

Planning Committee Meeting

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

Thursday, 04 July 2019 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!

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COLCHESTER BOROUGH COUNCIL
Planning Committee
Thursday, 04 July 2019 at 18:00

The Planning Committee Members are:

Councillor Cyril Liddy	Chairman
Councillor Andrea Luxford Vaughan	Deputy Chairman
Councillor Lyn Barton	
Councillor Pauline Hazell	
Councillor Brian Jarvis	
Councillor Derek Loveland	
Councillor Jackie Maclean	
Councillor Philip Oxford	
Councillor Martyn Warnes	

The Planning Committee Substitute Members are:

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

Councillors:

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

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

Please note that Agenda items 1 to 6 are normally dealt with briefly.

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

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 Have Your Say! (Planning)

The Chairman will invite members of the public to indicate if they wish to speak or present a petition on any item included on the agenda. Please indicate your wish to speak at this point if your name has not been noted by Council staff.

These speaking provisions do not apply to applications which have been subject to the Deferral and Recommendation Overturn Procedure (DROP).

3 Substitutions

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

4 Urgent Items

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

5 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.

6 Minutes

There are no minutes for confirmation at this meeting.

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 | 172049 Land West of Chitts Hill, Stanway | 7 - 54 |
| | Development of site to provide 100 dwellinghouses (Class C3) with access from Chitts Hill, associated on-site infrastructure, open space, landscaping and parking. | |
| 7.2 | 181458 32 Colchester Road, West Bergholt, Colchester | 55 - 86 |
| | Outline application for the erection of 13 dwellings with vehicular access, landscaping, footpath links and other related infrastructure. | |
| 7.3 | 190424 and 190425 Land at East Bay Mill, 19 East Bay, Colchester | 87 - 178 |
| | Planning application and Listed Building consent for the construction of 20 residential units together with parking, landscaping and associated works, including refurbishment of the existing Grade II listed granary barn. | |
| 7.4 | 183046 and 183047 Land to the north of Mill Buildings, Wakes Colne Mills, Colchester Road, Wakes Colne, Colchester | 179 - 220 |

