim Planning Arrangements following agreement by the Leader of the Council, Group Leaders and the Chair of the Planning Committee, were introduced with effect from 18 March 2020.
- 5.2 The Interim Arrangements comprised of the following:
1. Formal meetings of the committee will be cancelled until further notice. This will be kept under review in line with the Govt's emergency legislation which may change the way in which we can conduct formal meetings.
 2. All applications that are required to be considered by the Planning Committee will now be determined by the Planning & Housing Manager following consideration and recommendation by the Chair and Group Spokespersons of the Planning Committee; i.e Councillors Liddy , Hazel, Barton & P Oxford ("the Members")
 3. Applications will be emailed to the Members who will consider the reports and decide them on a majority decision with the chair having a second and casting vote. The Members will have the option of deferring an application if they feel they require further information.
 4. A record of all decisions will be maintained and if any decisions are contrary to the recommended decision in the report, reasoning must be provided.
 5. Any councillor which has requested that an application be called in will be afforded the opportunity to submit a written submission by email to the Members who will consider the submission when determining the application.
 6. A report will be submitted to the first formal meeting of the Planning Committee (howsoever formed) which will detail the applications and decisions made in relation to all applications considered under these Interim Arrangements.
- 5.3 A decision was to be taken on all applications decided under these Interim Arrangements where there was particular public interest. This consideration included deciding whether the application should be deferred to a later date. It was intended that the Interim Arrangements would be used for as short a period as possible and they were designed to ensure that the Council's planning decision process could be maintained despite the lockdown. The Monitoring Officer kept the arrangements under review so adjustments could be made if necessary and expedient in consultation with the Group Leaders and Chair of Planning Committee. No such changes were necessary prior to the first virtual committee meeting.
- 5.4 The Local Authorities and Police and Crime Panel (Coronavirus) (Flexibility of Local Authority and Police and Crime Meetings) (England) Regulations 2020 ("the Regulations") came in to force on 4 April 2020 and apply to meetings taking place before 7 May 2021 (which could be brought back to an earlier date if the existing restrictions are relaxed). The Regulations override any provisions to the contrary in the Constitution. The Regulations provide that, amongst other provisions, Council meetings can be held remotely. Remote meetings bring new challenges, require alternative ways of working and require a different discipline by all who participate. As a result, it was necessary to consider how Planning Committee should function during this period.
- 5.5 There are a number of documents and best practice guidance available from the likes of the Planning Advisory Service (PAS) and Planning Officers Society (POS). Planning

committee exists to make decisions on significant and sometimes finely balanced applications. It is recognised that at least in the short term it is very likely that the workload of a committee will need to be reduced. One way of achieving this is to increase the scheme of delegation.

- 5.6 The arrangements for public participation at the majority of the Council's online meetings provided for the submission of written representations only. However, the ability of members of the public, objectors or supporters of applications to make their representations in person to member of the Planning Committee is an important consideration. With the Chairman and Group Spokespersons consent, provision was made for public participation at Planning Committee meetings online to replicate the conventional speaking arrangements which had been in place previously, so far as is possible. As such, members of the public are able to register to speak at meetings and will be invited to make their representations in person to the Committee members. In addition, a new innovative approach to enable meetings to be more accessible to the public was introduced with online meetings being broadcast to the Council's YouTube channel from where they are freely available to view live and afterwards.
- 5.7 The practice guidance suggests that in the short term, it might be wise to consider whether applications, previously earmarked for a committee decision, should instead be determined under delegated powers, go through a virtual planning committee or instead be deferred. It is vital that there is no perception that these emergency conditions reduce scrutiny, public engagement or accountability. However, set against these considerations is the risk of a large backlog building up and of important applications becoming delayed or starting to drift. It is recognised at both a national and local level that the construction industry is extremely important to economic recovery and it is not desirable to put unreasonable obstacles in the way.
- 5.8 The initial Interim Arrangements were in place for 11 weeks between March and June. This demonstrated that there are certain types of applications/developments that can be determined without the need for a formal committee decision. It was therefore agreed at the first virtual Planning Committee held on 18th June that the arrangements detailed above at 5.2 would be adapted so fewer applications would be referred to the committee while it operates on a virtual basis. It was also agreed that the arrangements would be reviewed in December 2020.
- 5.9 The substantive scheme of delegation from the Planning Committee is as follows;

Delegated to Assistant Director for Place and Client Services;

1. The determination of all planning applications irrespective of scale and size (including changes of use and all applications for Listed Building Consent, Certificates of Lawfulness, applications for the determination as to whether prior approval is required, consent to display advertisements and other notifications) except any application:
 - a) significantly contrary to adopted policies or a departure from the development plan, and which is recommended for approval;
 - b) which any Ward Councillor requests in writing to the Assistant Director for Place and Client Services within 25 days of notification, should be subject of consideration by the Committee;
 - c) which constitutes a major application on which a material planning objection(s) has been received in the stipulated time span and the officer recommendation is to approve;

- d) which constitutes a major application, that is recommended for approval and where a section 106 Agreement is required (excluding unilateral undertakings);
- e) submitted by or on behalf of a Colchester Borough Council Councillor, Honorary Aldermen (or their spouse/partner) or by any Council officer (or their spouse/partner);
- f) submitted by or on behalf of Colchester Borough Council (for clarity, this does not include applications made by other parties on land owned by the Council where the development is not by or on behalf of the Council).

