

Planning Committee Meeting

**Council Chamber, Town Hall, High Street,
Colchester, CO1 1PJ**

Thursday, 28 April 2022 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 attend all meetings of the Council, its Committees and Cabinet. You also have the right to see the agenda (the list of items to be discussed at a meeting), which is usually published five working days before the meeting, and minutes once they are published.

Dates of the meetings are available here:

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

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

Have Your Say!

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

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

Audio Recording, Streaming, Mobile phones and other devices

The Council audio records and streams public meetings for live broadcast over the internet and the recordings are available to listen to afterwards on the Council's website. Audio recording, photography and filming of meetings by members of the public is also welcomed. Phones, tablets, laptops, cameras and other devices can be used at all meetings of the Council so long as this doesn't cause a disturbance. It is not permitted to use voice or camera flash functions and devices must be set to silent. Councillors can use devices to receive messages, to access meeting papers and information via the internet. Looking at or posting on social media by Committee members is at the discretion of the Chairman / Mayor who may choose to require all devices to be switched off at any time.

Access

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

Facilities

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

Evacuation Procedures

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

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

www.colchester.gov.uk

Covid 19

Please could attendees note the following:-

- Hand sanitiser, wipes and masks will be available.
- Do not attend if you feel unwell with a temperature or cough, or you have come in to contact with someone who is unwell with a temperature or cough.
- Masks should be worn whilst arriving and moving round the meeting room, unless you have a medical exemption.
- All seating will be socially distanced with 2 metres between each seat. Please do not move the chairs. Masks can be removed when seated.
- Please follow any floor signs and any queue markers.
- Try to arrive at the meeting slightly early to avoid a last minute rush.
- A risk assessment, including Covid 19 risks, has been undertaken for this meeting.

COLCHESTER BOROUGH COUNCIL
Planning Committee
Thursday, 28 April 2022 at 18:00

The Planning Committee Members are:

Pauline Hazell	Chairman
Robert Davidson	Deputy Chairman
Lyn Barton	
Helen Chuah	
Michael Lilley	
Jackie Maclean	
Roger Mannion	
Beverley Oxford	
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:

Michelle Burrows	Roger Buston	Nigel Chapman	Peter Chillingworth
Pam Cox	Simon Crow	Andrew Ellis	Adam Fox
Mark Goacher	Jeremy Hagon	Dave Harris	Mike Hogg
Sue Lissimore	Derek Loveland	A. Luxford Vaughan	Sam McCarthy
Patricia Moore	Gerard Oxford	Chris Pearson	Lee Scordis
Lesley Scott-Boutell	Leigh Tate	Lorcan Whitehead	Dennis Willetts
Barbara Wood	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 2 are normally dealt with briefly.

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

Live Broadcast

This meeting will be audio livestreamed to this Committee Page.
[: Colchester Borough Council \(cmis.uk.com\)](https://cmis.uk.com)

1 Welcome and Announcements

The Chairman will welcome members of the public and Councillors and remind everyone to use microphones at all times when they are

speaking. The Chairman will also explain action in the event of an emergency, mobile phones switched to silent, audio-recording of the meeting. Councillors who are members of the committee will introduce themselves.

2 Substitutions

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

3 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

At meetings of the Planning Committee, members of the public may make representations to the Committee members. These Have Your Say! arrangements will allow for one person to make representations in opposition and one person to make representations in support of each planning application. Each representation may be no longer than three minutes(500 words). Members of the public wishing to address the Committee in person need to register their wish to address the meeting by e-mailing democratic.services@colchester.gov.uk by 12.00 noon on the working day before the meeting date.

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

6 Minutes of Previous Meeting

The Councillors will be invited to confirm that the minutes of the meeting held on 31 March 2022 are a correct record.

2022-03-31 Colchester Borough Council Planning Committee Minutes

7 - 20

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	211392/ 393 Land at, The Folley, Layer-de-la-Haye, Colchester	21 - 56
	Two Outline Planning Applications for residential development including a Rural Exception Site.	
7.2	212943 Land to the rear of 6-12 Villa Road, Stanway, Colchester, CO3 0RH	57 - 74
	Erection of 4No. Commercial Units (Class E) and car parking.	
7.3	220717 North Station Road & North Hill, Colchester	75 - 82
	Replacement of existing "fixing the link" flags with small change to design.	
7.4	220148 land to the West of, Cross Cottages, Boxted, Colchester	83 - 102
	Redevelopment of site to create 7 no. new residential units.	
8	Exclusion of the Public (not Scrutiny or Executive)	
	In accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972).	
	Planning Committee Information Pages v2	103 - 114

Part B

(not open to the public including the press)

PLANNING COMMITTEE

31 March 2022

<i>Present:-</i>	Councillors Davidson (Chair) , Barton, Chuah, Hagon, Lilley, Mannion, Maclean, G Oxford and Warnes
<i>Substitute Member:-</i>	Cllr Hagon Substituted for Councillor Hazell Councillor Gerard Oxford substituted for Councillor Beverly Oxford
<i>Also in Attendance:-</i>	Cllr Bentley Cllr Buston Cllr Chillingworth Cllr McCarthy

903. Minutes

The Minutes of the meetings held on the 3 February 2022 and 17 February 2022 were confirmed as a correct record.

904. 211878 228 Old London Road, Marks Tey

The Committee considered an application for the erection of a building for use as a builders' merchants (Sui Generis) and/ or B8 storage and distribution use, ancillary office space, provision of external yard for use associated with builders' merchants and /or B8 storage and distribution use, with associated access infrastructure and parking. Clearance of existing site and demolition of remaining buildings/ structures. The application was referred to the Planning Committee because of the Sui Generis nature of the application, the Parish Council's concerns and objections received.

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

Karen Syrett, Lead Officer Planning: Housing and Economic Growth, presented the report and assisted the Committee in its deliberations. A presentation was given outlining the location of the site as the former Andersons Timber yard and the land uses of interest in the surrounding area. The Committee heard that the existing buildings would be demolished, the proposed access arrangements to the site and the current commercial permission on the site for 24 hour use were outlined. The Committee heard about the details of the new use which included car parking, and a trade counter which would be ancillary to the main storage use. It was outlined that there was a proposed outside storage area that would be limited to 4.5 metres high and that there would be landscape enhancement on the site especially with the boundaries. The Lead Officer for Planning: Housing and Economic Growth concluded that the site was allocated in the Emerging Local Plan and was included in the adopted Neighbourhood Plan which had been recently confirmed at referendum, and that the officer recommendation was for approval as detailed in the committee report.

Gerald Wells addressed the Committee pursuant to the provisions of Planning Committee

Procedure Rule 8 in objection to the application. The Committee heard that the proposal would not be suitable for the traffic that would be generated from the site and asked the Committee to note that Old London Road was very narrow in places and that the pedestrian pathway was being used by vehicles and that there was still a direct access to the A12 from the former Andersons site. It was outlined that there were ongoing discussions with National Highways and the local MP but a response had yet to be received and that the development would make it more difficult to access the Village Hall. The speaker outlined that they would like to see further conditions on the access and the opening times on the site to protect residents and asked that the application be deferred.

James Firth (Agent) addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The Committee heard that the application had been submitted separately to other applications in the area and outlined that the proposal was for employment purposes in an area that was in disrepair and would reduce the quantum of development on the site. The Agent asked Members of the Committee to take into account the current status of the site and that there had been no objection from National Highways and that the application was supported by the National Planning Policy Framework (NPPF) and the economic benefits that it secured. The speaker concluded that the scheme would provide mitigation measures for the development, that the appearance and landscape of the site would be improved and asked that the application be approved as detailed in the officer recommendation.

With the permission of the Chair, Councillor Kevin Bentley addressed the Committee. The Committee heard that the traffic surrounding the site had eased since the previous use ceased but that there were still outstanding issues with National Highways and that the application needed to be viewed as a whole alongside other developments in the area and how this would impact the road network. The visiting Councillor outlined that sustainable travel had not been looked into for the site and that a sustainable travel plan should be conditioned to encourage cycling, walking and sustainable travel to the site if possible. Councillor Bentley concluded by asking that the application be deferred to review the highways network and that an independent report should be required before any decision was made on the application.

At the request of the Chair, the Lead Officer Planning: Housing and Economic Growth responded to the points raised by the public speakers. The Committee heard that the fallback position was that if the proposal was not approved it would allow 24-hour use to resume but that the application before Members would allow the Council to control the hours of operation on the site and would allow members to add conditions or informative notes. It was noted in the officers recommendation that this was being undertaken with informative notes being added requiring the applicant to work with Highways England to close the access directly onto the A12. Although the proposed works to widen/realign the A12 were not near completion it would be unreasonable to defer the application on those grounds. It was noted that Essex County Council had not requested a Travel Plan but if Members were minded to approve the application then this could be conditioned. The Officer concluded by assuring Members that a thorough noise assessment had been conducted on the site.

Further information was sought from the Committee on the landscaping elements on the site, the pinch points that were present along Old London Road, and the sustainability of the proposal including electric car charging units.

The Lead Officer Planning: Housing and Economic Growth responded that the landscaping on the site was being increased from what was currently in existence and that HGV's were able to use Old London Road as this was allowed by National Highways but that the proposal

did enhance the sustainability of the site with the proposal being to a BREEAM standard. Two electric vehicle charging points were also included.

Questions were raised by Members of the Committee regarding signage for HGV's in and around the site to not use the direct A12 access and whether the hours of operation could be amended in the morning for a later start to protect residential amenity.

The Lead Officer Planning: Housing and Economic Growth reiterated that an informative could be added for access and signage on site but that the A12 access was outside the Committee's and Essex County Council's control. The Environmental Protection Officer commented that there would be vehicle movements (small trade vans) on site at 0630 and no HGV's but that this was overshadowed by the noise created by the A12 which was very noisy at 0630. The Officer confirmed that if Members were minded to approve the application then the hours of operation could be amended to start at 07:00.

Further information was sought by the Committee on whether any further measures could be undertaken on Old London or increase the number of electric vehicle charging points and whether Essex County Council could prevent access to their land and stop access onto the A12, and asked whether the site had ever been considered as a Local Plan Housing allocation.

The Lead Officer Planning: Housing and Economic Growth responded that a travel plan could be requested and that the A12 was National Highways and any associated signage or closures of the A12 were not in the remit of the Committee, the Council or Essex County Council to amend. The Officer confirmed that Planning conditions did carry more weight than informative notes but the latter allowed the Committee to influence external considerations that were not within the remit of the Council to condition.

Members were concerned that although National Highways had been consulted on the application nobody was present to answer the questions regarding the highways issues surrounding the application.

RESOLVED (BY FIVE VOTES FOR and THREE VOTES AGAINST with ONE ABSTENTION) that the application be approved subject to the conditions and informatives in the report and amendment sheet with the additional conditions as follows:

- Travel Plan
- Revised conditions in relation to SUDs
- Hours of operation (Conditions 12 and 13 Change from 06:30 to 07:00
- Informative: signage within the site to direct drivers to use Old London Road and not A12
- Advise landscape Officer to include hedging in amongst new tree planting and alongside dwelling.

905. 120380 The Maltings Student Accommodation, Hythe Quay, Colchester.

The Committee considered an application to seek a variation of the S106 contribution spend project that had been agreed for The Maltings student accommodation development. It was proposed to vary the agreement to allow the contribution to be used towards cycling and walking improvements in the area, better benefitting the accommodations residents.

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

The Transport and Sustainability Joint Lead presented the report and assisted the Committee in its deliberations. A presentation was given outlining the history of the proposal and the reasons why the request had been made to the Committee which would secure the bus travel contribution and reimburse the bus passes that students use. The Transport and Sustainability Joint Lead concluded by outlining the recommendation as detailed in the report.

A statement was read out by the Democratic Services Officer from Councillor Lee Scordis who was unable to attend the meeting. The Committee heard how the Councillor agreed with the design presented but that this would be without benefit if the flooding on Haven Road was not resolved. It was noted that there was a lack of footfall in the area despite the large population of students and that this was partially due to the flooding and the reputation the area had accrued and that residents would not use the area until the flooding was resolved so any money used on this scheme would be wasted. The Statement concluded that as the pedestrian crossing was not going to be installed due to flooding that this goes against a walking strategy and asked that the proposed money is put on hold until the Hythe Task force had been consulted regarding the money which could be used to resolve the flooding that was ruining the local economy of the area.

Further information was sought from the Committee on whether there had been any support for the Community Events that had been previously detailed in the S106 Agreement. The Officer responded that the application had been originally considered there had been the expectation of putting on events to try and help the student and local population mix but nothing had come forward that would meet the required CIL test. A further comment from the Committee queried whether the S106 monies could be used to resolve flooding issues in the area however it was noted that this was not possible due to the restrictions on what the S106 could be used for.

RESOLVED (UNANIMOUSLY) that the application be approved subject to the conditions and informatives in the report and amendment sheet.

906. Application N.os 160103, 181281 and 1911414 Magdalen Street

The Committee considered an application for a proposed variation to the Section 106 agreed for the Host 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.

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

The Transport and Sustainability Joint Lead presented the report and assisted the Committee in their deliberations. A presentation was given outlining the history of the proposal and the reasons why the request had been made to the Committee to change how the funding was spent to enhance the bus routes and redirect funding to allow for more walking and cycling. The Transport and Sustainability Joint Lead concluded by outlining the recommendation as detailed in the report.

A statement was read out by the Democratic Services Officer from Councillor Lorcan Whitehead who was unable to attend the meeting. The Committee heard that there was recognition for a need for improved cycling and walking infrastructure but that there was also concern that the proposal before Members would amount to a reduction in investment in green public transport. The statement continued by outlining that it was difficult to assess the

proposed change as there was very little detail in the report excepting “measures to encourage walking and cycling between the development, University of Essex Campus and the Town Centre” without giving an indication of what these might be. The Statement concluded that although it was £45,000 which was a relatively small amount in terms of the infrastructure improvement budget, it was questioned whether it could be better used towards green public transport and asked that the Committee seek more detail on possible travel plan improvements so that it could reach a considered judgement for the best use of the funds.

At the request of the Chair, the Transport and Sustainability Joint Lead outlined the additional detail that the proposal would include such as a wayfinding scheme to the town centre to encourage more walking and cycling and that if approved these would be commissioned and designs would be ready in the autumn.

RESOLVED (UNANIMOUSLY) that the application be approved subject to the conditions and informatives in the report and amendment sheet.

907. 202829 Land to the rear of Catchbells, 296 London Road, Stanway

The Committee considered an application for the development of 66 dwellings with associated parking, landscaping, open space, drainage and infrastructure and the formation of a vehicular access onto London Road. The application was referred to the Planning Committee because:

- It constitutes major development where a s106 is required and the recommendation is to approve ; and
- It constitutes major development where objections have been received and recommendation is to approve

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

Lucy Mondon, Planning Manager, presented the report and assisted the Committee in their deliberations. A presentation was given outlining the proposal before Members including the red line plan of the site, the public rights of way in the area, the pond in the northeast of the site and an aerial view showing the site and the wider context of development in the area including the allocation in the emerging Local Plan. The Committee heard that there were amenities nearby including a Public House, supermarket, restaurants and garden centre. Members were shown where the access to the site would be as well as pedestrian and cycle access. The Planning Manager drew the Committee’s attention to the location of existing properties in the area as well as their association to the site and what the proposed designs were for the dwellings. The Planning Manager concluded by outlining the proposed detailing on the housing and that the officer recommendation was approval as detailed in the report and amendment sheet.

Paige Harris (Applicant) addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The Committee heard that the application was included in the emerging Local plan and that the proposed development would consist of a mix of housing and that the scheme had been designed to integrate into the existing area. The speaker commented that the proposal had a distinctive design and included many of the existing trees on the site and retained the visual link to the open spaces as well as providing affordable homes. The speaker concluded by stating that they had

worked proactively with the Council and asked that the application be approved.

A statement was read out by the Democratic Services Officer from Councillor Lesley Scott-Boutell who was unable to attend the meeting. The Committee heard that the development would impact on Stanway residents and she was therefore requesting some mitigation measures. The statement outlined that the application had changed significantly since the application was submitted and had reduced in the number of homes proposed to the 66 before the Committee for consideration. It was noted that there was no objection from the Highway Authority subject to conditions and that financial contributions had been secured in the section 106 agreement, however there was concern raised regarding the lack of a crossing point on London Road and how a crossing had not been installed at a separate location at the Princess Charlotte and was retrospectively installed. Further to this there was concern that without a crossing it would not enable safe access to public footpaths 27, 7, and 25. The Councillor noted that the North Essex Parking Partnership (NEPP) had not been consulted and that the development would not be considered for parking enforcement markings for 5 years after the highway had been adopted. A request was therefore made to condition that the developer consults with the NEPP to confirm that there would be no parking pinch points and for junction protection markings on the London Road junction.

The statement continued by outlining how the NHS had asked for a contribution and that healthcare was a concern in the area especially with regards to dentistry which was under significant strain. It was noted that Stanway Parish Council had objected to the original submission on the basis of objections from residents on London Road and asked if it could be confirmed whether they were consulted on later submissions. The statement concluded by commenting that the open space provision on the site, the provision of play space and provision on the site, the RAMs contribution and asked that the bins on site were provided in line with the Council's bin strategy.

At the request of the Chair the Planning Manager responded to the points raised by the public speakers. The Committee heard that the landscape plan was before them for consideration and that the Section 106 agreement covered a large amount of information on this and that this would include a Locally Equipped Area for Play (LEAP). Further to this it was noted that Stanway Parish Council were consulted on the application in every iteration excepting some amendments that were urban design and highways requirements on which they were not consulted. The Planning Manager explained that the healthcare requirements had been considered and that 3 areas of need had been identified where there was a deficit. If the application was approved then the NEPP could look into this application with regards to parking. With regards to highways matters the Planning Manager and the Strategic Development Engineer from Essex County Council responded that contributions were included in the proposal for walking and cycling and that a crossing has not been sought at this point as it is not justifiable to insert a crossing for 66 dwellings. The Strategic Development Engineer advised that the crossing would be looked at again when the larger development located adjacent to the site came forward and that this would include looking at the optimal desire lines.

Concern was raised from the Committee regarding the impact that this development would have on the Council's approved motion regarding the Climate Change emergency especially with regards to the number of trees that would be lost on the site. The Committee also raised concerns regarding the engagement from the applicant with the local community and that there were existing issues in the area surrounding bus stops and their accessibility as well as the sewage capacity in the area. Comments were raised from the Committee on the wider development in the area including the allocation of the site surrounding the one before the Committee and how traffic would be controlled in the area as well as access to other public

transport including the railway station. Members of the Committee questioned the road surfacing and why this could not be completed earlier on in the development phase and whether a mini roundabout had been considered to ease traffic building up in the area as well as whether there was a masterplan for the area.

At the request of the Chair the Planning Manager responded to the questions and points that had been raised by Members. The Committee heard that the proposal included new trees along the frontage of the site and to the north of the site but that the Lombardi Poplars were being removed; the additional tree planting would result in a 10% uplift in tree canopy over the existing. Condition 30 in the recommendation covered the surfacing of the road and street signs that had to be in place prior to occupation. The Planning Manager elaborated that the drainage and flooding proposals had been reviewed and approved by Essex County Council and Anglian Water had confirmed that there would be capacity for sewage. It was noted that the site allocation policy and the allocation for the wider site had been taken into account, and that there were a number of visitor parking spaces included within the proposal. The Strategic Development Engineer advised the Committee that the bus stops would be outside St Albrights Church and would be used by people on the site and that further improvements could be made to existing bus stops.