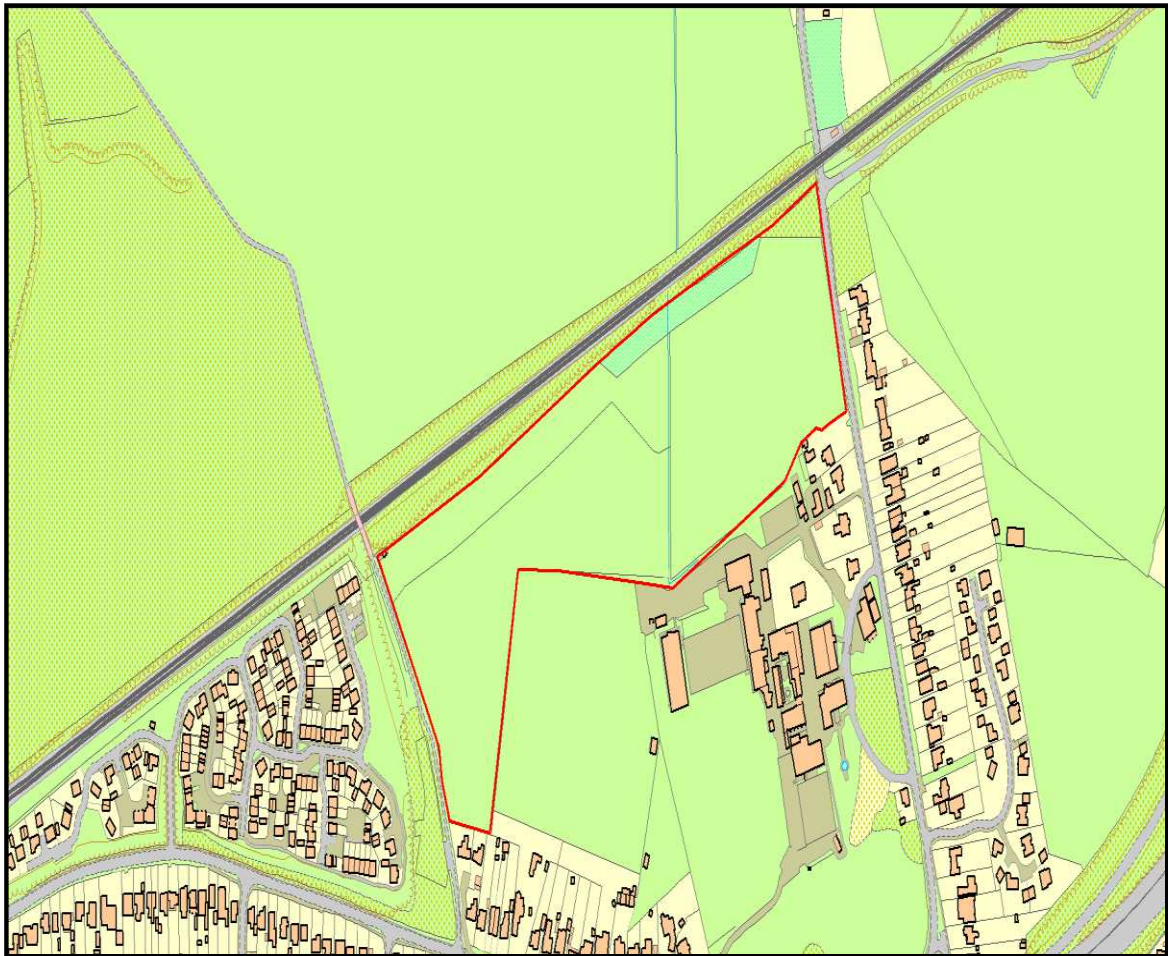
Planning application and Listed Building consent for the demolition of solid fuel processing buildings; removal of built up hard surfaces against north wall of coach house with associated regrading of land; removal of wider coal yard hard surfaces; conversion of coach house to dwelling with single storey extension; erection of a pair of attached dwellings on coal yard; reorientation of yard access yard; erection detached four bay garage; associated hard and soft landscaping including improvements to public footpath corridor biodiversity; implicit change of use from coal yard to two residential properties (class C3) with private meadow.

- | | | |
|-----|---|--------------|
| 7.5 | 182206 Aveley Lodge, Abberton Road, Fingringhoe, Colchester | 221 -
232 |
| | Part removal of existing pitched roof and addition of upper floor extension to provide nine new residents rooms and ancillary accommodation. | |
| 7.6 | 191036 Papa Johns , 2 Middleborough, Colchester | 233 -
242 |
| | Living wall created over existing façade on St Peter's Street and ivy screen covering ducting at ground level along boundary. Wall to be protected with membrane and supporting branch to screen. | |
| 7.7 | 190952 235 London Road, Stanway, Colchester | 243 -
262 |
| | Construction of 4no. detached dwellings, 2no. detached cart lodges and new access. | |
| 7.8 | 191141 Former Bus Depot, Magdalen Street, Colchester | 263 -
270 |
| | Redevelopment of the site to deliver student accommodation (suitable use class) within a four-storey block to provide 104 bedspaces; revision to block 'A' previously approved under no. 181281. | |
| | Planning Committee Information Pages v2 | 271 -
282 |

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).

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



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Item No: 7.1

Application: 172049

Applicant: Mr Robert Eburne

Agent: Ms Nicky Parsons

Proposal: Development of site to provide 100 dwellinghouses (Class C3) with access from Chitts Hill, associated on-site infrastructure, open space, landscaping and parking.(REVISED PLANS AND REPORTS RECEIVED)

Location: Land west of, Chitts Hill, Stanway

Ward: Stanway

Officer: Lucy Mondon

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the proposal is a departure from the adopted Local Plan by virtue of it being outside the adopted settlement boundary of Colchester. In addition, the proposal constitutes major development where objections have been received and the recommendation is for approval. A s106 legal agreement is also required.

2.0 Synopsis

- 2.1 The key issues for consideration are principle of development; landscape and trees; heritage; contamination; flood risk and drainage; ecology; highway matters; layout and design; and amenity. Other material planning matters are also considered.
- 2.2 The comments submitted by statutory consultees, as well as other consultees and local representations are also considered.
- 2.3 The application is subsequently recommended for approval subject to conditions and a legal agreement.