Note: this scheme of delegation is temporarily superseded by the Interim Arrangements set out below.

- 5.10 Officers, the Committee Chair and Group Spokespersons discussed a revised scheme based on their experience of the initial interim arrangements which would allow virtual committee meetings to focus on a few applications which were considered to be strategically important. This changed the delegation for a limited period to the following;
1. Delegated to Assistant Director for Place and Client Services - the determination of all planning applications irrespective of scale and size (including changes of use and all applications for Listed Building Consent, Certificates of Lawfulness, applications for the determination as to whether prior approval is required, consent to display advertisements and other notifications) except any application which is significantly contrary to adopted policies or a departure from the development plan, and which is recommended for approval.
 2. Those applications where a Ward Councillor requests in writing to the Assistant Director for Place and Client Services within 25 days of notification, that an application should be subject of consideration by the Committee will be referred to 'The Members' who will consider if the application needs to be determined by Committee or whether the Interim arrangements would be appropriate.
 3. Those major applications, that are recommended for approval and where a section 106 Agreement is required will only be referred to Committee if there is a dispute about the detail of the S106 agreement.
- 5.11 It was also agreed that all those applications to be determined under the revised Interim Arrangements would be reported to 'The Members' who could recommend that an application is referred to the Virtual Committee if they consider it to be in the public interest. All decisions taken under the Interim Arrangements, that would ordinarily be considered by the Committee, have been reported to the next available committee meeting.
- 5.12 Since March, 48 planning applications have been determined under the interim delegation arrangements (approx. 5 per month). These have ranged from replacement windows to changes of use and new housing. This has allowed virtual meetings to focus on applications that are in the public interest and also facilitated public speaking on each.
- 5.13 It is considered that the interim arrangements are working well and should continue for the next 6 months. If agreed, a report reviewing the arrangements will be presented to the first planning committee meeting in the next municipal year.
- 5.14 All applications determined under the interim procedures are reported to the next available committee. In line with this protocol details of each application determined since the last update are contained in Appendix 1 to this report. A verbal update will be provided at the committee if further applications have been considered under the Interim Arrangements following the writing of this report.

6. Standard References

- 6.1 There are no particular references to the Strategic Plan; consultation or publicity considerations or financial; community safety; equality, diversity and human rights implications, or health and safety implications.

7. Risk Management Implications

- 7.1 The proposed scheme of delegation is intended to improve decision making by ensuring the Planning Committee can concentrate on matters that are of most importance.

8. Environmental and Sustainability Implications

- 8.1 The purpose of the planning system is to contribute to the achievement of sustainable development.

Appendix 1

App. Ref.	Site	Ward	Recommendation	Decision
201365	Stanway Community Centre	Stanway	Approval	Approval
200533	Tankerton, Nayland Rd, Great Horkesley	Rural North	Approval	Approval
201949	30 Gainsborough Road	Prettygate	Approval	Approval
201208	Boxted Road	Mile End	Approval	Approval
202045	Keelers Lane, Wivenhoe	Wivenhoe	Approval	Approval
201705	Severalls	Mile End	Approval	Approval
202136	54 Goldcrest Close, Longridge	Greenstead	Approval	Approval
202122	17 Magnolia Drive	Greenstead	Approval	Approval

Material Planning Considerations

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

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

The following approach should be taken in all planning decisions:

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

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

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

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

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

The above list is not exhaustive

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

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

- matters specifically controlled through other legislation

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

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

Planning Obligations

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

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

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

Human Rights, Community Safety and Equality and Diversity Implications

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

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

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

Using Planning Conditions or Refusing Planning Applications

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

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

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

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

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

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

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

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



Colchester Borough Council Development Management

Highway Safety Issues

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

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

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

Parking Standards

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

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

For residential schemes:

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

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



Colchester Borough Council Environmental Control

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

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

Best Practice for Construction Sites

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

Noise Control

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

Emission Control

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

Best Practice for Demolition Sites

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

Noise Control

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

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

Emission Control

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

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

Class A1. Shops

Use for all or any of the following purposes—

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

Class A2. Financial and professional services

Use for the provision of —

- (a) financial services, or
- (b) professional services (other than health or medical services), or
- (c) any other services (including use as a betting office)

which it is appropriate to provide in a shopping area, where the services are provided principally to visiting members of the public.

Class A3. Restaurants and cafes

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

Class A4. Drinking establishments

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

Class A5. Hot food takeaways

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

Class B1. Business

Use for all or any of the following purposes—

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

Class B2. General industrial

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

Class B8. Storage or distribution

Use for storage or as a distribution centre.

Class C1. Hotels

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

Class C2. Residential institutions

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

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

Class C2A. Secure residential institutions

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

Class C3. Dwellinghouses

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

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

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

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

Class C4. Houses in multiple occupation

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

Class D1. Non-residential institutions

Any use not including a residential use —

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

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

(c) for the provision of education,

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

(e) as a museum,

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

(g) as a public hall or exhibition hall,

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

Class D2. Assembly and leisure

Use as —

(a) a cinema,

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

(d) a dance hall,

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

Sui Generis Uses

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

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

Interpretation of Class C3

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

Interpretation of Class C4

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

Supreme Court Decision 16 October 2017

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

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

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

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

Deferral and Recommendation Overturn Procedure (DROP) Flowchart

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

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