A question was raised as to how future residents of the proposal would access the bus stop on the opposite site of London Road when there was not a crossing point or traffic island. The Strategic Development Engineer advised Members that the size of the development did not require one and that the visibility on the road was adequate.

Members welcomed the affordable housing provision on the site but raised further questions on the ecology of the site specifically with regard to Badger Setts where it was alleged that these had been blocked up and whether a wildlife corridor had been considered. Members debated the issue of ecology surrounding possible badgers on the site and whether the Council could verify a report from a qualified professional on whether Badger setts had been blocked. Concern was also raised regarding the maintenance of block paved areas and how this could be included in the management plan as well as simple plain language in the management plan so that future residents could police the conditions, and asked that with the proposed trees that deeper rooted trees are planted as opposed to shallow rooted trees.

At the request of the Chair the Planning Manager responded to the points and questions raised by the Committee. The Committee heard that an extensive consultation had been undertaken with regards to ecology and that revisions from the Essex Wildlife Trust and Place Services had been included in the proposal before Members. With regards to the Badger Setts, the Planning Manager advised that there was separate legislation protecting them and that any blocking up had to be conducted with a license from Natural England. The Committee heard that the conditions regarding landscape could be revised and that an informative note could be added to place emphasis on the block paved areas in the management plan and included in an information pack for residents, and that it was important to look for mature trees to be planted but that this could be looked at for deep rooted trees where possible.

Concern was raised by Members on the Lombardi Poplars that were being removed as it was not perceived that they would cause any harm and that it would take 25 years for new planting to have the same benefits as those that existed. Members debated the proposed positioning of the bus stops and how the existing ones could be upgraded as well as why a crossing was not being conditioned and the reluctance to do so from Essex County Council. The Strategic Development Engineer advised the Committee that it was difficult to justify a controlled crossing when there was an island crossing not far from the bus stops and perhaps

this could be looked at as part of the bus stop improvements.

Members debated possible conditions including crossing points and walking and cycling routes and whether the crossing would be more justifiable with the rest of the allocation (600 dwellings). Members considered the design of the proposal and its relation to the Essex Design guide and that the vehicle access through the site would be 20mph. The Committee asked for further clarification on the biodiversity of the site specifically regarding badgers as well as improvements to the bus stops.

The Lead Officer Planning: Housing and Economic Growth advised the Committee that the ecology and wildlife had been well documented by independent reviews and asked that Members consider the NPPF which detailed that housing should be delivered without delay where it accords with the local plan. The Committee also heard that the masterplan had shown how the development related to the larger application which would be asked to provide more infrastructure.

A proposal was made and seconded that the application be deferred so that it could be considered alongside the larger proposal of 600 dwellings.

The motion was lost by FOUR votes FOR and FIVE votes AGAINST.

A proposal was made and seconded to approve the application as detailed in the officer recommendation and the amendment sheet with the additional conditions as follows:

- S106 Agreement is varied to allow a cascade of funding from LCWIP towards a crossing if not delivered from the larger site.
- Revised landscape condition to require tree retention, bin strategy, and information packs for residents.
- Additional condition to secure schedule of schedule for road adoption.
- Requested meeting with Highways Authority with Officers and the relevant Ward Councillors to discuss highway matters in respect of wider site allocation.

RESOLVED (By FIVE VOTES FOR and FOUR VOTES AGAINST) that the application be approved subject to the conditions and informatives in the committee report , amendment sheet, and additional conditions below:

- S106 Agreement is varied to allow a cascade of funding from LCWIP towards crossing if not delivered from the larger site.
- Revised landscape condition to require tree retention, bin strategy, and information packs for residents.
- Additional condition to secure schedule of schedule for road adoption.

Requested meeting with Highways Authority with Officers and the relevant Ward Councillors to discuss highway matters in respect of wider site allocation.

908. 212646 Land to the East of Newbarn Road, Great Tey

The Committee considered an outline application for 30 dwellings and 1ha of public open space and access from Newbarn Road with some matters reserved. The application was referred to the Planning Committee as it was an application for major development, and the recommendation is for approval subject to a legal agreement. The application had also attracted objections.

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

Nadine Calder, Principal Planning Officer presented the report and assisted the Committee in their deliberations. A presentation was given outlining the proposal which was an allocation for 30 dwellings in the emerging Local Plan, the area surrounding the site and the land uses. The Committee heard that the main vehicle access was set out in the main modifications to the emerging Local Plan and explained where pedestrians and vehicles would enter and exit the site. The Principal Planning officer concluded by showing the Committee photos of the site and the surrounding area and detailed that the permission would only approve the land use in principle with a further reserved matters application needed if approved, and that the officer recommendation was for approval as detailed in the report.

James Elmer addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in objection to the application. The Committee heard that the application should be refused or deferred as it had not been properly assessed against the NPPF and relevant policies. The speaker outlined that consultations on the application indicated a 95% objection rate and detailed that an extraordinary meeting had been held by Great Tey Parish Council who demonstrated an overwhelming majority against the proposal. The Committee heard that the developers guide had been ignored and that Essex County Council should be asking for higher contributions from the developer. The speaker concluded by outlining that the adherence to the rules had been slack and that engagement on the proposal would be welcome.

A statement was read out by the Democratic Services Officer from Councillor Lewis Barber who was unable to attend the meeting. The Committee heard that Councillor Barber, who was also the County Councillor for the area, asked that the application be deferred. The Committee heard that it was recognised that the site was allocated in the emerging Local Plan and understood that the site would be accepted for development in some form but that this did not mean the application before the Committee should be approved. The Councillor stated that he recognised the pro-active nature of the developer in amending aspects of the application from those that were originally put forward but asked the Committee to consider and approve all S106 contributions with the outline application. The Councillor noted that possible improvements to the highways could be considered for the junction between Earls Colne Road and Chappel Road as well as Chappel Road and Brook Road as well as welcoming the contribution for cycle infrastructure and asked that it be LTN 1/20 compliant. The Statement concluded with concern raised as to why no education contribution had been cited and that this was troubling as Great Tey had a Primary School and had also experienced development recently and asked that it be reconsidered.

With the permission of the Chair Councillor Peter Chillingworth addressed the Committee. The Committee heard that there was support for the principle of development on the site and it was understood that the Borough needed to accept more housing which was not agreed upon by all. The Committee heard that it needed to be made clear that some of the issues would need to be addressed through a reserved matters application and outlined how the traffic situation in the village would be worsened by the development and that there was no improved access to the site. It was noted that there were opportunities in the area and that Churchfield Drive was in desperate need of works and that this development would generate children for the area and questioned why the County Council had not asked for a contribution. The speaker concluded by welcoming the affordable housing but questioned the contributions in the S106 agreement and whether the developer should be paying more and asked that the application be deferred to look at these issues.

Concern was raised by Members as the developer was not in attendance and that there was

no request for money from the County Council for Schools. A proposal for deferral was made to seek further information on education contributions. The Principal Planning Officer responded that the County Council had been consulted and that they had not requested any contributions for education and that the Highway Authority had not requested any money for improvements to the Earls Colne Road junction as the site was too far from the junction. The proposal for deferral was subsequently withdrawn.

Members debated the contribution requests from the site including those from the NHS and whether they had been consulted, that the site required 1ha of open space and that the reserved matters could come before the Committee if they were minded to approve the application.

RESOLVED (By EIGHT VOTES FOR and ONE VOTE AGAINST) that the application be approved subject to the conditions and informatives in the committee report with the additional conditions as detailed below:

- That the Reserved Matters application be considered by the Committee.

909. 220150 Land to the rear of Hedge Drive, Colchester

Councillor Warnes (as a Director of Colchester Commercial Holdings Ltd) declared a non-pecuniary interest in the following item pursuant to the provision of Meetings General Procedure Rule (75)

The Committee considered an application for a proposed redevelopment of the site to involve the demolition of the existing garages and provision of 3 no. new dwellings. The application was referred to the Planning Committee as the application was made by Colchester Amphora Homes limited on behalf of Colchester Borough Council.

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

Nadine Calder, Principal Planning Officer presented the report and assisted the Committee in their deliberations. A presentation was given outlining the floor plans of the proposed bungalows, the demolition of the 39 garages and provided information on the occupation of the garages, i.e. that 26 were rented out and that users lived within the following radius:

- 0-1 Miles – 13 users
- 1-2 Miles – 6 users
- 2-3 Miles – 4 users
- 3-4 Miles – 3 users

The Principal Planning Officer anticipated that a maximum of 13 cars would be displaced by the development which was considered acceptable. The presentation concluded by outlining the affordable housing nature of the proposal, the design of the proposal, that it did not cause any neighbourhood amenity issues, and that the officer recommendation was for approval as detailed in the Committee report.

Rebecca Howard (Agent) addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in Support to the application. The Committee heard that the proposal to demolish the garages was based on a need to provide new housing on previously developed land and because the garages under discussion no longer accommodated modern size vehicles. The speaker outlined that the proposal was designed to be sympathetic to the surrounding area and would be of a high quality as well as to the required

parking standards. The speaker concluded by outlining that the proposal would improve the area, was in accordance with the development plan, and asked that the application be approved.

With the permission of the Chair Councillor Sam McCarthy addressed the Committee. The Committee heard that the Councillor was uncertain about the application as he had been unable to attend the consultation in person and objections had been received. Concern was raised whether the users of the garages had been consulted and whether any alternative accommodation would be provided as many were used for storage. The Councillor concluded by raising concern about the demolition of the rear brick wall and any subsequent replacement as well as the concerns of surrounding neighbours being addressed.

Concern was raised by the Committee as the garages had only been refurbished a few years prior and that there were other garaging areas in the Borough that were in far worse condition and that the occupants of the garages had not been consulted about the proposal. Members raised further concerns regarding the pedestrian and cycle access, the streetlighting in the area and sustainability measures such as solar panels.

At the request of the Chair the Principal Planning Officer responded to the points and questions raised by the Committee. The Committee heard that the planning department was not responsible for the applications coming forward and that it was up to the developer to contact their customers with regards to any consultation. It was noted that the consultation by the planning department had taken place as was required. The Principal Planning Officer confirmed that streetlights could cause issues with neighbour amenity and that as it was 3 dwellings it was not considered there would be a conflict between the users via the access. It was confirmed that the applicant was Colchester Amphora Homes.

Members raised further questions regarding height of the buildings in the surrounding areas, the Archaeological nature of the site and whether it was on top of a Roman road. The Principal Planning Officer responded that the proposal was subject to archaeological conditions and would be bound by those prior to commencement.

A proposal was made to defer the application for archaeological studies to be carried out, consultation with existing users and to consult on the height of the proposal. A seconder was not found so the motion fell. A proposal was made to refuse the application, but a seconder was not found so the motion fell.

Members debated whether the archaeological conditions could be brought forward and whether any works could be done by the applicant prior to granting consent.

The Committee expressed disappointment that an application from Colchester Amphora Homes had not been properly consulted on and felt that this was unacceptable from a Local Authority.

A proposal was made and seconded that the application be deferred so that the applicant could consult with the customers who leased the garages.

RESOLVED (By EIGHT VOTES FOR and ZERO VOTED AGAINST and ONE ABSTENTION) that the application is deferred so that the applicant could consult with the customers who leased the garages.

Following the completion of determination of application 220150 a vote was taken in accordance with Meetings General Procedure Rules paragraph 11 (2) to extend the meeting past 10:00 pm. It was Resolved that the meeting would continue to conclude the business

on the agenda.

It was noted that Councillor Gerard Oxford left the meeting at 10:15pm after the completion of application 220150 but before the commencement of 212888.

910. 212888 Land between 7 & 15 Marlowe Way, Colchester

The Committee considered an application for the construction of three 4- bedroom detached houses, each with an integral garage, plus individual private driveways connecting to Marlowe Way. Two TPO trees were to be retained. The application was referred to the Planning Committee as it was called in by Councillor Buston who raised the following concerns: that the proposal is contrary to Local Plan policies relating to open space, built design, amenity, community facilities and retention of open space and to the provisions of the NPPF (well-designed places). Full Comments are outlined in the consultations section of the Committee report.

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

Chris Harden, Senior Planning Officer presented the report and assisted the Committee in their deliberations. A presentation was given outlining the proposal before the Committee noting the Tree Preservation Orders on the site, the elevations of the plots, and that an extra letter of objection had been received regarding the proximity of the dwelling to the neighbouring boundary and the loss of a sight line and that the 3d plans were misleading. Furthermore an additional comment had been received from Cllr Buston. It was noted that there was a scheduled heritage monument in the area and that residents had applied for the application site to be made a designated village green. The Committee heard that a previous application on the site for housing had been refused for the reasons of design and height of the dwellings and did not include open space. The Senior Planning Officer outlined that the proposal related well to its surroundings, that the garden space exceeded the requirements as detailed in the Local Plan and did not have an overbearing nature on residential amenity which had been carefully considered within the report. The Committee heard that the Council had sought advice on the application for village green status which is within the jurisdiction of Essex County Council and confirmed that an application had been received by the County Council after the planning application had been made. As such the County Council had therefore responded that they could not accept the village green application. It was further noted that the legislation guidance was clear on which authority this should have been sent to and that this was an error on the part of the solicitor submitting the application. The Senior Planning Officer concluded by outlining the officer recommendation of approval as detailed in the committee report.

Simon Sorrell addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in Objection to the application. The Committee heard that the proposed site had been an open space used by the public for the last 50 years and would lead to a loss of wildlife, and that balance was required when making this decision. Concern was raised over the loss of open space that would become private land and that the application should be refused. The speaker concluded by outlining that there was no change since the previous application and that the application should not be approved.

Robert Pomery (Agent) addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in Support of the application. The Committee heard that the previous determination of an application on the site had been for refusal and that the proposal before the Committee was more in character with the area. The speaker outlined that the issue of open space had been dealt with and that the proposal before the Committee was the result of detailed negotiation with the Planning Department, that was compliant with the

Council's policies and represents good design. The Agent concluded by surmising that the proposal represented good design, suited the area and reflected the Committee's expectations of development.

With the permission of the Chair, Councillor Roger Buston addressed the Committee. The Committee heard that the application ignored the fact that the site has been a public amenity for the past 50 years and its undeveloped nature set a precedent and referred to a recent refusal across the road. The Councillor outlined that the proposal failed to enhance the character of the area and would mean the loss of public amenity space that was currently in the process of an application for village green status which did not specify that it had to be sent to the County Council and that it was not pointed out immediately that this needed to be sent there. The Committee heard that the proposed design was of a speculative quality and was not suitable for this development and that the removal of the amenity space would be detrimental to the public and would be contrary to policy.

At the request of the Chair the Senior Planning Officer responded to the points and questions raised by the Committee. The Committee heard that the land had been used as open space for the past 50 years and that the Borough Council had maintained the area for at least 30 years. The Officer noted that the principle of the loss of open space was discussed at the previous application's determination but that it had not formed part of the refusal. It was noted that the Committee could include this as a reason for refusal now but would leave the Council open to the risk of costs at the appeal stage. The Senior Planning Officer responded that the site nearby that had been refused was on its own merits and that there were also issues of ownership whereby Essex County Councils Highways Department believed they had some ownership rights on the area. The Officer concluded by outlining that the County Council had made their decision regarding the village green application.

The Lead Officer Planning: Housing and Economic Growth added that the response to the Village Green application had come from Essex legal services and that they were clear on the process that a valid application had not been received prior to the planning application being validated, that the application before the Committee could be determined and that the only way that a new application for village green status could be processed would be after any planning appeals and right of legal redress had been exhausted. Furthermore, the Lead Officer Planning: Housing and Economic Growth confirmed from the letter received from Essex Legal Services that there should have been no doubt that the application for village green status should have been sent to the County Council.

Members debated whether Essex County Council should have accepted the application and whether the driveway of one of the proposals was smaller and whether this was in compliance with the NPPF considering the preservation order on the trees in the vicinity.

At the request of the Chair the Senior Planning Officer responded to the questions raised by the Committee. The Committee heard that the area under discussion had been maintained by the Council's Public Realm team for the past 30 years and that an application for village green status had been sent to Colchester Borough Council incorrectly and although it was forwarded to Essex County Council it is for the Applicant to ensure that they send it to correct authority. It was noted that the proposed design met the designated parking standards and that it was true that the trees would require maintenance but that this was not necessary to avoid a loss of light.

RESOLVED (By SIX VOTES FOR and ONE VOTED AGAINST and ONE ABSTENTION) that the application approved subject to the conditions and informatives in the committee report.

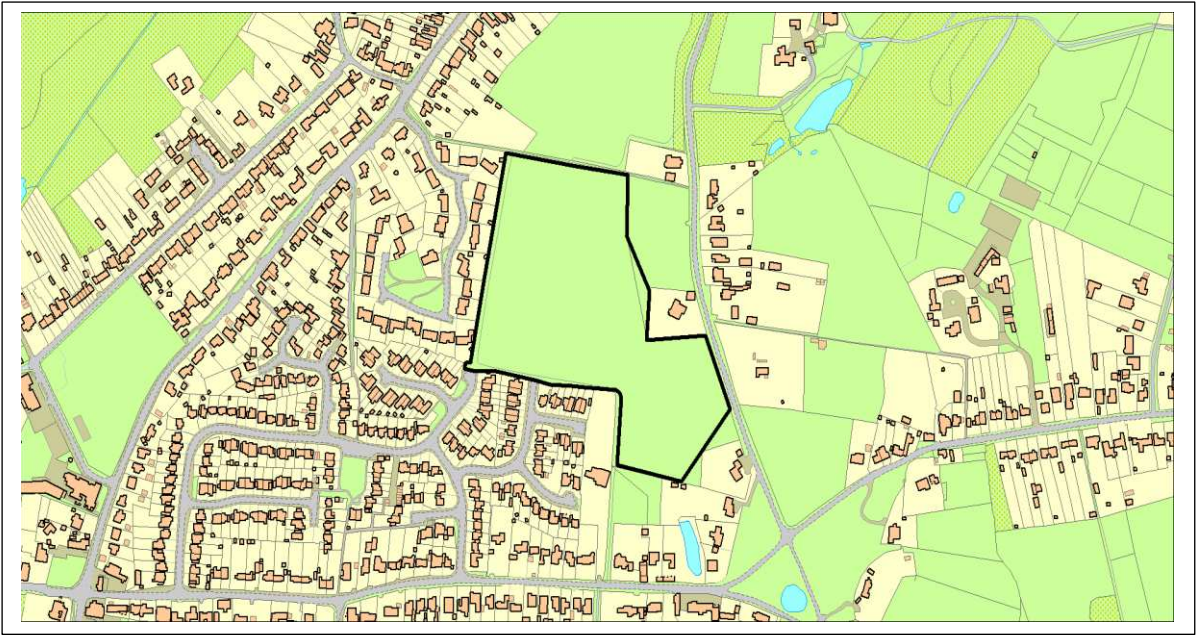
911. 212810 St Leonards Works, Port Lane, Colchester

The Committee considered a request for reference 212810 and sought approval to allow for the 3.5-metre wide footway/ cycleway along the two sections of the site's Port lane frontage to be secured via condition rather than the S106 Agreement.