3.0 Site Description and Context

- 3.1 The application site is currently a fallow field, measuring approximately 6.73 hectares in area. The site lies outside the Colchester settlement boundary, although it is adjacent to it on its western, southern, and eastern boundary.
- 3.2 Existing access to the field is via Iron Latch Lane, which is a Bridleway Public Right of Way (PROW 149). Iron Latch Lane runs along the western boundary of the site and leads over the railway line (along the northern boundary of the site) to Iron Latch Nature Reserve to the north-west of the site. The nature reserve is designated as a local wildlife site. Immediately to the north of the site is an area of designated open space.
- 3.3 The site is identified as being Grade 2 Agricultural Land. The site is grassed and there are a number of trees within the site and on the boundaries. There are hedges and hedgerow trees to the eastern and western boundaries and there are TPO trees running through the site and on the western boundary (refs: 11/88 and G2). The northern boundary along the railway line is also heavily tree'd. On the southern boundary adjoining the Holmwood House School, there is a hit and miss fence, trees, and ditch, alongside the school buildings, and a dense conifer hedge around the school playing field. The site is relatively level apart from a significant dip in ground levels at the centre of the site.
- 3.4 The site is within a SSSI Impact Risk Zone.
- 3.5 In terms of context, the site is on the edge of an existing residential area. Properties are quite mixed in terms of type and age, although they are generally detached or semi-detached houses (two-storey). Recent

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development has taken place on a site to the west of the application site (the 'Railway Sidings', now called 'Oliver's Grove'); this is a Hopkins Homes development of houses and flats. However, as the site levels are considerably lower than its surroundings, the development is consequently not overly prominent.

4.0 Description of the Proposal

4.1 The application seeks full planning permission for 100 dwellings, accessed from Chitts Hill. The proposals include on-site infrastructure, open space, landscaping, and parking.

4.2 Details of housing mix and parking provision as follows:

100 No. Residential Units

Private: 70 units

16 two-bed

27 three-bed

27 four-bed

Affordable: 30 units 30%

8 two-bed

12 three-bed

10 four-bed

Car Parking:

76 Garages

35 Carports

163 Parking Spaces

Visitor Parking:

8 Car Parking Spaces

4 Powered two-wheel spaces

Cycle Storage:

One-bed 1 cycle space

Two-bed 2 cycle spaces

Three-bed 2 cycle spaces

Four-bed 4 cycle spaces

Five-bed 4 cycle spaces

4.3 Public open space is provided on-site that would include a Locally Equipped Area for Play (LEAP) and Trim Trail. The area of public open space to be provided on site exceeds 2 hectares, equating to approximately 31% of the site area. Cycle paths and an informal Bridleway is also proposed.

4.4 In addition to plans and drawings that show the site location, scheme layout, landscape masterplan, tree survey and protection plan, drainage strategy, and floor plans and elevations, the application is supported by the following documents:

- Planning Statement;

- Design and Access Statement;
- Archaeological Desk-Based Assessment;
- Archaeological Evaluation;
- Geophysical Survey Report;
- Arboricultural Impact Assessment;
- Extended Phase 1 Habitat Survey;
- Hedgerow Survey;
- Agricultural Land Classification and Soil Resources;
- Transport Assessment;
- Framework Travel Plan;
- Road Safety Audit;
- Statement of Community Engagement;
- Phase I/II Geoenvironmental Assessment;
- Health Impact Assessment;
- Noise and Vibration Assessment;
- Landscape and Visual Impact Assessment;
- Sustainability Statement;
- Flood Risk Assessment;
- Shadow Habitats Regulations Assessment.

5.0 Land Use Allocation

- 5.1 Unallocated in adopted Local Plan. The site is allocated for residential development (100 dwellings) in the Emerging Local Plan, policy WC2.

6.0 Relevant Planning History

- 6.1 There is no site-specific planning history, but the adjacent site (to west) has been developed following planning permission for 123 residential properties, associated infrastructure, public open space, equipped play space and public highway works (ref: 120848).