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

Karen Syrett, Lead Officer Planning: Housing and Economic Growth presented the report and assisted the Committee in their deliberations. A presentation was given outlining the proposal that was before Members to secure the cycle path/ footway as a condition as opposed to the S106 Agreement that was agreed when the application was previously before the Committee.

RESOLVED (UNANIMOUSLY) that the application approved subject to the conditions and informatives in the committee report.



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Item No: 7.1

Application: 211392 and 393

Applicant: Tollgate Partnerships

Agent: Laura Dudley-Smith, Savills

Proposal: Two Outline Planning Applications for residential development including a Rural Exception Site.

Location: Land at, The Folley, Layer-de-la-Haye, 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 it is a major application with representations received raising material planning considerations and is also a departure from the currently Adopted Development plan.

2.0 Synopsis

- 2.1 The report concerns two outline planning applications seeking permission for housing in a master planned approach across adjacent sites. The key issues for consideration are the principle of development; flood risk and drainage; impacts on ecology, highways, heritage, landscape and trees; and design. Matters of contamination, amenity, and climate change are also considered, along with other material planning considerations.
- 2.2 The proposed development has been assessed in line with both current and emerging planning policy, with the benefit of consultation responses and representations from third parties. Consideration of the planning benefits of the proposed development has resulted in a balanced judgement which concludes that the benefits of the scheme, in particular the affordable housing provision strongly outweigh any adverse impacts identified and the application is subsequently recommended for approval subject to a number of planning conditions, together with a s106 agreement securing developer contributions/obligations.

3.0 Site Description and Context

- 3.1 The site is located in the northeast of Layer de la Haye, adjacent to the settlement boundary of the village (to the south).
- 3.2 The application sites at The Folley comprise two parcels – one being 3.95ha in size, and the other being 0.95ha.
- 3.3 The wider site is a larger irregularly shaped, cultivated field with vegetation such as hedgerows and a handful of trees defining the site boundary of the overall application site. The division between the land the subject of this application and the site allocation is not defined by any physical features. The north of the site adjoins another field and Public Right of Way 141/3, and the western boundary meets the rear gardens of properties in Les Bois. The other two boundaries of the application site meet the wider allocation site. The eastern boundary of the allocation site however adjoins the road known as The Folley, which comprises interspersed detached residences on large plots, and its southern and western boundaries adjoin existing residential properties, and the current adopted settlement boundary of Layer de la Haye. A number of the trees on the boundary of the site are subject to TPO's.

4.0 Description of the Proposal

- 4.1 This report describes two proposals that are directly adjacent to each other and in effect represent one master planned site. The descriptions are:

211392 *“Up to 39 market homes and 16 affordable homes with vehicular access from Greate House Farm Road and The Folley with all other matters reserved”*

And

211393 *“a Rural Exception Site to provide up to 8 affordable homes and 7 market homes with vehicular access from Greate House Farm Road with all other matters reserved”*

Whilst each parcel is the subject of its own outline planning application, an overarching indicative Masterplan has been prepared to demonstrate the ability for the two sites to be delivered concurrently and read as one overall cohesive development.

5.0 Land Use Allocation

5.1 The land is currently arable farmland. The sites are unallocated in the adopted LDF but allocated in the Section 2 emerging CBLP at Policy SS10.

6.0 Relevant Planning History

6.1 There is no relevant planning history pertaining to the site. There have been a number of planning approvals in the immediate vicinity but these have no material bearing on the site in question.

6.2 Historically, a residential scheme of a larger site area, encompassing this site and the field to the north was refused in 1998, reference 98/0763.

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

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
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
 - DP12 Dwelling Standards
 - DP14 Historic Environment Assets
 - DP16 Private Amenity Space and Open Space Provision for New Residential Development
 - 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: Unallocated in adopted LDF.
- 7.5 There is no Neighbourhood Plan for the area.
- 7.6 Submission Colchester Borough Local Plan 2017-2033:
The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The Section 2 Emerging Local Plan is at an advanced stage having undergone examination hearing sessions in April 2021 and recent consultation on modifications. Section 2 will be afforded significant weight due to its advanced stage. Proposals will also be considered in relation to the adopted Local Plan and the NPPF as a whole.

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;
1. The extent to which there are unresolved objections to relevant policies in the emerging plan; and
2. 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 significant weight in the consideration of the application. Section 2 of the emerging Local Plan allocates the site for housing at policy SS10.

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
Cycling Delivery Strategy
Sustainable Drainage Systems Design Guide
Street Services Delivery Strategy
Planning for Broadband 2016
Managing Archaeology in Development.
Developing a Landscape for the Future ECC's
Development & Public Rights of Way
Planning Out Crime

8.0 Consultations

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

Arboriculture Planner

Scheme is acceptable in principle; tree protection will need to be considered at reserved matters stage.

Archaeologist

The proposed development is comparatively large in scale and within a wider landscape that is rich in significant archaeological remains, notably at Gosbecks circa 1.7km to the north west, but equally near Fridaywood Farm 1km to the north east. Archaeological remains have also been identified through cropmarks closer at hand, to the north east of Rye Farm, roughly 400m south of the proposed development site.

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.

Anglian Water

The foul drainage from this development is in the catchment of Layer De La Haye Water Recycling Centre which currently does not have capacity to treat the flows from the development site. Anglian Water are obligated to accept the foul flows from the development with the benefit of planning consent and would therefore take the necessary steps to ensure that there is sufficient treatment capacity should the Planning Authority grant planning permission.

Colchester Cycling Campaign

Detailed response provided – object to scheme and make a number of requests, both on-site and off-site.

Contaminated Land Officer

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

Environmental Protection

Conditions requested.

Essex County Fire and Rescue

Reports that "following a review of these documents I can advise that due to what would be considered an excessive distance to the nearest existing statutory fire hydrant, it is considered necessary that additional fire hydrants are installed within the curtilage of the proposed site."

ECFR also note the current layout would not comply with the Building Regulations.

Officer note – as these are an outline scheme the layout is only indicative and the comments can be taken on board when the detailed plans are developed.

Essex Police

We would like to see this applicant seek to achieve a Secured by Design award in respect of this development; the proposed site plan does show most of the dwellings seem to be positioned well for good natural surveillance while protecting the vulnerable rear of the properties.

Officer note – as an outline scheme the layout is only indicative.

Health and Safety Executive

Do not advise against.

Highway Authority

No objections subject to conditions.

Highways England

No objection.

Landscape Advisor

In conclusion there are no objections to this application on landscape grounds.

LLFA (ECC SuDS)

No objection subject to conditions.

Mineral and Waste (ECC)

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

Natural England

Consider RAMS to mitigate off site impacts and conduct an HRA/AA.

NHS (NEECCG)

The CCG will not be commenting on this planning application with relation to mitigation, the Winstree Medical Practice is not currently over capacity and therefore no mitigation will be requested for either of these planning applications.

Ramblers

Some concerns over pedestrians crossing the staggered junction on The Folley from the new access road for 25 houses to PRow footpath 13, a little to the north. Keeping cars and walkers separate is always beneficial. Pleased to see that the general walking about the field has been acknowledged and that some continued access will be available from footpath 3.

Urban Design

The outline proposals appear broadly acceptable in design terms, subject to more detailed consideration of the means of access. The submitted indicative layout should not form part of any approval, as this has not been considered fully and it is hoped it would be subject to change. The submitted masterplan appears broadly acceptable, but should be amended to include a landscape buffer to the southern boundary of the site as identified on the proposals map for the emerging policy.

Officer note – as an outline scheme the layout is only indicative.

9.0 Parish Council Response

9.1 The Parish Council have stated:

Layer de la Haye Parish Council wishes to make comment regarding this planning application in relation to the impact on the current infrastructure and village services this would have together with the increase of pollution, noise and safety.

Significant extra traffic is going to be brought into the village. The existing estate, in particular Great House Farm Road together with Hawfinch Road will take the brunt of the traffic entering and exiting the proposed new development. All the roads on the existing estate are concrete which is noisy. What can be done to help mitigate these problems?

We would expect a robust traffic plan to be put in place ensuring no Heavy Goods vehicles to pass the school during drop off and pick up times. Access to the site during construction to be from the Folley only. All machinery, materials and contractor parking to be kept on site at all times.

We would expect to see a robust buffer of trees planted between Les Bois and the site and also screening for any other houses overlooking the site, bearing in mind access needs to be taking into account for maintenance of overhead power lines that currently run behind Les Bois.

There should never be any more than 70 units built on the site as this proposal equates to a 10% growth in the village size.

If possible, we would like to see bungalows on the edge of the site and taller buildings in the middle.

Firefighting access should be considered carefully as access roads are already highly congested especially from parked vehicles.

There should be a No Build covenant on the settlement ponds.

With the potential of so many new residents' improvement to the technology infrastructure would need to be made. Currently mobile phone signals within the village are exceptionally poor and Wi-Fi struggles to meet demand.

The village does not have a post office, mobile butcher nor a mobile baker nor does it have a bus service that serves any main supermarket directly. Therefore, an improved bus service would be needed.

No play equipment to be erected on the open space. Any money saved should go towards the play area on the Village Recreation field opposite the Village Hall.

We would like to see all the trees on site and the belt of trees running along the side of the Folley TPO'd. We would expect existing and ancient hedgerows to also be retained. This would help mitigate the wildlife being disturbed.

There should be small bungalows so that people can downsize. These should have a covenant on them so that when sold on they cannot be enlarged.

Officer response: A number of these points will be dealt with at reserved matters stage as they relate to layout and the specifics of housing. The scheme is not large enough to warrant a new bus route although an increase in patronage from additional residents may support a better service. A construction management plan condition is proposed to deal with construction matters and this will also deal with deliveries. The scheme is for a maximum of 70 dwellings in total across the two sites as per the application forms. The SuDS attenuation ponds will not be built on and the reserved matters submission will have to take the SuDS into account. An informative can be imposed to request that the developer arranges for fast broadband to be installed if technically possible.

Follow up letter of 24.01.2022 stated:

Laver de la Haye Parish Council have had ongoing communication with the applicant for a number of years. Discussions have primarily focussed on the development meeting the needs of the local community and ensuring once identified these are carried through into the new Local Plan.

Laver de la Haye Parish Council support the delivery of affordable homes to meet local needs and an important matter was therefore understanding how the land could provide affordable sized homes that would directly meet the needs of the village. The Parish Council commissioned a Housing Needs Survey completed in June 2020 by Rural Community Council of Essex and updated in October 2020 in order to identify these needs.

Together with highlighting the need for a large variety of different sized dwellings within the development as a whole, consideration of a number of housing

options was made and, a Rural Exception Site was found to be the optimum mechanism that would best meet the needs of the Layer de la Haye community, as well as ensuring an appropriate provision of affordable housing to meet the wider needs of the Colchester District. We would certainly expect the first occupants of the affordable houses to be used by the Colchester District, to be allocated to people with a local connection.

The use of a rural exception site approach will ensure that the 21 affordable homes to be delivered on this site will be able to prioritise allocation to people with a connection to the village with 8 in perpetuity rather than only at the point of first-let as might be the case otherwise.

The latest local housing need survey identifies a need of up to 13 affordable homes for people with connections to the village and the Parish Council therefore support the 8 affordable homes in perpetuity that are proposed on the Rural Exception Site given the contribution they will make towards addressing this identified need.

10.0 Representations from Notified Parties

10.1 The applications resulted in a number of notifications to interested third parties including neighbouring properties and this generated a number of comments:

(44 objections, 17 'other comments' and one in support of 211392 and 21 objection, 15 'other comments' and one support for 211392). A letter from Rt Hon. Priti Patel MP setting out the concerns of a resident who wrote to her was also received.

10.2 Some of the comments are very detailed and it is beyond the scope of this report to set them all out in full. The full text of all of the representations received is available to view on the Council's website. However, a summary of the material considerations is given below.

- The scheme is premature.
- We were promised 50 dwellings.
- The allocation in the eLP is based on a flawed sustainability analysis.
- The eLP is therefore flawed.
- The Planning Statement contains many errors in terms of the local services available in the village.
- There are little of no services in Layer nor are there any jobs.
- The two applications should be assessed together.
- Layer does not need any more houses.
- We chose to live in a village for a reason.
- The highway network won't cope.
- Off-site highway junctions in the area are not suitable.
- The traffic survey was carried out during lockdown and is therefore unreliable.
- The traffic survey is flawed.
- You have no choice but to drive if you live in Layer as the other options are not workable.

- The schools, doctors and dentists do not have the capacity.
- Harm to residential amenity.
- This will double the size of the village.
- Impact on Ecology
- Noise and disruption.
- The Folley is not a suitable access road.
- All dwellings should be served from The Folley.
- An in-out access system should be proposed.
- Three access points should be proposed.
- The development is too close to existing houses.
- The broadband is poor in Layer.
- Loss of fertile land.
- Four schemes have been refused here before.
- Requests for changes to the layout.
- The site is a brilliant open space used by dog walkers.
- This will devalue existing house prices.
- Access to powerlines for maintenance.

11.0 Parking Provision

11.1 Both applications are outline applications with the internal layout for future consideration but there is sufficient space on site for all dwellings to have off street parking in accordance with the adopted standards.

12.0 Accessibility

12.1 For emerging allocations the accessibility standard for 10% of market housing and 95% of affordable housing will meet Building Regulations Part M4 Cat 2. 95% (excluding upper floor dwellings). 5% of affordable housing should meet Part M4 Cat 3 (2) (b) as set out in Draft Policy DM12 vi. This can be achieved at reserved matters stage.

13.0 Open Space Provisions

13.1 As both applications are submitted in outline, the layout will be determined at reserved matter stage. It is noted that the indicative drawings demonstrate that there is sufficient space on site to provide more than 10% of the site area as open space.

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 both applications are “Major” applications, there was a requirement for this proposal to be considered by the Development Team. It was considered that Planning Obligations should be sought towards local projects. The Contributions/Obligations that would be agreed as part of the planning permission 211392 would be:

- ✦ **Education:** circa £108,788 for early years places (subject to final mix)
- ✦ **Communities:** £148,711.75
- ✦ **Parks and Recreation:** £314,917.40 and 91997.34 to maintain POS if adopted.
- ✦ **Affordable Housing** and first let local lettings policy to be part of 106 agreement as set out in detail below.
- ✦ **RAMS** contribution to also be collected via the Section 106 agreement.

It is noted that the spend purposes are still be finalised, as are the contributions for planning application 211393 (the RES). This will require a separate legal agreement to secure the affordable housing in the RES and will also require a **RAMS** contribution to also be collected via the Section 106 agreement.

16.0 Report

16.1 The main issues in this case are:

The Principle of Development

16.2 The whole site is outside of the area allocated for residential development in the Adopted Local Plan.

16.3 It is therefore a departure from the Local Plan. This section of the report will consider whether a departure from the plan should be made.

16.4 Importantly, the land that is the subject of this application is proposed for residential allocation within Colchester Borough Council's emerging Section 2 Local Plan, which is currently undergoing Examination, under Policy SS10. The smaller part of the site has been excluded from the allocation area, to allow it to be delivered as a Rural Exception Site, as allowed under draft Policy DM8 (Affordable Housing), in the interests of providing affordable housing that best meets the needs and desires of the local community and Layer de la Haye Parish Council.

16.5 Policy SS10 proposes the allocation of the land that is the subject of this application, with the policy wording as follows, noting that the underlined sections set out the suggested modifications:

Policy SS10: Layer de la Haye 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) *At least 35 new dwellings of a mix and type compatible with surrounding development, to include bungalows and small family homes;*
- (ii) *Primary highways access to serve the development from Great House Farm Road with secondary, non-thoroughfare access, from The Folley to serve a limited number of dwellings;*

(iii) New areas of public open space, to include an equipped children's play area; and (iv) A masterplan demonstrating how the development will positively and comprehensively relate to the future delivery of a rural exceptions site on adjacent land.

Any proposals will also take into account the Essex Minerals Local Plan and the developer will be required to submit a Minerals Resource Assessment as part of any planning application. Should the viability of extraction be proven, the mineral shall be worked in accordance with a scheme/masterplan as part of the phased delivery of the non-mineral development.

Before granting planning consent, wintering bird surveys will be undertaken at the appropriate time of year to identify any offsite functional habitat. In the unlikely event that significant numbers are identified, development must firstly avoid impacts. Where this is not possible, development must be phased to deliver habitat creation and management either on or off-site to mitigate any significant impacts. Any such habitat must be provided and fully functional before any development takes place which would affect significant numbers of SPA birds.

16.6 Supporting policy text also confirms an expectation for a small adjacent parcel to be delivered as a rural exception site, with the policy itself referring to the need for both sites to be considered as part of one overall masterplan in this regard.

16.7 Reviewing the proposals against policy SS10 in order of criterion:

(i) At least 35 new dwellings of a mix and type compatible with surrounding development, to include bungalows and small family homes;

16.8 It is clear that the number of dwellings has been modified to allow 'at least' 35 dwellings. This scheme proposes 39 market and 16 affordable homes (not including the Rural Exception site). Due to the modification to a minimum figure it stands to reason that more than 35 is acceptable in policy terms.

(ii) Primary highways access to serve the development from Great House Farm Road with secondary, non-thoroughfare access, from The Folley to serve a limited number of dwellings;

16.9 This is dealt with in more detail in the Highway section of the report but the policy aspirations are achievable at reserved matters stage. Both access points are acceptable to the Highway Authority.

(iii) New areas of public open space, to include an equipped children's play area;

16.10 This is a matter for the Reserved Matters but is clearly achievable. A number of the representation note that they do not want a play area on site. This is also a matter for the reserved matters.

(iv) A masterplan demonstrating how the development will positively and comprehensively relate to the future delivery of a rural exceptions site on adjacent land.

16.11 This has been provided and is considered acceptable as will be discussed in more detail below.

16.12 The additions to the policy in terms of the Mineral Extraction and the Wintering Bird survey have both been dealt with via bespoke reports and are now considered satisfactory.

16.13 As noted above the Section 2 Local Plan can be found to be made sound following the consultation on the modifications set out by the Inspector. The modifications proposed to SS10 have been complied with and the modifications to DM8 have no bearing on rural exception sites in the borough, it is held that both policies can be afforded significant weight in the planning balance. Officers therefore consider that both schemes are acceptable in principle having regard to the weight that should be afforded to the emerging policy SS10.

Rural Exception Site (RES) and the Pilot Local Lettings Policy

16.14 In line with the NPPF (2021) Draft Policy DM8 allows land outside (but adjacent to) settlement limits to be released for affordable housing provision. The SS10 allocation has a clear area where this can take place and application 211393 sits wholly inside this area.

16.15 The rural exception site (RES) is being developed at The Folley in Layer-de-laHaye (separately to the larger site which includes the local lettings pilot). The RES consists of 15 properties of which 7 are market sale, 8 affordable, comprising of 6 rented and 2 shared ownership. The rented homes will only be let to housing register applicants with a local connection, which is protected in perpetuity. As can be seen from the second representation from the Parish Council, this approach is supported by the Parish.

16.16 The larger of the two sites will also provide affordable housing. The proposals are providing 16 homes as affordable houses, a total provision of 29%. The provision of affordable homes has been discussed with officers at preapplication stage. Due to the comprehensive approach taken on both sites, which will also result in an additional 8 affordable units (out of 15) equalling 53%, on the rural exception site, the overall provision of affordable homes across the total 70 homes proposed will amount to 34%. This is held to be acceptable and represents a significant public benefit.

16.17 It is noted that the affordable homes on the larger site will be subject to a Local Lettings Pilot.

16.18 Local Lettings can be used for new developments that are not rural exception sites and existing homes. A local lettings plan applies to a specified group of properties and sets out why and who will be given preference for offers of homes. The decision to apply a local lettings plan is made jointly by the landlord of the property and Colchester Borough Council (CBC). Senior managers have delegated authority to agree a local lettings plan. However, they are always shared with the Portfolio Holder before implementation and that has occurred in this case. A local lettings plan would usually be made under the following circumstances:

- To help create balanced communities and achieve wider community objectives (for example to produce a broader social mix).
- To help improve difficult to let areas and/or to tackle anti-social behaviour
- To make best use of the housing stock and give priority for releasing a property in need.

16.19 Properties subject to a local lettings plan are clearly labelled as such in the property advert on the Gateway to Homechoice website when the property is advertised. The local lettings plan is usually for a specific period of time.

16.20 CBC and other landlords of social and affordable housing can use local lettings plans, as this is set out in our Allocations Policy. The Housing Act 1996 (and subsequent revisions made by the Localism Act 2011) enables housing authorities to allocate particular accommodation to people of a particular description, whether or not they fall within the reasonable preference categories, provided that overall, the authority is able to demonstrate compliance with the requirements of the Housing Act 1996. The Housing Act 1996 requires housing authorities to allocate accommodation in accordance with the housing authority's Allocation Policy which must ensure that certain categories of applicants are given reasonable preference.

16.21 The Housing Act 1996 sets out the five groups of applicants for whom reasonable preference must be given. In summary, these groups are:

- Applicants who are classed as homeless under the law.
- Applicants who are owed a homelessness duty by any local housing authority or who are in temporary accommodation secured by the local housing authority
- Applicants occupying unsanitary or overcrowded housing or otherwise living in unsatisfactory housing conditions.
- Applicants who need to move on medical or welfare grounds (including grounds relating to disability).
- Applicants who need to move to a particular locality in the district of the authority, where failure to meet that need would cause hardship (to themselves or to others).

16.22 Under this Colchester's Allocations policy, priority bands A, B and C, reflect the reasonable preference categories.

16.23 Local Lettings would be secured via the Section 106 agreement. On sites where affordable housing is provided under a section 106 agreement the agreement will set out matters such as the type and size of affordable homes, the tenure and any nomination and allocation arrangements for the affordable homes. These matters will be agreed through negotiation with developers. The Council can use the section 106 agreement to restrict the way general needs properties (that are not on rural exception sites) are let to households on its housing register. The length of time a restriction remains in place is also determined in the legal agreement.

Implications

16.24 Placing restrictions on the way general needs properties (that are not on rural exception sites) are let to households in housing with a local connection may have unintended consequences. In order to test whether there are any unintended consequences, the impact of such a restriction and whether it achieves what it sets out to achieve, it has been proposed that this site is used as a pilot site. This is a site of 55 homes of which 13 will be affordable rented housing and 3 will be shared ownership. The remaining 39 homes will be for open market sale.

The pilot – local connection restrictions

16.25 The Section 106 agreement will contain a schedule setting out the eligibility criteria, priority and local connection criteria requirement for nominees/applicants who bid for the property on the Gateway to Homechoice, choice-based lettings system at first let only.

16.26 **Eligibility** Prospective tenants will only be considered if they are registered on the Council's The Housing Register and their application is in Bands A to C on the Council's Housing Register. For the shared ownership homes the applicant should not have an annual household income of more than £80,000 and must not be a current homeowner.

16.27 **Priority** for the rented homes will be given to applicants in Housing Register Bands A to C who have a Local Connection (as defined below). This priority will be applicable to first let of the dwellings.

Local Connection – affordable rented homes.

16.28 An applicant will have a local connection if:

- The applicant or a member of the applicant's household have resided in the Parish of Layer-de -la Haye for not less than 3 years during the previous 5 year period
- They have a son, daughter, brother, sister, mother or father, who is aged 18 or over and lives in the Parish of Layer-de -la Haye, and has done so for at least five years before the date of application

- The applicant or a member of the applicant's household currently reside in the Parish of Layer-de -la Haye and have done so for at least 6 of the last 12 months and the applicant or a member of their household are currently permanently employed in the Parish and have worked in the Parish for at least 6 of the last 12 months
- The applicant or a member of their household has an offer of permanent employment within the Parish of Layer de la Haye for which personal attendance within the Parish of Layer de la Haye is a main or the primary requirement of their employment The work must not be short-term (less than 12 months) or marginal in nature, be ancillary to work in another parish or district; or voluntary work. Work will normally be regarded as marginal in nature if it is less than 16 hours a week.
- If, there are no applicants who have bid for and been successful in securing a property who fulfil the requirements of local connection criteria above, then a person who fulfils any of those criteria in respect of the neighbouring Parishes of Abberton and Langenhoe, Layer Breton, Birch, Great and Little Wigborough and Peldon can be considered when the property is re-advertised (the cascade parishes).
- If there are still no applicants who have bid for and been successful in securing a property, who fulfil the local connection requirements then the property can be let to an applicant who has a local connection to Colchester as set out in Colchester Borough Council's Housing Allocations Policy.

16.29 At second let the affordable rented properties should be let in accordance with Colchester Borough Council's Housing Allocations Policy. The pilot will operate until all the rented homes have been let for the first time and the shared ownership homes have been sold for the first time.

Highway Implications

16.30 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. Recently adopted Section 1 Policy SG1 states that development that reduces the need to travel will be encouraged. Emerging Plan Policies DM15, DM20, DM21, and DM22 have similar requirements to adopted policy, with particular emphasis on enhancing accessibility for sustainable modes of transport

16.31 In accordance with the requirements of draft Policy SS10, the primary access to the development is proposed to be taken from Greate House Farm Road and

the lack of physical features that define the area to be delivered as a Rural Exception Site will ensure that this part of the wider site can also utilise this primary vehicular access and route through the development proposals.

- 16.32 A secondary access is proposed to be taken from The Folley, for up to 25 units. This capacity has been informed by an assessment of vehicular usage and speeds along the Folley in relation to the visibility splays available.
- 16.33 The proposals for access, including justification for the use of The Folley as a secondary access based on traffic speed surveys are explained in the detailed Transport Statement prepared by Intermodal Transportation Ltd.
- 16.34 The scheme and the accompanying Transport Statement has been assessed by the Highway Authority and they have no objection to the scheme subject to conditions.
- 16.35 In terms of the numbers of dwellings served from each access, some representations would like to see more dwellings serviced from Greate House Farm Road in order to preserve a more rural feel to The Folley than the suggested 25 dwellings would. Some representations would like to see more units serviced from The Folley and less from Great House Farm Road in order to prevent disturbance and congestion to the residents of the existing estate. No footway or lighting has been requested by the Highway Authority along The Folley.
- 16.36 This matter will be dealt with at reserved matters stage. Officers consider there may be a middle ground that preserves the edge of village rural feel of The Folley without servicing all 70 proposed dwellings via Greate House Farm Road. This has been discussed with the Highway Authority and they are satisfied that as long as the overall number of dwellings (i.e. the 70 in total from both applications) does not increase, changing the number taken from either access is acceptable.
- 16.37 Objections have been received that concern traffic impact and cycle infrastructure (specifically LTN 1/20 guidance). Permeability for cyclists through the site was requested as was secure cycle parking, both of which can be achieved at reserved matters stage. It was also requested that significant off-site works and speed limit reductions are proposed some of which are a considerable distance from the site, however this is not considered necessary or reasonable to mitigate the impact of this development.
- 16.38 In terms of traffic impact, paragraph 111 of the NPPF states that '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 that the Highway Authority have no objections to the proposed development in terms of transport and highway impact, and that a range of mitigatory measures can be secured, it is concluded that it cannot be demonstrated that the proposed development would have an unacceptable or severe impact on the road network. A refusal on these grounds is not considered to be justified or sustainable at appeal.

Indicative Design/Layout

- 16.39 The National Planning Policy Framework (2021) sets out government's planning policies for England and how these are expected to be applied. The framework sets out that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve, going on to state that 'good design is a key aspect of sustainable development'. The framework also states that '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 and the way it functions'. The framework is supported by a collection of planning practice guidance which includes a National Design Guide. This document seeks to deliver places that are beautiful, enduring and successful by setting out the characteristics of well-designed places and outlining what good design means in practice.
- 16.40 At a local level these policies are carried through and adopted as part of the Colchester Borough Council Local Plan 2001-2021. Relevant policies include Core Strategy Policy UR2 and Development Policy DP1, which seek to secure high quality and inclusive design in all developments and avoid unacceptable impacts on amenity. These policies are supported by more detailed guidance provided supplementary planning documents such as the Essex Design Guide.
- 16.41 In terms of housing density and diversity, Core Strategy policies H2 and H3 require developments to make efficient use of land and relate to their context. A range of housing types and tenures across the Borough is sought in order to create inclusive and sustainable communities. Emerging Policy DM10 also requires a range of housing types and tenures for the same reason. Emerging Plan Policy DM9 makes specific reference to the setting of important heritage assets; access and local road network; scope to enhance walking and cycling access to local amenities and public transport; and existing landscaping, trees, and hedgerows; matters that have been considered above.
- 16.42 Given the outline nature of the proposal the assessment of the application on design grounds is limited. Ultimately, design considerations are limited to whether the quantum of development proposed is appropriate in the context of the site and whether the application demonstrates that the site is capable of successfully accommodating the quantum of development proposed in an appropriate manner.
- 16.43 The site is located on the eastern rural edge of the existing settlement and consists of open countryside. As a result, the site has a prevailing rural character and the use of a rural system of spatial organisation should be adopted to provide a scheme that is dominated by landscape features. Both applications propose to place dwellings on the site at a density of approximately 15 dwellings per hectare. On this basis, it is considered that the site is capable of accommodating the proposed quantum of development in a sympathetic manner without contradicting the sites context and existing character.

- 16.44 Both proposals seek to establish means of access via their respective applications and the proposed vehicular access points are considered appropriate in terms of safety, connectivity and permeability.
- 16.45 Given the quantum of development proposed and the site area, it is considered that an acceptable and policy compliant standard of design could be achieved at a reserved matters stage.
- 16.46 The presence of power lines on the site boundary has been noted and concerns for their maintenance was also raised. This is a matter that can be taken into consideration at reserved matters stage to ensure the statutory undertaker can still gain access to the power lines as required.

Impact on Surrounding Area

- 16.47 Core Strategy Policy ENV1 seeks to conserve and enhance Colchester's natural and historic environment, countryside and coastline, with Core Strategy policy UR2 and Development Plan policy DP1 seeking to secure high quality and inclusive design in all developments, respecting and enhancing the characteristics of the site, its context and surroundings. These principles are also reflected in adopted Local Plan Section 1 Policy SP7 and Emerging Plan Policy DM15. In addition, Emerging Plan Policy PP1 requires suitable design and screening/landscaping to minimise any negative impacts on surrounding landscape.
- 16.48 The scheme has been accompanied by a Landscape Appraisal and in turn this has been assessed by the Council's in-house Landscape Advisor. The landscape content/aspect of the strategic proposals lodged principally under drawing(s) 6572-1119.P1 lodged on 27/05/2021 and the Landscape & Visual Impact Assessment dated September 2021 were considered to be acceptable and it is therefore held that at reserved matters stage it is possible to provide a layout that is sensitive to landscape interests.
- 16.49 The Landscape advisor has noted that the double hedge lining the PRow that runs along the northern boundary of the site is protected under the Hedgerows Regulations 1997 and should therefore be retained, as far as is practical, fully intact. To this end the proposed pedestrian accesses should be moved slightly to the existing pedestrian desire lines at the NE and NW corners of the site. This however could be addressed as part of the detail design under the reserved matters submission.

Impact on Neighbouring Amenity

- 16.50 Development Plan policy DP1 and Emerging Plan Policy DM15 require 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.

- 16.51 This is a matter that will be dealt with via the reserved matters as the layout is only for indicative purposes. There is nothing to suggest that a scheme of this density cannot be achieved in a matter that is not compliant with the Essex Design Guide in terms of overlooking and back to back distances.
- 16.52 It is accepted that the scheme will intensify the use of both access points and in turn that will cause an increase in noise and disturbance to existing dwellings. This has been carefully considered but it is not held to be a matter that warrants refusal of a scheme of this scale.

Amenity Space Provision

- 16.53 This is a matter that will be dealt with via the reserved matters as the layout is only for indicative purposes. It is clear from the layout that all dwelling can be provided with gardens in excess of the minimum stands as set out in the Local Plan.

Ecology

- 16.54 Section 40 of the Natural Environment and rural Communities 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 appropriate, minimise the fragmentation of habitats, and maximise opportunities for the restoration, enhancement and connection of natural habitats.
- 16.55 A Preliminary Ecological Appraisal was prepared by Essex Ecology Services Ltd (EES) in November 2018. A letter from EES has been provided alongside this report (dated: 16th April 2020), which provides an updated assessment of the site and validates the original findings and recommendations. The Assessment relates to the entirety of the Masterplan area (inclusive of the rural exception site).
- 16.56 The original assessment recommends further surveys, which were undertaken as follows: Reptiles (May 2019); Great Crested Newts (September 2019); and Bats (October 2019).
- 16.57 The letter confirms that the site remains largely unchanged since the original 2018 survey. The site does not provide suitable terrestrial habitat for Great Crested Newts. There are no identified bat roosts, but the previous survey did identify that the site is used by commuting and foraging bats, and as such a sensitive lighting plan should be incorporated into the design.

- 16.58 As confirmed in the original report, the unmanaged rough grass could provide suitable habitat for reptiles. The report also suggested that any site clearance should therefore take appropriate measures and be supervised by a consultant ecologist. Likewise, with suitable habitats for birds, any clearance should be carried out outside the main breeding season. Mitigation is also recommended for badgers and hedgehogs.
- 16.59 Following the modifications to the Section 2 Local Plan, a wintering Bird Survey was carried out. The scheme, and the wintering bird survey has been independently assessed by Place Services ecologists. They are now satisfied with the scheme. Suggested conditions are awaited and will be imposed.

Biodiversity Net Gain, Canopy Cover and Trees

- 16.60 In terms of Biodiversity Net Gain (BNG), EECOS have provided a detailed BNG Strategy. This states that as an outline scheme the extent of achievable BNG is not yet known. However, the applicant intends to achieve a minimum 10% Net Gain, in line with the Section 2 Local Plan, with this being achieved through onsite habitat enhancements and/or off-site offsetting, to be determined at Reserve Matters. The current proposals plan indicates that the greater part of the site will be used to provide housing, residential gardens and landscaping. The Biodiversity Net Gain metric does not value such features highly, as they cannot be managed for their ecology post-development. Other proposed features comprise public open space and attenuation basins, and it is anticipated that the appropriate management of these features for biodiversity could achieve a measurable Net Gain in terms of area habitats.
- 16.61 It seems likely that the creation of more ecologically beneficial habitats, such as grassland and wetland, will need to be included within the final development plans for a significant on-site Net Gain to be achieved in terms of area habitats. The development has the potential to result in a significant gain in terms of linear habitats. While the final development plans have yet to be determined, the current proposals plan indicates that existing hedgerows are to be retained, with existing gaps and access points being utilised for site entrances and exits. The proposals indicate that existing hedgerows will be enhanced and approximately 0.24 kilometres of hedgerow will be planted. In addition to seeking a measurable Biodiversity Net Gain, the site could be further enhanced by additional measures, including provision of bird nesting and bat roosting opportunities in buildings, provision of 'hedgehog highways' in gardens and provision of reptile and amphibian hibernacula in areas of suitable habitat.
- 16.62 The BNG strategy states that management of parts of the development's green infrastructure, public open space and the promotion of wildlife-friendly gardening among new residents could add to Net Gain achieved for the development. Interpretative material could also be provided for new residents, aiming to foster a caring attitude to the local environment and biodiversity. It is anticipated that management of created habitats will be continuously reviewed, both during the

construction phase of the development and once development is complete. In this way, progress can be monitored and any appropriate changes in management can be identified.

- 16.63 In terms of tree matters and Canopy Cover (CC), a Tree Survey/AIA and letter from Andrew Day Arboriculture has been submitted. This states that the existing trees on site will be retained and protected (save for some loss at the proposed access points and facing back to provide visibility splays on The Folley), so the canopy cover from these trees will not change significantly, instead new planting will increase existing CC. There is space on site for a reserved matters layout that retains the boundary trees and keeps development away from their root protection zones.
- 16.64 The indicative layout shows that space has been provided to support trees that have a growth potential to become large visual, landscape features such as Oak, Field Maple, Hornbeam and Ash (subject to Chalara not being an issue). As well as these species, small trees such as Hawthorn, Rowan and Cherry can also be incorporated. The internal area of the site is currently cropped with no tree cover, only those trees around the edges. The consultant advises that the 10% canopy increase can easily be achieved with new tree planting incorporated in a soft landscape design, that can be conditioned as part of a planning consent with the scheme.

Public Rights of Way

- 16.65 This scheme retains the definitive route of public footpath 3 that runs along the northern boundary of the site. As this PROW follows the boundary of the northernmost part of the site it will be relatively simple to incorporate into the scheme at reserved matters stage. A direct pedestrian link to the footpath will also be secured at reserve matters stage.
- 16.66 Essex Legal Services have also noted that an application has been made to add a path along the eastern boundary of the site from Old Forge Road to Footpath 3 but note this may take some time to deal with. They have recently written to the Council and applicants to state they will be recommending the footway for inclusion on the Definitive Map. As a matter of fact this potential footpath is not on the definitive map at this time, however as with Footpath number 3, due to the location near to the site boundary it is relatively simple to ensure that its route can be retained at reserved matters stage.

Flood Risk

- 16.67 Core Strategy Policy SD1 and Development Plan Policy DP20 require proposals to promote sustainability by minimising and/or mitigating pressure on (inter alia) areas at risk of flooding. Policy DP20 also requires all development proposals to incorporate measures for the conservation and sustainable use of water, including the appropriate use of SUDs for managing surface water runoff. Emerging Plan Policies CC1 and DM23 state that development will be directed to locations with the least impact on flooding or water resources. Major

development proposals required to reduce post development runoff rate back to the greenfield 1 in 1 year rate, with an allowance for climate change. On brownfield sites where this is not achievable, then a minimum betterment of 50% should be demonstrated for all flood events. In addition, emerging plan policy DM24 requires all new residential development to incorporate Sustainable Drainage Systems (SuDS) appropriate to the nature of the site.