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
 - SD3 - Community Facilities
 - H1 - Housing Delivery

- H2 - Housing Density
- H3 - Housing Diversity
- H4 - Affordable Housing
- UR2 - Built Design and Character
- PR1 - Open Space
- PR2 - People-friendly Streets
- TA1 - Accessibility and Changing Travel Behaviour
- TA2 - Walking and Cycling
- TA3 - Public Transport
- TA5 - Parking
- ENV1 - Environment
- 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
- 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

7.6 Submission Colchester Borough Local Plan 2017-2033:

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

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

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

The Emerging Local Plan is at an advanced stage and is, therefore, considered to carry some weight in the consideration of the application. The application site is an allocated site within the emerging plan (policy WC2) so the weight to be afforded is particularly relevant. Detailed consideration of this is set out in Section 16 of this report.

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

- Backland and Infill

- Community Facilities
- Vehicle Parking Standards
- Sustainable Design and Construction
- Open Space, Sport and Recreation
- Extending your House
- The Essex Design Guide
- External Materials in New Developments
- Affordable Housing
- Cycle Delivery Strategy
- Sustainable Drainage Systems Design Guide
- Street Services Delivery Strategy
- 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.

Anglian Water:

The foul drainage from this development is in the catchment of Colchester Water Recycling Centre that will have available capacity for these flows. The sewerage system at present has available capacity for these flows. Recommended informative regarding Anglian Water assets and the Water Industry Act 1991.

Arboricultural Officer:

The Arboricultural Officer is in agreement with the submitted tree survey and Arboricultural Impact Assessment. The proposed development does require the felling of a number of trees but given the size, species and location of these it is deemed of limited impact to the wider area and is therefore acceptable in arboricultural terms.

No objection subject to conditions to make the tree report an approved document; secure tree protection; and ensure hand excavation underneath the canopies of tree.

Archaeological Adviser:

An adequate desk-based assessment, geophysical survey and trial-trenched evaluation has been undertaken for this proposed development site. On the basis of the results of these surveys, no further predetermination archaeological evaluation is required. These assessments have identified archaeological remains within the area of trial trenches T22 and T23 and these will require further investigation (preservation by excavation) in advance of development commencing in this part of the development site. In addition, the east edge of the development site, the location of the proposed access onto Chitts Hill, is across the line of Gryme's Dyke (HER no. MCC7464). Late Iron Age Colchester was protected on its western edge by a series of defensive earthworks known as the Dykes and Gryme's Dyke is the latest of these; a dyke is a bank formed from the earth dug out of a defensive ditch. A trial trenched investigation of the road line, and quite likely full excavation, will be required in this part of the site, across the Dyke in advance of development.

There are now 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 141), 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. A condition for an archaeological investigation is recommended.

Building Control:

No comments received.

Contaminated Land Officer:

Having considered the GEMCO Phase I/II Geoenvironmental Assessment (ref: 905 R01 Issue 1), dated 15th December 2016, it is concluded that there are no significant pollution linkages presently associated with the site, and that no remedial actions are required to make the site suitable for the proposed use. The report is satisfactory for Environmental Protection's purposes and, based on the information provided, this initial risk assessment would seem reasonable and it would appear that the proposed additional works would not preclude the safe development of the site as far as contamination matters are concerned. Consequently, since the applicant's specialist environmental consultants have recommended:

- Further ground gas monitoring to confirm the risks;
- That the relevant service providers should be consulted with respect to their requirements for buried services (note: it is likely that the drinking water service provider is Anglian Water rather than the stated Essex and Suffolk Water);
- That any imported engineering fill and / or topsoil must be demonstrated to be suitable for use; and
- A discovery strategy for any unexpected contamination encountered during the development works should be put in place.

Conditions are recommended for site characterisation, the implementation of an approved remediation scheme, and the procedure to follow should any unexpected contamination be encountered.

Environment Agency:

The development proposal does not raise any specific environmental issues within our statutory planning remit and accordingly we have no comments.

Environmental Protection:

No objection subject to conditions: detailed acoustic mitigation report; details of acoustic barrier along the railway line; control of demolition and construction hours of working and deliveries; scheme to mitigate the impacts on local air quality.