- 16.68 The NPPF also establishes policy relating to flood risk management. The main focus of the policy is to direct development towards area of the lowest possible flood risk without increasing the risk elsewhere. The NPPF advises that the sequential test should be used to steer new development to areas with the lowest risk of flooding. This a requirement for developments located in either Flood Zone 2 or 3.
- 16.69 The application site is located in Flood Zone 1, which is land that is considered to be at low risk of flooding and does not need to undergo the sequential test. All sources of flood risk are assessed in the accompanying Flood Risk Assessment and Drainage Strategy document prepared by Ingent Consulting Engineers.
- 16.70 As detailed in the Drainage Strategy specifically, surface water drainage from private areas is to discharge into the ground via private soakaways and the adoptable carriageway is to discharge via three infiltration basins within soft landscape areas. A preliminary design based on the Illustrative Masterplan has been prepared and included within the aforementioned Drainage Strategy. This demonstrates the ability to use Sustainable Urban Drainage Systems across the site with the space that is available, to an extent that would be required for a 70 unit scheme.
- 16.71 The strategy has been informed by infiltration testing that has been completed on the site, and which confirmed that suitable infiltration rates were achieved through the sand strata beneath the site. The associated Geotechnical Investigation report prepared by BRP Associates also forms part of this planning application. The LLFA have assessed the scheme and are satisfied subject to conditioning.
- 16.72 In terms of Foul Water Anglian Water sewers records show a number of potential connection points surrounding the site. A new connection will be made and is represented in the appendices of the Drainage Strategy.

Land Contamination

- 16.73 Development Plan policy DP1 requires new development to undertake appropriate remediation of contaminated land. Emerging Plan Policy ENV5 supports proposals that will not result in an unacceptable risk to public health or safety, the environment, general amenity or existing uses due to land pollution.
- 16.74 A Phase 1 Geo-environmental Desk Study has been prepared by 'Brown 2 Green' Consultants and accompanies this planning submission. Policy DP1 –

Design and Amenity confirms that development will need to undertake appropriate remediation of contaminated land. Paragraph 178 of the NPPF, also states that a site should ensure it is suitable for its proposed use taking account of ground conditions and any risks arising from land contamination.

- 16.75 The report concludes that no potential sources of contamination were identified at the application site, and as such no further recommendations were given or works necessary. The inhouse Contaminated Land officer agrees with these findings and subject to a condition is satisfied with the scheme.

Agricultural Land Classification

- 16.76 An assessment of agricultural land value was requested to support this planning application given that the development of the site will result in the loss of agricultural land. An assessment has therefore been undertaken by Strutt & Parker and accompanies this application.
- 16.77 Prior to this updated assessment being made, the land was classified by Natural England in their pre-1988 Agricultural Land Classification Map as Grade 3. The updated assessment concludes that the site is Grade 2 in part (19%) and Grade 3a for the remainder of the site (81%).
- 16.78 Grade 2 is very good quality agricultural land with minor limitations which affect crop yield, cultivations or harvesting. Subgrade 3a is good quality agricultural land with moderate limitations that affect the choice of crop, timing and type of cultivation/harvesting or level of yield. This land can produce moderate to high yields of a narrow range of crops or moderate yields of a wide range of crops.
- 16.79 Whilst this scheme will therefore result in the loss of 'best and most versatile' agricultural land, this is convincingly outweighed by the public benefits of the scheme, namely the provision of housing and affordable housing in particular. The agricultural land in the Borough generally falls within these categories and this constraint is not unique to this site.

Health Implications

- 16.80 Policy DP2 of the adopted Local Plan requires all developments in excess of 50 units to be accompanied by a Health Impact Assessment to identify the potential health consequences on a given population and maximise the health benefits and minimise potential adverse effects. It is noted that the threshold in the eLP is 100 dwellings. In any case, a HIA has been provided and it concludes that the scheme will have health benefits by virtue of its sustainable location, proposed open space and links to footpaths. It is further noted that the NHS have stated that the GP surgery has the capacity to serve the proposed development. The scheme is therefore acceptable in this regard.

Heritage

- 16.81 Both Core Strategy Policy ENV1 and Development Plan Policy DP14 seek to conserve and enhance Colchester's historic Environment. Development Plan Policy DP14 makes it clear that development will not be permitted that will adversely affect a listed building, conservation area, historic park or garden, or important archaeological remains. Emerging Plan Policy DM16 states that development affecting the historic environment should seek to conserve and enhance the significance of the heritage asset.
- 16.82 The relevant legislation for the review of the application from a heritage perspective includes Planning (Listed Buildings and Conservation Areas) Act (1990), whose Section 66 (1) requires that the decision to grant planning permission for development which affects a listed building or its setting shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 16.83 The application site does not contain any listed buildings and is not located in a conservation area, or by a historic park or garden. Whilst there are some listed buildings in Layer de la Haye, they are removed from the immediate vicinity of the site therefore it is not considered that either scheme has a material impact on the setting of any listed buildings in the wider area.
- 16.84 In terms of below ground heritage, the site sits within a wider landscape that is rich in significant archaeological remains, notably at Gosbecks circa 1.7km to the north west, but equally near Fridaywood Farm 1km to the north east. On that basis, an archaeological condition has been suggested at the request of the Council's Archaeological Advisor.

RAMS

- 16.85 A further requirement is that development proposals must not have an adverse effect on the integrity of habitat sites. Emerging Plan Policy ENV1 states that development proposals that have adverse effects on the integrity of habitats sites will not be supported. A Recreational disturbance Avoidance and Mitigation Strategy (RAMS) has been completed as part of the plan in compliance with the Habitats Directive and Habitats Regulations. Further to Section 1 Policy SP2, contributions are required from qualifying residential development, within the Zones of Influence as defined in the adopted RAMS, towards mitigation measures identified in the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The proposed development has been considered in line with Natural England guidance, which concludes that the whole of Colchester Borough is within the zone of influence for the East Coast RAMS and that, unless a financial contribution is secured (to fund avoidance and mitigation measures in line with the RAMS), the proposed development is likely to have a significant effect upon habitat sites through increased recreational pressure, when considered in-combination with other plans and projects. A contribution is included as part of the s106 requirements (see Section 15 of this report) and the

proposed development is therefore considered to be in accordance with emerging policy ENV1 and acceptable in respect of its impact upon habitat sites.

17.0 Conclusion and Planning Balance

17.1 To summarise both applications comprise departures from the Adopted Development Plan but accord with the Emerging Section 2 Local Plan and in particular the site specific policy SS 10 Layer De La Haye which it has been expressly formulated to comply with. The larger of the two schemes (211392) facilitates a Rural Exception Site (211393) and, as per the policy requirement, they have been master planned as one.

17.2 In terms of the planning balance and the **environmental role** of sustainability it is accepted that the scheme will have a minor to moderate adverse impact on landscape interests. It is also accepted that there is will a potential very minor impact on neighbouring amenity and an intensification on the highway network. It is however held that this scheme has the potential to be a welldesigned, beautiful development befitting the rural area.

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

17.4 In terms of the **social role** this scheme provides very convincing benefits, namely the provision of market housing, the provision of affordable housing and the facilitation of the Rural Exception Site in a comprehensive master planned manner. It is also noted that this scheme will pilot a new local letting policy to allow for the letting of the first let of a property to local people.

17.5 It is officers' opinion that the planning balance tips convincingly 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, for which delegated authority is requested to add to and amend as necessary:

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:

6572 1101 P1
IT1904/TS/02

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

5a) Highways (for 211392 only)

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

- a) A priority junction off The Folley to provide access to the proposal site. Junction shall have but not be limited to a minimum 43 metre visibility splay in both directions as measured along the nearside edge of The Folley's carriageway
- b) An extension of Greate House Farm Road to provide access to the proposal site
- c) Upgrade to Essex County Council specification the two bus stops which would best serve the proposal site (details shall be agreed with the Local Planning Authority prior to commencement of the development)
- d) Improvements to Footpath 3 Layer-de-la-Haye between the B1026 (High Road) and The Folley (details shall be agreed with the Local Planning Authority prior to commencement of the development)
- 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.

5b) Highways (for 211393 only)

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

- f) An extension of Greate House Farm Road to provide access to the proposal site
- g) 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.

Please note, all other conditions to be replicated on both permissions:

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) Reporting of Unexpected Contamination

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

Reason - The proposed use would be vulnerable to contamination, if present, and Environmental Protection wish to ensure that development only proceeds if it is safe to do so. The Local Planning Authority has determined the application on the basis of the information available to it, but this does not mean that the land is free from contamination. The applicant is responsible for the safe development and safe occupancy of the site.

8) Landscaping

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

- Finished levels or contours, where notable changes are proposed.
- Means of enclosure.
- Car parking layouts and other vehicle and pedestrian access and circulation areas.
- Hard surfacing materials.
- Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.).
- Proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. Indicating lines, manholes, supports etc.).
- Earthworks (including 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)
- Retained historic landscape features and any proposals for restoration.

- Planting plans (drainage and building foundation detailing shall take account of the position of the trees as so indicated).
- Written specifications.
- Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate in order to provide at least 10% canopy cover uplift.
- 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.

9) 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.

10) Tree Protection

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

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

11) Construction Method Statement

No works shall take place, including any demolition, until a Construction Method Statement has been submitted to and approved, in writing, by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period and shall provide details for: the parking of vehicles of site operatives and visitors; hours of deliveries and hours of work; loading and unloading of plant and materials; storage of plant and materials used in constructing the development;

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

12) Limits to Hours of Work

No site deliveries, 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.

13) EV Charging points

Prior to occupation, a scheme showing 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) shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be installed prior to the occupation of the dwellings in which the charging points serve.

Reason: To facilitate the uptake of low emission vehicles.

14) 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.

15) SuDS

No development shall take place except in complete accordance with the submitted Flood Risk Assessment and Drainage Strategy.

Reason: To ensure that the proposal does not result in on site or off-site flooding during the lifetime of the development including the construction phase.

16) Ecology

Ecology conditions will be inserted once a suite of suggested conditions have been received from Place Services Ecology Team.

19.1 Informatives

19.1 The following informatives are also recommended:

ZT0 – Advisory Note on Construction & Demolition

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

ZTA - Informative on Conditions Stating Prior to Commencement/Occupation

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

ZTB - Informative on Any Application With a Site Notice

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

Landscape Informative

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

Anglian Water Informative:

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

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

SUDS Informative

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

Broadband Informative

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



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Item No: 7.2

Application: 212943

Applicant: Tom Noble

Agent: Mr Robert Pomery

Proposal: Erection 3No. Commercial Units (Class E) and car parking.

Location: Land to the rear of 6 - 12 Villa Road, Stanway, Colchester, CO3 0RH

Ward: Stanway

Officer: Nadine Calder

Recommendation: **Approval subject to conditions**

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 Councillors Dundas, Hagon and Scott-Boutell.

1.2 Councillor Dundas provided the following reasons for his call in:

- I am generally in favour of this scheme however it includes a vital foot/cycle path between Tollgate and Villa Road.
- I am in favour of it as long as a permanent public right of way is confirmed/granted over the land along the proposed route as indicated on the plans and it is ensured future owners or tenants cannot withdraw this right at any time in the future.
- If this is confirmed and/or made a condition of the planning approval I will withdraw the call in request.

1.3 Councillor Hagon's main reasons for referring the application to the Planning Committee are:

- Design – Roof design not in keeping with local area [Officer note: the design has since been amended]
- Design – no space indicated for trade waste collection points.
- Design – fire exit routes not clearly indicated / meeting point / assessed by fire authority.
- PRoW / Design – pathway appears realigned to areas used as RoW for many years, however no formal PRoW has been confirmed across the site from Villa Road to Tollgate East.
- Design – Placement of accessible parking provision.

1.4 Councillor Scott-Boutell referred the application to the Planning Committee for the following reasons (revised reasons following receipt of amended plans):

- The cyclist dismount sign would not work;
- The conspicuously surfaced material, being clearly delineated is insufficient;
- The path is inadequate, unenforceable and the layout fails to protect all users who have historically used the existing Parish Council footpath as well as the additional pedestrian and cycle traffic generated within the highway as a result of the proposed development.

2.0 Synopsis

2.1 The key issues for consideration are the principle of the proposed commercial development of the site, its design, impact on surrounding area and neighbouring occupiers as well as highway safety. The proposal has been carefully assessed having regard to these matters and where necessary, amendments were secured (design, site layout and the proposed footway), resulting in the scheme now put before Members being considered to be acceptable.

2.2 The application is subsequently recommended for approval subject to conditions.

3.0 Site Description and Context

- 3.1 The site is located to the rear of Nos 6-12 Villa Road, Stanway which is a small terrace of commercial uses, including a library, restaurant and convenience store, with a car park to the rear. An unadopted footway runs through the site, providing access from Villa Road (to the east of the site) to Tollgate East (to the west of the site). The site has no formal use, although it was previously maintained by the Parish Council as a Drought Garden. Given the tucked away nature of the site, the garden attracted antisocial behaviour and has since been temporarily boarded up.
- 3.2 To the north, the site adjoins the rear garden of No. 4 Villa Road, while to the south lies the residential garden and car parking for the flat above the commercial unit at 14 Villa Road. Commercial uses along Tollgate East lie to the west of the site.
- 4.0 Description of the Proposal
- 4.1 The application seeks planning permission for the construction of a single storey terrace of three business units (Use Class E) with seven parking spaces to add to the existing parking provision on the neighbouring land, which is owned by the applicant.
- 4.2 The three units are similar in size ranging from 62m² to 75m². The design of the terrace is contemporary, and the building is proposed to have a flat, green sedum, roof.
- 4.3 It is also proposed to improve the existing link between Villa Road and the Tollgate Centre to create a more direct and convenient footway for pedestrians and cyclists.
- 5.0 Land Use Allocation
- 5.1 The site is allocated as a Neighbourhood Centre within the adopted Local Plan, however, within the Emerging Local Plan, the site does not benefit from any allocation.
- 6.0 Relevant Planning History
- 6.1 There is no planning history that is particularly relevant to this current proposal.
- 7.0 Principal Policies
- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.
- 7.2 Local Plan 2017-2033 Section 1

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

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

Appendix A of the Section 1 Local Plan outlines those policies in the Core Strategy Focused Review 2014 which are superseded. Having regard to the strategic nature of the Section 1 Local Plan, policy SD2 of the Core Strategy is fully superseded by policies SP5 and SP6 of the Section 1 Local Plan. Policies SD1, H1 and CE1 of the Core Strategy are affected in part. The hierarchy elements of policies SD1, H1 and CE1 remain valid, as given the strategic nature of policies SP3, SP4 and SP5 the only part of the policies that are superseded is in relation to the overall requirement figures.

The final section of Policy SD1 which outlines the presumption in favour of sustainable development is superseded by policy SP1 of the Section 1 Local Plan as this provides the current stance as per national policy.

All other Policies in the Core Strategy, Site Allocations and Development Management Policies and all other adopted policy which comprises the Development Plan remain relevant for decision making purposes.

7.3 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

ENV1 - Environment

ER1 - Energy, Resources, Waste, Water and Recycling

7.4 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

DP14 Historic Environment Assets

DP17 Accessibility and Access

DP19 Parking Standards

DP20 Flood Risk and Management of Surface Water Drainage

7.5 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: Unallocated and consequently n/a

7.6 The site does not lie within a Neighbourhood Plan Area.

7.7 Submission Colchester Borough Local Plan 2017-2033:

The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The Section 2 Emerging Local Plan is at an advanced stage having undergone examination hearing sessions in April 2021 and recent consultation on modifications. Section 2 will be afforded some weight due to its advanced stage. However, as it is yet to undergo full and final examination, the exact level of weight to be afforded will be considered on a site-by-site basis reflecting the considerations set out in paragraph 48 of the NPPF. Proposals will also be considered in relation to the adopted Local Plan and the NPPF as a whole.

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 complete examination, it is not considered to outweigh the material considerations assessed above in accordance with up-to-date planning policies and the NPPF.

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

External Materials in New Developments

EPOA Vehicle Parking Standards

Sustainable Construction

Managing Archaeology in Development.

Stanway Joint Design Statement and Parish Plan

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 The Arboriculture Officer was concerned that the layout and amount of parking (as originally proposed) means that trees that could be retained will have to be felled. There is very little scope for replacement on the site, as such it would be a net loss.

8.3 The Archaeological Adviser raised no objection to the proposal.

8.4 Environmental Protection raise no objection to the proposed development subject to conditions, including the provision of a Construction Method Statement; limits to the hours of work; restriction of hours of operation; restriction of hours of delivery; the submission of a noise report; provision of

details to control fumes and odours for food premises; any lighting to comply with adopted guidance; and the submission of details of the management company responsible for the maintenance of communal storage areas. They also recommend that EV charging point infrastructure be provided and that a close-boarded fence of 2m in height is erected along all boundaries with existing residential premises.

8.5 The Landscape Adviser requested that the site layout be revised to retain hedge/tree line G1 to avoid potential harm to the existing and future character/amenity of the site and its environs and to continue its important role softening and acting as a termination point to Tollgate East.

8.6 The Highway Authority, having objected to the originally submitted scheme, raises no objection to the amended proposal subject to conditions, including the provision of details regarding the design of the proposed footway; details of the proposed cycle storage; the provision of a Construction Management Plan; the car parking area to be hard surfaced, sealed and marked out in parking bays prior to the development being occupied; and the provision of two “cyclist dismount” signs.

9.0 Parish Council Response

9.1 The Parish Council, in response to the amended plans, have stated that they agree in principle with the development of the area but strongly object to the current proposal. The shared vehicular access with pedestrians and cyclists travelling in both directions is highly dangerous. It is overdevelopment for the footprint of the area, aesthetically unpleasant, loss of public open space and not in keeping with this part of Stanway. The Parish Council request that a 4m wide pedestrian/cycle path be retained which is clearly separate from vehicles.

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 The consultation exercise resulted in one letter of objection from Colchester Cycling Campaign (to the original submission), with the following concerns being raised, in summary:

- Would like to see better cycle and pedestrian permeability between the site and Tollgate East;
- Width of the shared used path should be at least 3m;
- Conflict with vehicles;
- There should be secure, convenient, covered cycle parking for customers, with long stay provision for staff, and space for non-standard cycles.

11.0 Parking Provision

11.1 The application forms part of a wider commercial site with existing vehicular access from and a car park provided off Villa Road. The proposal would make provision for seven car parking spaces and seven cycle spaces.

12.0 Accessibility

12.1 The proposed development includes the construction of three single storey commercial units. The proposed reconfiguration of the existing footway with a more direct path would improve navigation along the path for all users of the footway.

13.0 Open Space Provisions

13.1 The proposed development includes a number of small pockets of informal open space which are proposed to be laid to grass.

14.0 Air Quality

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

15.0 Planning Obligations

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

16.0 Report

Principle of the Development

16.1 The site lies in the defined settlement limits for Colchester and in an area that is identified as a Neighbourhood Centre within the adopted Local Plan. The Emerging Local Plan changes this allocation to a Local Centre but limits this to the units fronting Villa Road (thus excluding the area to the rear, i.e. the site the subject of this application). Notwithstanding this, the site is sustainably located and proposes uses that would broadly comply with uses one could expect in a Neighbourhood Centre or adjacent a Local Centre. The proposal would make efficient use of underused land and it is expected that the proposed development would tidy up the site and reduce the potential for antisocial behaviour in this area.