Essex Bridleways Association:

The proposed site is adjacent to an existing bridleway – Iron Latch Lane, number 149_33 – on its western perimeter (marked on your External Works Layout diagram as a track). As a minimum, we would expect this bridleway to remain accessible and unspoilt. We note that a cycleway is proposed to the north of the site exiting onto that bridleway, and suggest that rather than a cycleway being constructed, that a bridleway is created instead which will ensure that the site is accessible to all non-motorised uses rather than excluding equestrians as a significant user group. Safe access onto the existing bridleway will be necessary, especially if cyclists are likely to enter the bridleway at speed.

There is an aspiration within the Rights of Way Improvement Plan (currently being reviewed) to link this bridleway 149_33 southwards with 127_217 off New Farm Road. Currently, users need to traverse the busy Halstead Road, over the A12 bridge, and thereon along King Coel Road and New Farm Road. It would be far safer for all users if safe access through the site is provided, accessing Chitts Hill (which is a 30mph road) thereon over the A12 bridge and King Coel Road. The greensward area running parallel to the railway line would be ideal for east-west access. Some additional works to the A12 bridge – for example closing in parapets – would be a welcome enhancement for equestrians.

Essex County Fire and Rescue:

No comments received.

Essex Partnership for Flood Management:

No comments received.

Essex Police:

Essex Police raised some concerns in respect of the original layout (rear boundaries of dwellings adjacent open space resulting in minimal surveillance).

[Case Officer Note: These aspects of the proposal have since been revised.]

Essex Wildlife Trust:

Satisfied that the necessary survey work has been undertaken and agree the proposed mitigation. The Essex Wildlife Trust therefore have no objection subject to an Ecological Mitigation and Enhancement Plan being produced to guide the effective implementation of the proposed mitigation measures and habitat creation/enhancement proposals. This can be secured by condition.

Highways England:

No objection subject to a condition to secure a Travel Plan.

Highway Authority:

The proposal is acceptable to the Highway Authority from a highway and transportation perspective subject to conditions for a construction traffic management plan; visibility splays; additional footway to connect the Colchester bound bus stop in Halstead Road with the existing footway; and Residential Travel Information Packs.

Landscape Officer:

The Council's Landscape Officer concludes that they cannot support the application on landscape policy grounds. Main points:

- The site lies outside the settlement boundary and is therefore subject to Core Policy ENV1. ENV1 requires that 'unallocated green-field land outside of settlement boundaries (to be defined/reviewed in the Site Allocations DPD) will be protected and where possible enhanced, in accordance with the Landscape Character Assessment. Within such areas development will be strictly controlled to conserve the environmental assets and open character of the Borough'.
- The site lies within Landscape Charter Area A5, this identifies a key planning issue as 'potential pressure from expansion of Colchester', it sets a landscape strategy objective to 'conserve and enhance' the landscape character of the Area, with a landscape planning guideline to 'Ensure any new development on the valley side is small-scale' and a landscape management guideline to 'conserve and enhance the existing hedgerows'.
- Ensure any new development on valley sides is small-scale, responds to historic settlement pattern, form and building materials.
- The hedge on the eastern boundary will be breached to allow for the vehicular access to the site. This hedge is protected under the Hedgerows Regulations 1997 (HR97), and, contrary to the findings of the submitted Hedgerow Survey Summary, has been found to be classified as 'important' under HR97 (see Appendix 2) by the LPA who are the assessing authority. This hedge needs to be emphasised as the most valuable landscape feature on site. Given its status there is a presumption, in landscape terms at least, that it will be retained intact. Note: the central hedge on site is also classified as Important under the Hedgerows regulations 1997 (see Appendix 2), though it would appear no works are currently proposed to this hedge. It is recommended the Hedgerow Survey Summary is removed from the application as the local authority are the assessors of hedgerows protected under HR97 and the applicants own Landscape Appraisal acknowledges that the hedges are 'Important'.
- It should be considered within the planning balance that the proposal, introducing as it does a large-scale urban development with proposals to remove the existing protected 'important' field hedge frontage is not compatible with its rural location. This as it fails to conserve and enhance the existing open field character of the site and dilutes the sites protected field hedgerow structure, fragmenting the rural setting of Colchester (which is characterised by 'A mosaic of medium to large-sized irregular and regular, predominantly arable fields with medium hedgerows containing semi-mature/ mature hedgerow trees') and thereby fails to comply with the requirements of the Colchester Borough Landscape Character Assessment and therefore Core Policy ENV1.

Natural England:

It has been identified that this development site falls within the 'Zone of Influence' (Zoi) of one or more of the European designated sites scoped into the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). Under the provisions of the Habitats Regulations, it is anticipated that, without mitigation, new residential development in this location is 'likely to have a significant effect' on one or more European designated sites, through increased recreational pressure, wither when considered 'alone' or 'in combination' with other plans and projects.

Natural England are satisfied the the Appropriate Assessment undertaken by the Local Authority is in line with the Natural England strategic-level advice. The proposed mitigation should rule out an 'adverse effect on the integrity' of the European designated sites that are included within the Essex Coast RAMS from increased recreational disturbance.

A condition (or planning obligation) is recommended to secure the mitigation measures.

Network Rail:

Repeated consultations have been sent to Network Rail since August 2017 (when the application was registered). Despite assurances from Network Rail that comments would be forthcoming, no consultation response has been submitted.

NHS:

[Case Officer Note: Comments have been provided as part of the Council's Development Team. See Section 15 of this report.]

Planning Policy:

[Case Officer Note: Planning Policy have provided detailed comments in respect of the policy background and status of the emerging plan in respect of this application. These matters are included in Section 16 of this report.]

The Ramblers Association:

No comments received.

RSPB:

No comments received.

Sport England:

Housing is proposed immediately adjacent to an area of playing fields. Whilst there is no direct loss of playing field caused by the proposed development, Sport England has assessed the application to ensure the proximity of housing would not prejudice the use of the playing field for example by introducing a risk of noise complaints or cricket ball strike.

The English Cricket Board have been consulted and confirm that the playing fields at Holmwood Preparation School are mainly used by the school, but there is community use of the cricket pitches (and indoor sport hall) next to the proposed housing development. This is primarily for junior cricket and some occasional use by an adult cricket team. The grass cricket pitches are used for junior cricket mainly by the school and it is unlikely that the proposed housing development next to the school playing fields would be adversely affected by ball strike from school use (with juniors not hitting the ball so hard/far and younger age groups using a softer ball). However, given the potential older junior/adult club team use, in order to confirm there is not a ball strike risk or ensure appropriate mitigation, a risk assessment should be conducted by specialists Labosport and, if necessary, mitigation undertaken such as the installation of ball stop netting if recommended.

Sport England therefore have no objection to the proposals subject to a condition that requires a Labosport Ball Strike Assessment and any recommended mitigation measures as a result.

Street Services:

No comments received.

SUDs:

No objection subject to conditions for a detailed surface water drainage scheme; a scheme to minimise the risk of offsite flooding during construction works; and a maintenance and management plan.

The Woodland Trust:

The application was assessed against our criteria for comment and it was identified that there are no aged or veteran trees on site nor is it adjacent to woodland recorded on the Ancient Woodland Inventory nor is it adjacent to one of our sites. Therefore, the Woodland Trust will not be submitting comment on this occasion.

Urban Designer:

Extensive negotiations have taken place with the Council's Urban Designer, resulting in a number of revisions to the design and layout of the scheme. In response to the latest scheme, the Urban Designer has recommended revisions as follows:

- Push parking spaces behind building line (11 plots identified) [Case Officer comment: This would have implications whereby cars could park in the remaining space between the road and the formal car parking space and

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extending over footways. Examples of this undesirable design is included in the EPOA Vehicle Parking Standards SPD. As such, the amendment has not been sought.];