16.2 Furthermore, the proposed development would generate employment opportunities and provide high quality premises in an accessible location. The principle of the proposed development is therefore considered acceptable.

Design, Scale and Layout

16.3 The design of the proposed development, as amended, is functional but modern, utilising a relatively contemporary materials palette, and is considered to be visually acceptable. The single storey, flat roofed design of the building

would mean that the development is not conspicuous from wider views, thus respecting its backland form of development.

- 16.4 The built development is concentrated to the north western corner of the site, allowing for parking to be provided within the existing car park to the rear of the commercial units fronting onto Villa Road and an improved footway with soft landscaping to be provided along the building's frontage.
- 16.5 A bin storage area would be provided adjacent to the building within the car park where the existing commercial premises would continue to benefit from customer parking. As set out above, the proposed development is considered to make an effective use of land and the proposed layout is considered to be the optimal solution for the proposed scheme. On this basis, there are no objections to the design, scale or layout of the proposed development.

Landscape Impacts

- 16.6 The site is surrounded by existing mature trees and hedgerows on the northern, southern and western boundaries. The proposed development would result in the loss of a number of these features, which would have a negative environmental impact and also an impact on the visual amenity of the site. It is noted that both the Arboriculture Officer and the Landscape Adviser raised concerns about the (potential) loss of natural features, however, the site layout plan has been revised since the comments were made with in relation to the potential pressure to fell trees as a result of the originally proposed layout and it is considered that the final proposed site layout plan retains as many of the trees and hedgerows as possible. The partial loss of the hedgerow along the western boundary of the site is unfortunate, as this positively contributes to the visual amenity of the site when viewed from Tollgate East. Other features along this boundary would be retained, thus continue to afford some visual relief from the proposed built development.
- 16.7 The site is relatively tight and does not provide any meaningful opportunities to provide replacement planting of natural features. The proposal would however introduce a green roof as well as informal pockets of open space, which would provide limited mitigating circumstances. Whilst there may be limited opportunities to provide the required uplift in biodiversity and tree canopy net gain on the site, a combination of on and offsite enhancement could be sought via condition.
- 16.8 If such a scheme were secured, it is held that the landscape aspect of the proposed development is would be acceptable.

Impact on Neighbouring Amenities

- 16.9 As a result of the development being of single storey height, being proposed at the bottom of the neighbouring gardens and in the absence of intrusive openings in the elevations facing neighbouring sites, the proposed development is not considered to cause any materially harmful impact on

neighbouring amenities, including appearing overbearing on their outlook or resultant loss of light or privacy.

16.10 Furthermore, whilst activities on the site may increase as a result of an additional three commercial units, the area is already in commercial use with the rear of the site being used as a car park. It is not considered that the proposed development, subject to relevant and necessary planning conditions, would cause any materially harmful increase in noise and/or disturbance to neighbouring occupiers. It is also held that the tidying up of this site, and reduced opportunities for anti-social behaviour in this area, will have a positive impact on the amenities of neighbouring occupiers.

16.11 On this basis, the proposed development is considered to be acceptable with regards to its impact on neighbouring amenities.

Highway Matters

16.12 The site would utilise an existing vehicular access which already provides access to the rear of the site which is currently partially used as a car park for the commercial units to the east of the site.

16.13 The scheme would include a total of seven car parking and seven cycle parking spaces. Class E is a flexible use, including commercial, business and service uses. There is no guidance as yet with regards to the level of car parking that is required for Class E uses. It is however noted that those uses contained within Class E originally adopted maximum parking standards. The provision of seven spaces for three units, in an area that is relatively sustainable and accessible by other means of transport than the private vehicle, is considered to be acceptable.

16.14 The proposal also includes alterations to the existing footway which links Villa Road to Tollgate East. The existing footway, which is unadopted and thus not a Public Right of Way (PRoW), does not provide convenient access for cycles, mobility scooters etc. due to its layout. The current proposal would introduce a more direct and convenient footway which would ensure a good line of sight is maintained for better security for walkers and cyclists.

16.15 The footway would be (at least) 2m wide and would run along the built form's frontage, thus benefitting from natural surveillance, and would continue to provide access to Villa Road along the southern flank wall of the existing commercial units to the east of the site. The footway would be provided across a small section of the car park, however, the Highway Authority has not raised any concerns with regards to the revised site layout on highway safety grounds, subject to the footway being provided in a conspicuously surfaced material, clearly delineated, provided entirely at the Applicant/Developer's expense including new kerbing, surfacing, drainage, any adjustments in levels and any accommodation works to the existing footways and carriageway channel and making an appropriate connection in both directions to the existing footways to the specifications of the Highway Authority. The agent has agreed to this

condition and subject to this, it is considered that the footway can be provided in a safe manner to all users.

16.16 It should be noted that the footway would remain unadopted; the Council does not have the powers to request adoption of this footway and the potential for this to be formally adopted lies outside the remits of this planning application. It is considered that conditions requested by the Highway Authority would be sufficient to ensure that the footway is provided in a safe manner, maintained in an appropriate manner and accessible at all times. Subject to those conditions, it is held that the proposed footway is a vast improvement on the existing provision and despite its unadopted status, it is considered to be the most appropriate solution in this scenario.

Other matters

16.17 The Archaeological Adviser notes that, other than London Road (which is Roman Stane Street), there are no known archaeological sites or finds in close proximity to this proposed development. The wider landscape does have a theoretical archaeological potential, being within a region that was clearly populated throughout prehistory and the Roman/post-Roman periods. This proposed development is, however, insufficiently large in scale to require archaeological input based on that background potential. No archaeological condition is therefore recommended.

Planning Balance

16.18 The Framework confirms that the purpose of the planning system is to contribute to the achievement of sustainable development, identifying three dimensions to sustainable development: an economic, social and environmental dimension. In respect of the first of these, the current proposal would provide economic benefits through the creation of temporary employment during the construction phase and permanent employment as a result of the proposed use. The social role of sustainable development is described as fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs. The proposal is considered to satisfy this objective due to the development being generally well designed and providing a safer environment by way of reducing opportunities for anti-social behaviour through active surveillance and providing a safer and more convenient footway for pedestrians and cyclists. In respect of the environmental dimension, the proposal would require the removal of existing natural features, which is undesirable. The proposed development would however provide pockets of informal open space as well as a green roof which are considered to provide some, albeit limited, mitigation in the circumstances. A condition to require a combination of on and off site biodiversity enhancements would however ensure that the environmental dimension of sustainable development would be positive.

16.19 Overall, the benefits of the proposed scheme are considered to convincingly outweigh the harm that would be caused as a result of the loss of existing

natural features and the proposed development is therefore considered to represent sustainable development.

17.0 Conclusion

17.1 For the reasons set out above, the proposed development would represent sustainable development. There is also sufficient evidence to be confident that overall, the development would not cause significant harm to the amenity of nearby residents, create noise pollution or have a severe impact upon highway safety. The proposed development is therefore considered to be appropriate.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following condition:

1. ZAA - Time Limit for Full Permissions

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

2. ZAM - *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

0888_A_SC_00_01 Site Location Plan

0888_A_SC_02_C Site Layout Plan

0888_A_SC_03_01 Ground Floor Plan

0888_A_SC_04_A Proposed Elevations

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

3. ZBB - Materials As Stated in Application

The external facing and roofing materials to be used shall be those specified on the submitted application form and drawings, unless otherwise agreed, in writing, by the Local Planning Authority.

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

4. 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.

5. ZFC - Simple Landscaping Scheme Part 1 of 2

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

6. Non-Standard Condition - Details of footway

Prior to the occupation of any of the proposed development the applicant shall provide a new footway to connect the proposed development from and to the existing footway on Villa Road to a minimum of 2.0m in width which shall be provided in a conspicuously surfaced material, being clearly delineated and follow the alignment as shown in the revised drawing, being provided entirely at the Applicant/Developer's expense including new kerbing, surfacing, drainage, any adjustments in levels and any accommodation works to the existing footways and carriageway channel and making an appropriate connection in both directions to the existing footways to the specifications of the Highway Authority.

Reason: To make adequate provision for the additional pedestrian traffic generated within the highway as a result of the proposed development.

7. Non-Standard Condition - Biodiversity Net Gain

Prior to the first occupation of the units hereby approved, a scheme to deliver 10% uplift in biodiversity and tree canopy cover through on and off site provision shall be submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall thereafter be delivered during the first planting season and maintained in perpetuity.

Reason: To ensure that the impact of the development on the natural environment is mitigated having regard to policies ENV1 and CCL1 of the Section 2 Local Plan 2017-2033 and Section 40 of the Natural Environment and Rural Communities Act 2006.

8. ZGG - Site Boundary Noise Levels (for any fixed external plant or equipment)

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 boundaries of noise-sensitive premises. The assessment shall have been made in accordance with the current version of British Standard 4142 and confirmation of the

findings of the assessment shall have been submitted to, and agreed in writing by, the Local Planning Authority and shall be adhered to thereafter.

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

9. ZGO - 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.

10. ZCG - 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 unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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.

11. Non-Standard Condition - Storage of bicycles

Prior to the occupation of the proposed development, details of the provision for the storage of bicycles sufficient for all occupants and visitors to that development, shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To promote the use of sustainable means of transport.

12. Non-Standard Condition – Parking spaces to be laid out

The development shall not be occupied until such time as the allocated car parking spaces (for 7 additional vehicles) has been hard surfaced, sealed and marked out in parking bays. The car parking area 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.

13. Non-Standard Condition - EV Charging points

Prior to the parking spaces first being brought into use, provision shall be made for EV charging point infrastructure at the rate of 1 charging point per 10 spaces. Reason: To encourage the use of ultra-low emission vehicles.

14. Non-Standard Condition - Boundary

Prior to the first occupation of the development hereby approved, a close-boarded fence of 2m in height shall be erected along all boundaries with existing residential premises, and retained as such in perpetuity.

Reason: In the interest of the residential amenity and privacy of the occupiers of adjacent dwellings.

15. Non-Standard Condition - Signs

Prior to the first occupation of the proposed development the applicant shall provide two "cyclist dismount" signs to DfT standards, one at the footway connection to Tollgate East and one where the footway connects to the existing car park which shall be provided in perpetuity.

Reason: To reduce the risk of collision along and over the new footway, in the interests of highway safety.

16. 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.

17. ZGA - *Restriction of Hours of Operation*

The use hereby permitted shall not OPERATE outside of the following times:

Weekdays: 07:30-20:00

Saturdays: 07:30-18:00

Sundays and Public Holidays: 08:00-13:00

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

18. ZGB - *Restricted Hours of Delivery*

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

Weekdays: 07:00-19:00

Saturdays: 07:00-19:00

Sundays and Public Holidays: No deliveries.

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.

19. ZGR - *Light Pollution for Minor Development*

Any lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) shall fully comply with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note for zone EZ2 RURAL, SMALL VILLAGE OR DARK URBAN AREAS.

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

19.1 Informatives

19.1 The following informatives are also recommended:

ZT0 – Advisory Note on Construction & Demolition

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

ZTA - Informative on Conditions Stating Prior to Commencement/Occupation PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either before you commence the development or before you occupy the development. This is of critical importance. If you do not comply with the condition precedent you may invalidate

this permission and be investigated by our enforcement team. Please pay particular attention to these requirements. To discharge the conditions and lawfully comply with your conditions you should make an application online via www.colchester.gov.uk/planning or by using the application form entitled 'Application for approval of details reserved by a condition following full permission or listed building consent' (currently form 12 on the planning application forms section of our website). A fee is also payable, with the relevant fees set out on our website.

Non-Standard Informative - Highways

The applicant should be requested to confirm that the new footway has received authorisation from the landowners of Tollgate East to connect to their pedestrian facilities.

Non-Standard Informative - Highways

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.

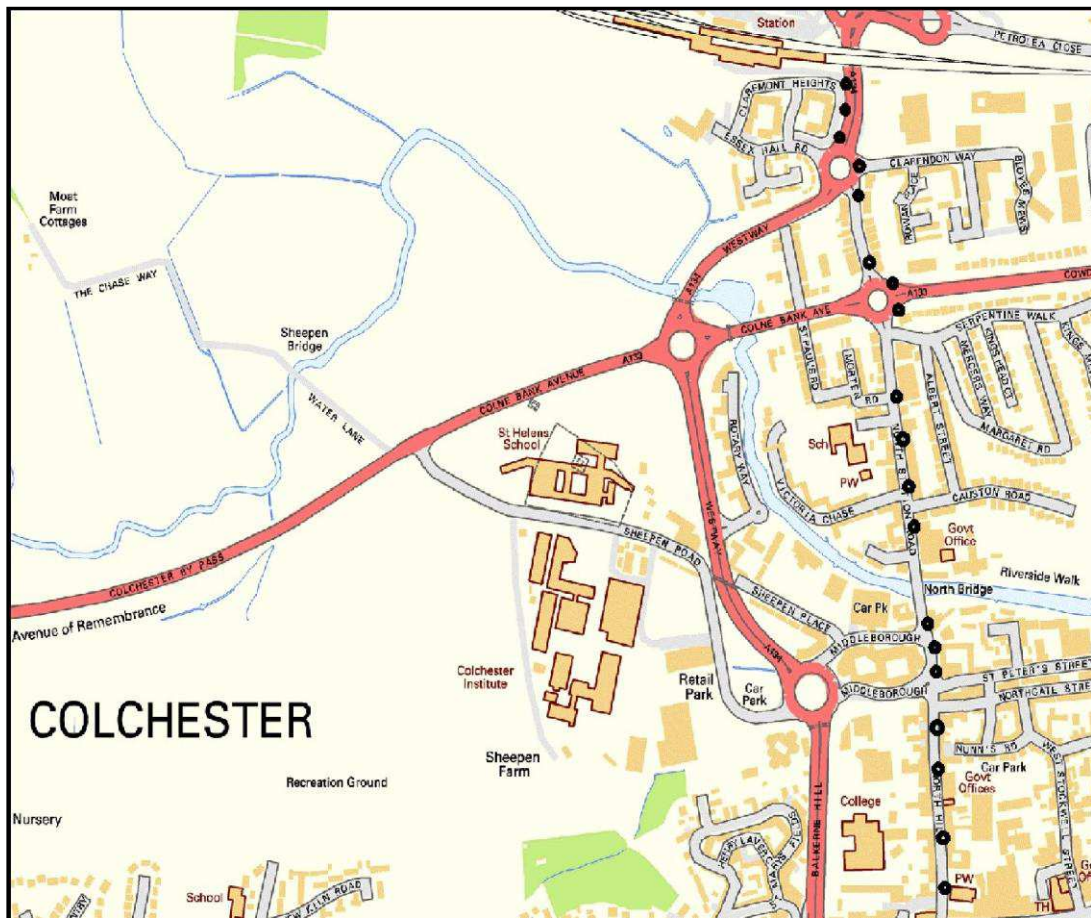
Non-Standard Informative - Highways

The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

20.0 Positivity Statement

WA2 - Application Approved Following Revisions

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.



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Item No: 7.3

Application: 220717

Applicant: Colchester Borough Council

Agent: Jane Thompson

Proposal: Replacement of existing 'fixing the link' flags with small change to design.

Location: North Station Road & North Hill, Colchester

Ward: Castle

Officer: Phillip Moreton

Recommendation: **Approval**

1.0 Reason for Referral to the Planning Committee

1.1 The Advertisement consent application is referred to the Planning Committee because the applicant is Colchester Borough Council.

2.0 Synopsis

2.1 The application for advertisement consent for the erection of 20 flags on lamp posts has been assessed leading to the conclusion that the proposal is acceptable, and that conditional approval is recommended. It is not considered there would be a detrimental impact on visual or residential amenity and there would be no detriment to public safety, including highway safety.

3.0 Site Description and Context

3.1 North Station Road and North Hill are located within the urban area of the town within the Colchester settlement boundary and Colchester Conservation Areas No.1 (Town Centre) and 4. North Station Road.

3.2 Colchester Borough Council (CBC) is undertaking the replacement, with an updated design, of 'Fixing the Link' flags which provide a wayfinding link from Colchester North Station to the Colchester Town centre.

4.0 Description of the Proposal

4.1 The signage will be located on lamp posts on the A134, North Station Road, Middleborough and North Hill which is the route from Colchester North Station to Colchester town centre. The signs will be evenly spaced on lampposts along the route providing wayfinding for pedestrians and cyclists between the Colchester North station and the town centre.

4.2 The proposed signage messaging includes the following variations

- (1) Blank yellow signs with elephant motif.
- (2) Arrow with text of either Town Centre or Railway station, with a time to walk in minutes and elephant motif.

5.0 Land Use Allocation: N/A

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 Local Plan 2017-2033 Section 1

The shared Section 1 of the Colchester Local Plan is adopted (Feb 21) covers strategic matters with cross-boundary impacts in North Essex. This includes a strategic vision and policy for Colchester. The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The following policies are considered to be relevant in this case:

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

Appendix A of the Section 1 Local Plan outlines those policies in the Core Strategy Focused Review 2014 which are superseded. Having regard to the strategic nature of the Section 1 Local Plan, policy SD2 of the Core Strategy is fully superseded by policies SP5 and SP6 of the Section 1 Local Plan. Policies SD1, H1 and CE1 of the Core Strategy are affected in part. The hierarchy elements of policies SD1, H1 and CE1 remain valid, as given the strategic nature of policies SP3, SP4 and SP5 the only part of the policies that are superseded is in relation to the overall requirement figures.

The final section of Policy SD1 which outlines the presumption in favour of sustainable development is superseded by policy SP1 of the Section 1 Local Plan as this provides the current stance as per national policy.

All other Policies in the Core Strategy, Site Allocations and Development Management Policies and all other adopted policy which comprises the Development Plan remain relevant for decision making purposes.

- 7.3 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

PR2 - People-friendly Streets

TA2 - Walking and Cycling

- 7.4 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

- 7.5 There are no relevant adopted Site Allocations (adopted 2010) policies that should be taken into account in the decision making process.
- 7.6 There are no relevant Neighbourhood Plans that should be taken into account in the decision making process.
- 7.7 Adopted Local Plan and Emerging Local Plan Status – April 2021

The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The Section 2 Emerging Local Plan remains to be examined, with hearing sessions scheduled for two weeks between 20 and 30 April 2021. Section 2 policies must be assessed on a case by case basis in accordance with NPPF paragraph 48 to determine the weight which can be attributed to each policy.

Emerging Section 2 Local Plan

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 submitted in October 2017 is at an advanced stage, with Section 1 now adopted and Section 2 progressed to examination hearing sessions in April. Section 1 of the plan is therefore considered to carry full weight.

Section 2 will be afforded some weight due to its advanced stage. However, as comments from Planning Inspector has yet to be issued, the exact level of weight to be afforded will be considered on a site-by-site basis reflecting the considerations set out in paragraph 48 of the NPPF. Proposals will also be considered in relation to the adopted Local Plan and the NPPF as a whole.

- 7.8 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):
The Essex Design Guide
Better Town Centre SPD

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 Highways Authority:

Still awaiting a consultation response at the time of writing of this report. Any consultation response will be made available to members via the amendment sheet.

8.3 Environmental Protection:

No Objections

9.0 Parish Council Response

9.1 non-Parished n/a

10.0 Representations from Notified Parties

10.1 The application resulted in a number of notifications to interested third parties. No representations were received in response to the application.

11.0 Parking Provision

11.1 N/A

12.0 Accessibility

12.1 N/A

13.0 Open Space Provisions

13.1 N/A

14.0 Air Quality

14.1 The wayfinding is intended to encourage walking and cycling and reduce trip generation by the private car. There may be an indirect positive impact on air quality in the town centre consequently.

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

16.1 The main issues in this case are:

- Amenity
- Highway Safety

- 16.2 Paragraph 67 of the NPPF states that “poorly placed advertisements can have a negative impact on the appearance of the built and natural environment. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts.”
- 16.3 In assessing a sign’s impact on "amenity", regard should be given to the effect on the appearance of visual amenity in the immediate neighbourhood where it is to be displayed and also consideration of any impact upon residential amenity. It is therefore necessary to consider what impact the advertisement, including its cumulative effect, will have on its surroundings. The relevant considerations for this purpose are the local characteristics of the neighbourhood, including scenic, historic, architectural or cultural features, which contribute to the distinctive character of the locality.
- 16.4 The signs have been carefully designed to appear similar to the current ‘fixing the link’ signs that deliver information to the public walking on the footways, with yellow backgrounds and grey text. It is considered that the format and design of the signs will be familiar in an urban environment. No adverse visual impact will consequently result from the proposals.
- 16.5 The flags are replacements for the existing fixing the link flags with a small change to design, it is considered that the proposed flags will have a neutral impact on the visual amenity of the area, including the character and appearance of the Conservation Area.
- 16.6 The replacement flags are not considered to have a materially adverse impact on the setting of any listed buildings on the proposed route.
- 16.7 The proposed flags are to be 0.6 metres in width x 2.2 metres in height, set 3.5 metres above finished floor level and attached to Lamp columns. As the proposed flags are a direct replacement of the existing flags, it is considered that they are acceptable.
- 16.8 The proposed signs are replacement of current ‘fixing the link’ signage along the proposed signage route therefore, the proposed is not considered to have a cumulative negative impact on the visual amenity of the area.
- 16.9 The Council’s Environmental Protection team have not raised any concerns therefore it is not considered that the signs would result in any harm to residential amenity.
- 16.10 In assessing the impact on "public safety", regard should be had to the effect upon the safe use and operation of any form of vehicular traffic or transport. In assessing the public safety implications of an advertisement display, one can assume that the primary purpose of an advertisement is to attract people's attention. The vital consideration, in assessing an advertisement's impact, is whether the advertisement itself, or the exact location proposed for its display,

is likely to be so distracting, or so confusing, that it creates a hazard to, or endangers, people in the vicinity who are taking reasonable care for their own and others' safety.

16.11 On the basis of current information, the proposed signs are not considered to have an adverse impact on the highway safety, subject to the Highway Authority's consultation response. At the time of writing we are still awaiting a consultation response from the Highway Authority. Any consultation response will be made available to members via the amendment sheet. Given that the signs are a replacement for existing signs that have not resulted in any attributable accidents, it seems unlikely that an objection will be raised on safety grounds.

17.0 Conclusion

17.1 To summarise, the proposed alternative signage is not considered to be harmful to visual and residential amenity or to public safety including highway safety. The proposals are therefore considered to comply with the guidance set out in the NPPF and development plan policies which are material considerations in so far as they relate to amenity.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

APPROVAL of advertisement consent subject to the following conditions:

1. Standard Advert Condition

Unless an alternative period is specifically stated in the conditions below, this consent expires five years from the date of this decision and is subject to the following standard conditions:

1. Any advertisements displayed, and any site used for the display of advertisements, shall be maintained in a clean and tidy condition to the reasonable satisfaction of the Local Planning Authority.
2. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a safe condition.
3. Where an advertisement is required under these Regulations to be removed, the removal shall be carried out to the reasonable satisfaction of the Local Planning Authority.
4. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

5. No advertisement shall be sited or displayed as to obscure, or hinder the ready interpretation of, any road traffic sign, railway signal or aid to navigation by water or air or so as otherwise to render hazardous the use of any highway, railway, waterway or aerodrome (civil or military).

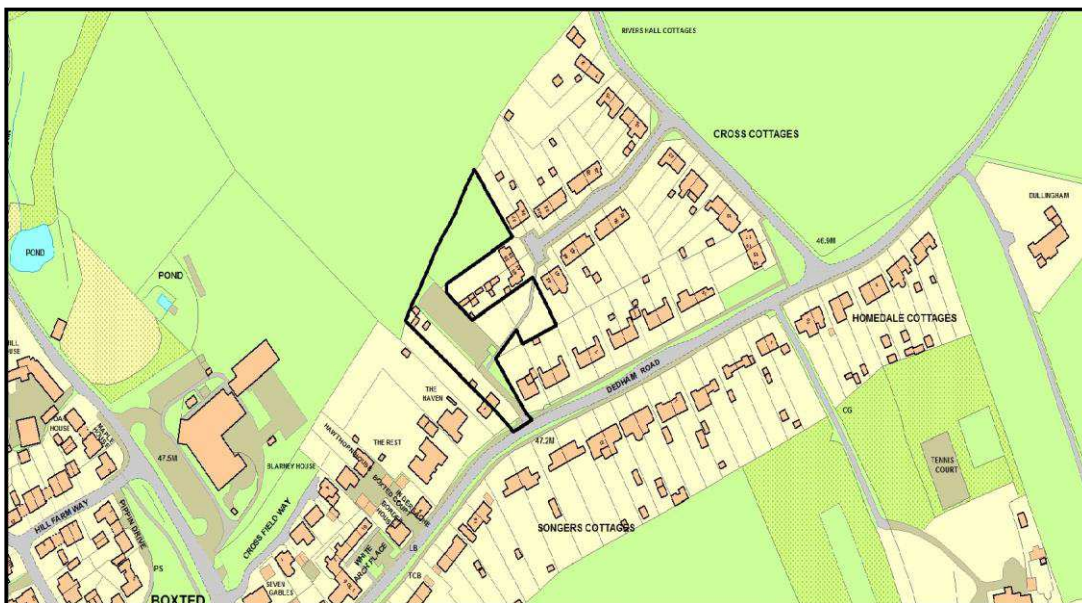
Reason: In order to comply with the Town and Country Planning (Control of Advertisements) (England) Regulations 2007

2. The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers A1030 REV 00, A1031 REV 00, A1032 REV 00, A1033 REV 00 and drawings named LAMP POST BANNERS and REPLACEMENT LAMP POST BANNERS.

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

19.1 Informatives

19.1 No informatives are also recommended:



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Item No: 7.4

Application: 220148

Applicant: Colchester Borough Council

Agent: Mrs Rebecca Howard

Proposal: Redevelopment of site to create 7 no. new residential units

Location: Land to the West of, Cross Cottages, Boxted, Colchester

Ward: Rural North

Officer: Nadine Calder

Recommendation: **Approval subject to conditions**

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because the applicant is Colchester Amphora Homes Limited on behalf of Colchester Borough Council.

2.0 Synopsis

- 2.1 The key issues for consideration are the principle of the proposed development, its design, scale and form, impact on neighbouring amenity in terms of outlook, light and privacy and provision of parking. These matters have been considered alongside planning policy requirements and other material matters, leading to the application being subsequently recommended for approval.

3.0 Site Description and Context

- 3.1 The site lies within the defined settlement limits for Boxted Cross but has no other allocation. It is irregular in shape, with no road frontage. The site is bounded by residential development to the east, west and south, with open agricultural land to the north. The site currently comprises hardstanding which is informally used to park cars. Access to the site is gained from Dedham Road to the south.
- 3.2 A small part of the site relates to an area that is leased to and used as additional garden space by a local resident. A footpath runs through the site providing a link from Dedham Road to Cross Cottages. A gate at the entrance to the overflow parking area ensures no unauthorised access is gained into the site.

4.0 Description of the Proposal

- 4.1 The application seeks planning permission for the construction of seven dwellings, comprising of three bungalows (one 3-bedroom detached Cat 3 and two 2-bedroom semi-detached dwellings) and a two storey terrace providing 4no. 1-bedroom flats, with associated landscaping, parking and private amenity provision. The proposal is to be 100% affordable and would be owned by Colchester Borough Council and managed by Colchester Borough Homes.
- 4.2 In terms of the external appearance of the development, the palette of materials includes red brick, buff brick, and rockpanel cladding and buff facing brickwork.
- 4.3 The proposal includes a total of 20no. parking spaces; two spaces each for the bungalows, one space each for the flats, two spaces for the donor property and eight visitor spaces. The proposed development would require two visitor spaces, resulting in an overprovision of six visitor parking spaces which are to be provided as a reprovision of the informal car parking that would be lost as part of the proposal.
- 4.4 The footpath through the site is to be retained (diverted), and incidental soft landscaping pockets are proposed around the site to soften the appearance of the proposed development on the visual amenity of the area.

5.0 Land Use Allocation

- 5.1 The site lies within the defined settlement limits for Boxted Cross but has no other allocation.

6.0 Relevant Planning History

- 6.1 There is no planning history that is particularly relevant to this proposal. The proposal was however the subject of preliminary discussions in the summer of 2019 and again in late 2020/early 2021, which helped inform the final scheme.

7.0 Principal Policies

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

7.2 Local Plan 2017-2033 Section 1

The shared Section 1 of the Colchester Local Plan is adopted (Feb 21) and covers strategic matters with cross-boundary impacts in North Essex. This includes a strategic vision and policy for Colchester. The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The following policies are considered to be relevant in this case:

- SP1 Presumption in Favour of Sustainable Development
- SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
- SP7 Place Shaping Principles

Appendix A of the Section 1 Local Plan outlines those policies in the Core Strategy Focused Review 2014 which are superseded. Having regard to the strategic nature of the Section 1 Local Plan, policy SD2 of the Core Strategy is fully superseded by policies SP5 and SP6 of the Section 1 Local Plan. Policies SD1, H1 and CE1 of the Core Strategy are affected in part. The hierarchy elements of policies SD1, H1 and CE1 remain valid, as given the strategic nature of policies SP3, SP4 and SP5 the only part of the policies that are superseded is in relation to the overall requirement figures.

The final section of Policy SD1 which outlines the presumption in favour of sustainable development is superseded by policy SP1 of the Section 1 Local Plan as this provides the current stance as per national policy.

All other Policies in the Core Strategy, Site Allocations and Development Management Policies and all other adopted policy which comprises the Development Plan remain relevant for decision making purposes.

7.3 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

H1 - Housing Delivery

H2 - Housing Density

H3 - Housing Diversity

H4 - Affordable Housing

UR2 - Built Design and Character

ER1 - Energy, Resources, Waste, Water and Recycling

7.4 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

DP12 Dwelling Standards

DP14 Historic Environment

DP16 Private Amenity Space and Open Space Provision for New Residential Development

DP17 Accessibility and Access

DP19 Parking Standards

7.5 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: Unallocated & n/a

7.6 The site lies within the Boxted Neighbourhood Plan Area. The plan forms an integral part of the development plan and is afforded full weight.

7.7 Submission Colchester Borough Local Plan 2017-2033:

The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The Section 2 Emerging Local Plan is at an advanced stage having undergone examination hearing sessions in April 2021 and recent consultation on modifications. Section 2 will be afforded some weight due to its advanced stage. However, as it is yet to complete full and final examination, the exact level of weight to be afforded will be considered on a site-by-site basis reflecting the considerations set out in paragraph 48 of the NPPF. Proposals will also be considered in relation to the adopted Local Plan and the NPPF as a whole.

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.

7.8 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

Open Space, Sport and Recreation

Sustainable Construction

Managing Archaeology in Development

8.0 Consultations

- 8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.
- 8.2 The Arboriculture Officer does not object to the proposal, as amended.
- 8.3 The Archaeological Advisor raises no objection to the proposal.
- 8.4 Environmental Protection raise no objection to the proposal subject to a condition limiting the hours of work and securing a Construction Method Statement.
- 8.5 The Landscape Advisor does not object to this proposal subject to conditions.
- 8.6 The Highway Authority does not object to the proposal subject to conditions securing the access to be provided as per the approved drawings; provision of adequate visibility splays; vehicular turning facilities for service and delivery vehicles; details relating to the diversion of the definitive right of way; details of the estate roads and footways; and the submission of a Construction Management Plan as well as ensuring the development is not occupied prior to the internal road and footway having been laid out in accordance with the approved drawings; turning areas and off street parking to be provided in accordance with the approved drawings; details for the storage of bicycles to be provided; parking spaces/hard standings to be of minimum dimensions; the provision of Residential Travel Information Packs; and the provision of a new north bound bus stop.
- 9.0 Parish Council Response
- 9.1 The Parish Council object to the proposed development due to the loss of parking on site and the potential for parking to be displaced onto the Dedham Road. Their full comments can be found on the website.
- 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 68 letters (from 60 households or organisations, including the local school and Colchester Cycle Campaign) have been received, either objecting or making a general observation. The concerns that were raised (and are relevant to this application) can be summarised as follows:
- Parking on Dedham Road and Cross Cottages is dangerous;
 - Proposed development would remove parking;
 - Properties will be given to people from outside the village;
 - Very poor bus service;
 - There are no services and facilities in the village;

- Existing sewage system is over capacity;
- New junction with Dedham Road would increase congestion and create an added hazard for pedestrians;
- Development is not required in Boxted;
- Impact on neighbouring amenities;
- Open up the field to the north for future development;
- Development is cramped and not in keeping with immediate vicinity;
- Unsustainable location;
- Bad design;
- Increased light pollution;
- No need for 1-bed houses, if anything 3-bed properties are needed;
- Noise and disturbance during construction works;
- Damage and uncertainty over new fence line;
- Full Access to Public Footpath 8 (Boxted) must be available at all times.

10.3 In addition to the above, one letter of support was received.

11.0 Parking Provision

- 11.1 The proposal provides one parking space for each 1no. bedroom dwelling and two spaces for each 2no.+ bedroom dwelling, together with eight visitor spaces which would exceed adopted parking standards.

12.0 Accessibility

- 12.1 With regard to the Equality Act 2010 and compliance with policies DP12 and DP17 that detail requirements in terms of accessibility standards, the scheme includes a wheelchair accessible unit and has been designed to be inclusive, accessible and adaptable. As the development will be owned and managed by Colchester Borough Homes there is the scope and budget to manage the units in accordance with the needs of the occupants.

13.0 Open Space Provisions

- 13.1 The proposed dwellings have adequate amenity space overall plus informal pockets of open space around the site.

14.0 Air Quality

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

15.0 Planning Obligations

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

16.0 Report

Principle of Development

- 16.1 The site lies within the Boxted Cross settlement boundary and an area that is residential in character where development such as that proposed is acceptable in policy terms subject to the development satisfying all other aspects of the Development Plan. These material considerations are assessed in detail in the following paragraphs.

Affordable Housing Need

- 16.2 Providing more affordable homes is a key corporate strategic priority of the Council, because of the unmet demand that exists. To this extent, the Council has set up a Housing Company, Colchester Amphora Homes Limited (CAHL), to develop mixed-tenure housing schemes with 30% affordable homes alongside private sale property. CAHL have also been appointed to deliver 100% affordable housing on a number of sites, including the development of garage sites.
- 16.3 This application is one of several submitted concurrently by CAHL for affordable housing on under-used Council owned, Colchester Borough Homes (CBH) managed garage sites. These applications are the result of ongoing work by the Council to find innovative ways of enabling more affordable housing to be built, in line with stated Council priority objectives.

Design, Layout and Impact on Surrounding Area

- 16.4 At the heart of the National Planning Policy Framework (the Framework), there is a presumption in favour of sustainable development. Good design is a key aspect of sustainable development, and the Framework indicates that new development should respond to local character and should reflect the identity of its surroundings. This is reflected in Development Policy DP1 and Core Strategy Policy UR2. These policies state that all proposals should be well designed, having regard to local building traditions, and should be based on a proper assessment of the character of the application site and the surrounding built and natural environment.
- 16.5 Owing to the site's set back position, the proposal represents a backland form of development. The site is surrounded by residential rear gardens belonging to dwellings fronting Cross Cottages to the east and Dedham Road to the south. There would be limited public views available towards the proposed dwellings from these roads. A public footpath runs however through the site thus making the development publicly visible.
- 16.6 The proposal consists of three single storey detached and semi-detached bungalows and a two storey terrace comprising four flats. The immediate vicinity of the site, including development towards the end of Cross Cottages and along the northern side of Dedham Road, consists of mainly semidetached dwellings and/or flat accommodations, though there are some detached properties nearby too. Properties are generally positioned in rectangular plots which provide very generous rear gardens.

- 16.7 The proposed housing mix and site layout is considered to broadly comply with the prevailing pattern of development in the immediate vicinity. All dwellings would benefit from a generous amount of private amenity space and informal pockets of open space benefitting from soft landscaping features are provided amongst the proposed hard surfacing areas (access road and parking provision) which would ensure that the proposed development does not appear cramped.
- 16.8 The external materials for the proposed development include a mixture of red and buff brick with rockpanel cladding to add visual interest to the development. The use of brick for the main bulk of the proposed development would ensure that the proposal respects the existing built development that surrounds the site, with the introduction of contrasting materials elevating the appearance of the proposed development.
- 16.9 Paragraph 134 of the Framework makes it clear that great weight should be given to proposals that help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings. Whilst the design of the proposed development in itself is not outstanding, as referred to in the Framework, it is considered that a more contemporary approach to the proposed development would create some visual interest in an area that is otherwise very repetitive in design and appearance. The visual amenity of the surrounding site would therefore be improved. As a result, the proposal is held to be acceptable in terms of its overall design, appearance and impact on the surrounding area.

Impact on Neighbour Amenities

- 16.10 The proposed development would be located amongst existing residential development. Consideration needs to be given as to how the proposal would affect the occupants of nearby residential properties in terms of loss of light, privacy and overbearing impacts.
- 16.11 The proposed detached bungalow sits in a relatively generous plot and a considerable distance from the nearest neighbouring dwellings to the north and west, while the dwellings to the north of the bungalow would be separated from the site by a footpath and boundary treatment. The distance and intervening boundary features between the proposed detached bungalow and neighbouring properties, coupled with its single storey height, would ensure that the dwelling would not cause any impact on the amenities of neighbouring occupiers in terms of appearing overbearing on their outlook or cause loss of light or privacy.
- 16.12 Similarly, the two semi-detached bungalows sit at the bottom of the very long garden associated with the neighbouring property to the south. They do therefore also not raise any concerns in respect of their impact on neighbouring amenities.

- 16.13 The proposed flats have also been arranged in a way to avoid any materially harmful impact on neighbouring properties to the south and east. The dwellings are positioned a significant distance from the boundary with the neighbours to the east and would only provide windows to non-habitable rooms (bathroom and landing) in the rear elevation at first floor, thus ensuring that no materially harmful overlooking would occur. There are no windows in the side elevations, thus not causing any concerns with regards to overlooking of neighbouring properties or their private amenity spaces to the south. Whilst the development would cause some impact on the outlook of neighbours to the south, this would be minimal and not justifying a refusal, due to the intervening distance between the two built forms and the relatively small impact that would be caused.
- 16.14 With regard to the proposed residential use on the site, it is considered that this would be compatible with the surrounding area which is predominantly residential (the only exception being the agricultural field to the north). The site is already used for the parking of vehicles, and it is not considered that the vehicle movements associated with the proposed development would cause such an impact on neighbouring occupiers that would be significant or materially harmful in magnitude.
- 16.15 It is also considered that the existing built development surrounding the site would not cause any impact on the residential amenities of future occupiers of the proposed development. Consequently, the proposal is considered to be acceptable with regard to its impact on the amenities of existing neighbouring occupiers as well as future occupiers of the proposed development.

Parking and Highway Safety

- 16.16 Access to the site is proposed to be taken via an existing access from Dedham Road, which is to be widened. Adequate visibility splays are proposed at the site's entrance and the Highway Authority is satisfied with the proposed arrangement subject to stringent conditions. Subject to these, there are no objections to the proposed access to the site.
- 16.17 With regard to parking provision, the adopted standard for new residential development with one bedroom is a minimum of one parking space per unit, with dwellings benefitting from two or more bedrooms requiring a minimum of two car parking spaces per unit. Visitor car parking is also required at 0.25 spaces per unit (rounded up to the nearest whole number). The proposal would therefore require a total of 14no. parking spaces, including two spaces for the donor property. The submitted layout plan indicates that 20no. parking spaces would be provided. Consequently, the adopted standards would be exceeded. Secure cycle storage can be provided the curtilage of each unit.
- 16.18 It is noted that the proposals have been met with a significant number of objections from local residents and the Parish Council due to the loss of parking on this site. It must be noted that the site is Council owned land and offered to local residents as unallocated parking on an informal basis while

there is no other use for the site. The additional parking on this site is a benefit for local residents. However, there is no legal right to maintain access to this parking that replaced former garaging on the site (demolished).

- 16.19 The Council however acknowledges the parking stress in Cross Cottages and, whilst this development should not be held responsible to resolve an existing parking problem outside the application site, nevertheless the scheme has incorporated a total of six additional visitor spaces, which would continue to provide off street parking facilities for local residents on an informal basis. The proposed development is therefore held to be acceptable with regard to parking and highway matters.

Private Amenity Space

- 16.20 Development Policy DP16 requires that all new residential development shall provide private amenity space to a high standard, with secure usable space that is also appropriate to the surrounding context. The minimum requirement for 1- and 2-bedroom dwellings is 50m², with 3-bedroom houses requiring 60m² of private amenity space per dwelling. These requirements are echoed in emerging Section 2 Policy DM19.

- 16.21 The submitted site plan clearly shows that the development provides not only policy compliant private garden spaces, but that the proposed spaces are of a high standard with the siting, orientation, size and layout making for a secure and usable space. The proposed arrangement is therefore appropriate in its context.

- 16.19 Policy DP16 also states that “all new residential development will pay a commuted sum towards open space provision and maintenance.” No exception is made in relation to developments of affordable housing. Indeed, Supplementary Planning Document “Provision of Open Space, Sport and Recreational Facilities” specifies that “the standards, outlined above, are to be applied to all additional new residential Units. (...) New development includes most specialised types of housing including agricultural dwellings, affordable housing and also staff accommodation since all will create additional demands for open space.”

- 16.20 No Unilateral Undertaking or Monitoring Fee has been submitted with regard to addressing this policy. Consequently, the proposal presents a minor conflict with adopted policy. However, in similar previous cases at Council owned garage sites given permission in the past, the Council waived the commuted sum in order to make the provision of 100% affordable housing schemes viable. Given that the developer is the service provider, the requirement for contributions is effectively negated. It does not set a precedent for private market housing as this does not provide 100% affordable housing.

- 16.21 In addition, CBC is the provider and maintainer of public open spaces and is also the landowner. In this capacity, it has the power to provide and maintain

the land for public benefit for the foreseeable future anyway. As maintenance of public open space is undertaken from the Council's overall budget, there would be no net gain to the community by requiring payment of open space contributions as it would simply take money from one part of the budget and move it to another.

16.22 In conclusion, the scheme provides acceptable private amenity space and open space provisions.

Landscape and Trees

16.23 Development Plan Policy DP1 and emerging Section 2 Policy DM15 require development proposals to demonstrate that they respect and enhance the character of the site, context and surroundings including its landscape setting.

16.24 The site contains a number of trees and hedgerows and accordingly, a Tree Constraints Plan and Tree Protection Plan was submitted with the application. Following concerns raised by the Arboriculture Officer, the two semi-detached bungalows were moved further north within the site to ensure they lie outside the root protection zone for the nearby trees, thus ensuring no harm is caused to these trees. While it is noted that some trees within the site would need to be removed to facilitate the proposed development, it is noted that the proposal also includes pockets of informal open space and new tree planting which would provide some mitigating circumstances as well as a softening impact, and thus positive contribution, to the visual amenity of the site.

16.25 The site is currently exposed to the open countryside beyond its western boundary. The Landscape Adviser requested that this boundary be enclosed by a native hedge and hedgerow trees as part of any development to both soften its visual impact and filter screen it from viewpoints along Cooks Hill. Such hedging will also help conserve and enhance the character of the adjacent rural landscape (the Great Horkesley Farmland Plateau) and reinstate the historic hedge line. Cooks Lane forms the boundary to the nationally designated and protected Dedham Vale Area of Outstanding Natural Beauty (AONB) and the site therefore forms part of the setting to the AONB, the protection of which further supports the need to filter/screen the development with a hedgerow and hedgerow trees along the western boundary of the site. Subject to this being secured via condition, there are no objections to the proposal on landscape grounds.

Heritage Impacts

16.26 The Archaeological Adviser confirmed that the proposed development area was subject to archaeological evaluation prior to the submission of this planning application, following consultation with them. This evaluation did not reveal archaeological remains, although all the planned trenches could not be excavated.

16.27 While the proposed development area has not been completely evaluated, the information gathered in the evaluation that has occurred is sufficient to reduce

my assessment of its archaeological potential. Therefore, in this instance, no further archaeological work is required, and no archaeological condition is recommended.

Other Matters

- 16.28 The development would require the diversion of an existing footpath that runs through the proposed development site. The Highway Authority has considered this aspect of the proposal and has not raised an objection. The proposed development would retain a safe, convenient and direct route between Cross Cottages and Dedham Road and the proposed footpath diversion is therefore considered acceptable.
- 16.29 Comments from local residents with regards to loss of allotments are noted. As highlighted earlier in this report, the site contains a green space which has been licensed to neighbouring occupiers to be used as additional garden space. The site does not contain, and does therefore not result in the loss of, formal allotments.
- 16.30 Reference was made to the development being contrary to the Boxted Neighbourhood Plan. Policy LC2 requires proposals to consider the impact that development would have on the local landscape character and demonstrate that any impacts can be appropriately mitigated. It has been demonstrated above that the proposed development, subject to conditions, including a hedge along the western boundary of the site, would be acceptable from a landscape point of view. The proposal provides very generous garden spaces and pockets of informal open space within the site and a combination of this ensures that the proposed development would satisfy the criteria of Policy LC2
- 16.31 Policy TM1 of the Neighbourhood Plan, which deals with highway safety and parking, is also considered to be complied with, given that the proposed development not only meets but exceeds adopted parking standards. As such, the proposal would not conflict with the aims of the Neighbourhood Plan. Members are advised that this application should not be refused on the basis of existing parking problems in the surrounding area, especially since it has been demonstrated that the parking provision for the proposed development exceeds the adopted standards. This development, which should be assessed on its own merits, would therefore not increase the pressure of on-street parking in the surrounding area. Development proposals which meet adopted policy requirements should not be refused or held accountable for existing problems in the immediate vicinity which are outside the control of the development.
- 16.32 Refuse and recycling storage facilities would be provided within the individual plots. No information was however provided with regards to a communal collection point or how refuse/recycling will be collected. This information will therefore need to be conditioned.

16.29 The site is located within Flood Zone 1 and consequently, the site is unlikely to be susceptible to flooding and the development would not contribute to surface water flooding.

16.30 A payment of £127.30 per dwelling will be made in contribution towards the measures in Recreational disturbance Avoidance and Mitigation Strategy (RAMS) for the Essex Coast to avoid and mitigate adverse effects from increased recreational disturbance to ensure that Habitat Sites are not adversely affected, and the proposal complies with the Habitat Regulations.

Planning Balance

16.31 The Framework confirms that the purpose of the planning system is to contribute to the achievement of sustainable development, identifying three dimensions to sustainable development: an economic, social and environmental dimension. In respect of the first of these, the current proposal would provide economic benefits through the creation of temporary employment during the construction phase. The provision of additional and modern affordable housing within the Borough is a positive mechanism to promote balanced communities and thus generally satisfies the social dimension. The social role of sustainable development is also described as fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs. The proposal is considered to satisfy this objective due to the development being generally well designed. In respect of the environmental dimension, the proposal would make a more efficient use of land and provide additional landscaping features. The proposed development is considered to be of an enhanced visual quality when compared to the existing development on the site and would deliver much needed affordable homes in the Borough.

16.32 The proposed development is therefore considered to represent sustainable development. There is also sufficient evidence to be confident that overall, the development would not cause material harm to the amenity of nearby residents, create noise pollution or have a severe impact upon the highway network.

17.0 Conclusion

17.1 In summary, it is considered that the proposed development represents sustainable development and would not cause any visual or material harm to the character and appearance of the surrounding area, neighbouring occupiers or highway safety. Consequently, the proposed development is held to be acceptable.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following condition:

1. ZAA - Time Limit for Full Permissions

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

2. ZAM - *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

CROSSC-IWD-XX-XX-DR-A-1000 Rev P02 Existing Location Plan

CROSSC-IWD-XX-XX-DR-A-1000 Rev P10 Proposed Site Plan

CROSSC-IWD-XX-XX-DR-A-1002 Rev P01 Proposed Site Plan – Visibility Splay

CROSSC-IWD-01-00-DR-A-2050 Proposed Floor Plans & Elevations – Plot 1 (Block 01)

CROSSC-IWD-02-XX-DR-A-2050 Proposed Floor Plans & Elevations – Plots 2-3 (Block 2)

CROSSC-IWD-03-XX-DR-A-2050 Rev P1 Proposed Floor Plans – Plots 4-7 (Block 03)

CROSSC-IWD-03-XX-DR-A-2051 Rev P1 Proposed Elevations – Plots 4-7 (Block 03)

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

3. ZBB - Materials As Stated in Application

The external facing and roofing materials to be used shall be those specified on the submitted application form and drawings, unless otherwise agreed, in writing, by the Local Planning Authority.

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

4. 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 and under body washing facilities;

the diversion of closure of FP 08 (Boxted) during the construction and fitting out stages; measures to control the emission of dust and dirt during construction; and a scheme for recycling/disposing of waste resulting from 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.

5. Non-Standard Condition - Diversion of right of way

No development shall be permitted to commence on site until such time as an Order securing the diversion of the existing definitive right of way to a route to be agreed with the Local Planning Authority and in association with the Highway Authority has been confirmed and the new route has been constructed to the specifications of the Local Planning Authority.

Reason: To ensure the continued safe passage of pedestrians on the definitive right of way.

(Note: FP No 8 (Boxted) will be required to be retained at the recorded width on the Definitive Map throughout, no reduction or impediment to highway users will be accepted).

6. Non-Standard Condition - Estate Roads

Prior to the commencement of development, details of the estate roads and footways (including layout, levels, gradients, surfacing and means of surface water drainage) shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety.

7. Non-Standard Condition - Bespoke Landscape Condition

No works shall take place until a scheme of hard and soft landscape works has been submitted to and agreed, in writing, by the Local Planning Authority. This scheme shall include any significant changes in ground levels and also accurately identify positions and spread of all existing trees, shrubs and hedgerows on the site; proposed planting, including a native hedge and hedgerow trees along the western boundary of the site; details of any hard surface finishes and external works, including a 1.8m high hit & miss privacy fence set 500mm behind the western boundary hedge to rear gardens backing or siding onto the western boundary. The implementation of all the landscape works shall comply with the recommendations set out in the relevant British Standards current at the time of submission. The approved landscape scheme shall be carried out in full prior to the end of the first planting and seeding season following the first occupation of the development or in such other phased arrangement as shall have previously been agreed, in writing, by the Local Planning Authority. Any hard or soft landscape works which, within a period of 5 years of being implemented fail, are removed or seriously damaged or seriously diseased shall be replaced, like for like, in the next planting season with others of similar specification/size/species/mix, unless the Local Planning Authority agrees, in writing, to a variation of the previously approved details.

Reason: In order to ensure that there is a sufficient landscaping scheme for the relatively small scale of this development where there are areas to be laid out but there is insufficient detail within the submitted application.

8. ZFE - 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.

9. Non-Standard Condition - Vehicular Access

Prior to the first occupation of the proposed dwellings, the proposed vehicular access as shown on the approved drawings shall be reconstructed to a width of 6.5m for the first 10m within the site then retained at 5.5m throughout after and shall be provided with an appropriately reconstructed dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

Reason: To ensure that all vehicles using the private drive access do so in a controlled manner and to ensure that opposing vehicles may pass clear of the limits of the highway, in the interests of highway safety.

10. Non-Standard Information - Visibility Splays

Prior to the proposed access being brought into use, vehicular visibility splays of 90m by 2.4m by 90m 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. Non-Standard Condition - Turning facilities

Prior to commencement of the proposed development, vehicular turning facilities for service and delivery vehicles of at least size 3 dimensions and of a design which shall be approved in writing by the Local Planning Authority, shall be provided within the site which shall be retained and maintained free from obstruction thereafter. Reason: To ensure that vehicles using the site access may enter and leave the highway in a forward gear, in the interests of highway safety.

12. Non-Standard Condition - Internal Road and Footway layout

Prior to the occupation of any of the proposed development the internal road and footway layout shall be provided in accordance with Drawing Number CROSSC_IWD-XX-XX-DR-A-100 Rev P10.

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

13. Non-Standard Condition - Turning Areas

The development shall not be occupied until such time as the turning areas and off street parking including visitor and ad hoc unallocated parking spaces has been provided in accord with the details shown in Drawing Numbered CROSSC_IWD-XXXX-DR-A-100 Rev P10. The car parking area 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.

14. Non-Standard Condition - Parking Space/Hardstanding Sizes (Open) The parking spaces / vehicular hardstandings shall each be constructed to minimum dimensions of 5.5m x 2.9m and retained thereafter.

Reason: To encourage the use of off-street parking, in the interests of highway safety.

15. Non-Standard Condition - Cycle Storage

Prior to the occupation of the proposed development, details of the provision for the storage of bicycles sufficient for all occupants and visitors to that development, shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby

permitted within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To promote the use of sustainable means of transport.

16. Non-Standard Condition - Residential Travel Information Packs

The Developer shall be responsible for the provision, implementation and distribution of Residential Travel Information Packs for sustainable transport for the occupants of each dwelling which shall be approved by Local Planning Authority, to include six one day travel vouchers for use with the relevant local public transport operator. These packs (including tickets) are to be provided by the Developer to each dwelling free of charge.

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

17. Non-Standard Condition - Provision of new north bound bus stop

Prior to the first occupation of any of the dwellings, the applicant/developer shall provide a new north bound bus stop adjacent to No 14 Cooks Hill junction with Dedham Road between the existing kerb line and the adjacent footway, the precise location to be agreed with the Highway Authority, including passenger hard standing/waiting area level entry kerbing, new post and flag, timetables, any adjustments in levels, surfacing and any accommodation works to the verge/footway and carriageway channel being provided entirely at the applicant/Developer's expense to the specifications of the Highway Authority.

Reason: To make adequate provision for the additional bus passenger traffic generated as a result of the proposed development.

18. ZCE - Refuse and Recycling Facilities

Prior to the first occupation of the development hereby permitted, refuse and recycling storage facilities shall be provided in accordance with a scheme which shall have been previously submitted to and agreed, in writing, by the Local Planning Authority. Such facilities shall thereafter be retained to the satisfaction of the Local Planning Authority at all times.

Reason: The application contains insufficient information to ensure that adequate facilities are provided for refuse and recycling storage and collection.

19. 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.

20. 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: none

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

19.1 Informatives

19.1 The following informatives are also recommended:

ZT0 – Advisory Note on Construction & Demolition

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

ZTA - Informative on Conditions Stating Prior to Commencement/Occupation PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either before you commence the development or before you occupy the development. This is of critical

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

Non-Standard Informative - Landscape

'Detailed landscape proposals, if/when submitted in order to discharge landscape conditions should first be cross-checked against the Council's Landscape Guidance Note LIS/B (this available on this CBC landscape webpage: <https://www.colchester.gov.uk/info/cbc-article/?catid=which-application-form&id=KA01169> under Landscape Consultancy by clicking the 'read our guidance' link)'.

Non-Standard Informative - Works affecting Highway

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.

Non-Standard Informative - Highway Liability

The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

ZTB - Informative on Any Application With a Site Notice

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

20.0 Positivity Statement

WA2 - Application Approved Following Revisions

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Material Planning Considerations

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

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

The following approach should be taken in all planning decisions:

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

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

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

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

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

The above list is not exhaustive

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

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

- matters specifically controlled through other legislation

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

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

Planning Obligations

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

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

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

Human Rights, Community Safety and Equality and Diversity Implications

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

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

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

Using Planning Conditions or Refusing Planning Applications

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

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

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

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

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

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

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

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



Colchester Borough Council Development Management

Highway Safety Issues

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

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

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

Parking Standards

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

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

For residential schemes:

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

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



Colchester Borough Council Environmental Control

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

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

Best Practice for Construction Sites

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

Noise Control

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

Emission Control

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

Best Practice for Demolition Sites

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

Noise Control

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

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

Emission Control

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

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

Class A1. Shops

Use for all or any of the following purposes—

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

Class A2. Financial and professional services

Use for the provision of —

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

Class A3. Restaurants and cafes

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

Class A4. Drinking establishments

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

Class A5. Hot food takeaways

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

Class B1. Business

Use for all or any of the following purposes—

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

Class B2. General industrial

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

Class B8. Storage or distribution

Use for storage or as a distribution centre.

Class C1. Hotels

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

Class C2. Residential institutions

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

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

Class C2A. Secure residential institutions

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

Class C3. Dwellinghouses

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

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

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

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

Class C4. Houses in multiple occupation

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

Class D1. Non-residential institutions

Any use not including a residential use —

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

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

(c) for the provision of education,

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

(e) as a museum,

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

(g) as a public hall or exhibition hall,

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

Class D2. Assembly and leisure

Use as —

(a) a cinema,

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

(d) a dance hall,

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

Sui Generis Uses

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

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

Interpretation of Class C3

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

Interpretation of Class C4

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

Supreme Court Decision 16 October 2017

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

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

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

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

Deferral and Recommendation Overturn Procedure (DROP) Flowchart

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

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