- Traffic calming measures should be introduced informed by Highways guidance in the new (2018) Essex Design Guide and tailored (de-engineered) for increased characterisation, e.g. localised narrowing characterised by landscaping including trees [Case Officer comment: some road narrowing has been negotiated with the Highway Authority in response to the Urban Designer comments. Some of the recommended amendments would not, however allow the roads to be adopted by the Highway Authority so are considered to be inappropriate to pursue further. Traffic calming measures will be required by the Highway Authority];
- Visitor spaces that 'eat' into green infrastructure where there is adequate scope for on-carriageway parking (or where dwellings have three plus on-plot parking spaces) should be omitted (3 instances identified) [Case Officer comment: The provision of visitor spaces is important and, given that only 3 instances have been identified by the Urban Designer this is not considered to be a justifiable reason to refuse planning permission in this case.];
- Pedestrian link to Chitts Hill at south-east corner of site recommended [Case Officer comment: This would result in further breaches to the boundary hedge which would be undesirable. Pedestrian access to Chitts Hill is provided via the footpaths alongside the road. This request has not, therefore, been taken forward.];
- Request for clarification as to how the landscape buffer at the southern edge of the site will be maintained [Case Officer comment: The Applicant has confirmed that this would be via a management company. This will be secured via the s106 agreement.];
- Recommended conditions:
 - Precise details of materials. Informatives should also be added to ensure consistency with the Essex Design Guide, i.e. weatherboarding to be natural timber, 'clay' tiles to be natural clay plain tiles and not pantiles except on subsidiary buildings, and 'black/grey' tiles should be natural slate or slim-line fibre-cement slates.
 - Key details should be conditioned in accordance with the Essex Design Guide and traditional style, including (with informatives in brackets), windows and doors, window and door reveals (at least 100mm), plinth projection, window surround projections, door surrounds, eaves (avoiding boxed eaves), rainwater goods and service intakes.
 - Details of boundary walls and fences.

9.0 Parish Council Response

- 9.1 The Parish Council have stated that they raise no objections to the proposal, although they note the numerous objections from local residents.

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 application has undergone a number of amendments since its original submission. Local Residents were reconsulted following resubmissions, although were not reconsulted on resubmissions that solely amended internal layout and design as these amendments did not relate to issues that had been raised by local residents. All comments received will be summarised below for completeness; an update will be provided where certain issues have been superseded.

10.3 Four general observations:

- 100 dwellinghouses will generate possibly 200 plus vehicles with only one exit from the estate resulting in increased congestion given that Chitts Hill is already a very busy road, the traffic generated by Holmwood House School, and the railway crossing gates;
- Having experienced years of construction traffic using Iron Latch Lane for the Oliver's Grove development, assurances need to be given that the access to the site would be restricted to Chitts Hill and that there would be no vehicular access to Iron Latch Lane (as stated in the submitted Design and Access Statement);
- The main sewer collapsed following years of construction at the adjacent site;
- Waste of good agricultural land;
- Would like to connect to mains sewer if one is provided;
- Extra traffic would cause more problems;
- Speeding problem in this area;

10.4 A total of 45 objections have been received, some of which are from the same households given the reconsultation process:

- View from home will be affected and this will impact on the value of our home;
- The development would affect business being run from home as the increased traffic will impede clients/customers/patients being able to access the property promptly;
- The developer has not been a good neighbor when developing the adjacent site (Oliver's Grove): heavy site lorries have been parked outside houses in the early morning and queuing on Halstead Road during the day; the bus stop at Iron Latch Lane was knocked over and replaced by a sign advertising the sales office;
- Procedural Matters:
 - Letter sent to Hopkins Homes as part of their Community Consultation has not been referred to in the application documents;
 - The application states 'redevelopment of site', but there is no development on site currently so this statement is misleading;
 - Consider that a separate planning application would be required for the access from Iron Latch Lane as it would be a change of use of the bridle path to a foot path;
- Principle of Development:

- The site is a greenfield site on the urban edge of Colchester and is close to an area of outstanding natural beauty and adjacent to a nature reserve {Case Officer Note: the site is approximately 4 miles from an area of outstanding natural beauty};
- The Council and Highways Agency opposed inclusion of the site in the Local Plan in 2008;
- The size and type of development is inappropriate being out of character with existing dwellings in the area, the rural character of the surrounding area and the surrounding landscape;
- The draft Local Plan has not yet been adopted by the Council;
- The draft Local Plan states that Chitts Hill is well-served by public transport, but there is no public transport convenient to the site;
- There are other sites around the Colchester area that could be earmarked for residential development which do not increase the risk to public safety;
- Urbanisation of Colchester;
- If the application is on land outside the Council's 5 year plan then it should be refused;
- The development would not provide any benefit or enhancement to the local community or rural economy;
- Highways and Sustainability:
 - The site is not readily accessible; there is no bus route on Chitts Hill and the service on Halstead Road is hourly which is not convenient for getting to school or work;
 - The proposal would increase the queues at the railway crossing (20 minutes being the norm), as well as the risk of cars being stuck on the level crossing if behind cars waiting to turn right into the site access;
 - The proposal for 'keep clear' markings at the access on Chitts Hill will increase queues to the railway crossing;
 - Cars queuing will increase emissions and noise;
 - Drivers are likely to try to overtake the queue resulting in risks of accidents;
 - Siting of access is dangerous due to its proximity to the railway crossing;
 - The traffic assessment underestimates vehicle movements from/to the site during the morning and evening peak hours;
 - People do not abide by the 30mph speed limit on Chitts Hill;
 - The development would add more pressure on all road systems in the area including the A12 and Tollgate;
 - The access/exit is too close to the exit from the school;
 - It would be better to have road access on Halstead Road and only horse/foot/cycle access to Chitts Hill;
 - There is only one footpath opposite the development site on Chitts Hill so the pedestrians will be forced to cross the road at the site entrance point;
 - Visibility splays would be inadequate;
- Infrastructure:
 - The local primary school is full to capacity and the secondary school is 8 miles away;
 - Not enough supporting infrastructure to support new houses (doctors, schools etc);

- Infrastructure cannot cope with a development of this size. There is no mains sewer at the application site and surface rain water flows to the railway;
- Flood Risk and Drainage:
 - The drainage strategy set out in the Flood Risk Assessment is vague and has inadequate proposals for maintenance;
 - Flooding issues on Chitts Hill;
 - The application refers to drainage to a pond, but the plan shows the pond in green so it has presumably been omitted; [Case Officer Note: the ponds are clearly shown on the submitted drawings]
- Ecology:
 - The development will adversely impact on the woodland to the north west of the site and the Iron Latch Nature Reserve;
 - The site is greenfield and any change to this would have a detrimental effect to the countryside and wildlife habitat;
- Landscape and Trees:
 - Area of outstanding natural beauty [Case Officer Note: The application site is not within an area of outstanding natural beauty; it is over 4 miles away].
 - Extensive infrastructure works would risk damage to trees;
 - 50 years ago the area was rural. The site is greenfield and should be kept as countryside;
 - The development will significantly affect the views across Colne Valley which is an area of special landscape value;
 - No proposals on how landscape issues will be dealt with after construction;
 - The Arboricultural Impact Assessment raises significant concerns about tree preservation and removal of trees important to the local area and landscape;
 - Visibility splays will not be possible without destroying valuable hedgerows;
- Design and Layout:
 - One and two bedroom dwellings are out of character with the surrounding development;
 - The horse/foot/cycle path is inconsistent as the application states that it will be kept separated from vehicles, but the plans show it merging with the road; [Case Officer Note: this is as a result of amendments to the layout]
- Impact on Holmwood House school:
 - Concern regarding security and safeguarding with housing close to the boundary of the school and properties having a direct views;
 - Do not want any 'gifting' or responsibility for ownership and maintenance of any buffer/boundary area to the school playing fields;
 - Queues of traffic often block the exit from the school and the development will increase this;
 - The school grounds and surrounding countryside are a very important part of the character, appearance and attraction of the school. A housing development adjacent to the school will have a negative impact on the aesthetics of the school and potentially impact on admissions;

11.0 Parking Provision

11.1 See Section 4 of this report.

12.0 Accessibility

12.1 Highway and sustainability matters will be discussed in the main body of the report.

12.2 In terms of the Equality Act, the proposal provides a variety of house types (apartments, houses, and bungalows ranging from one-bed to four-bed) that would provide flexible choice for different lifestyle requirements. The dwellings would be capable of adaptation. In addition, 3 No. bungalows would be either fully wheelchair adapted or capable of adaptation.

13.0 Open Space Provisions

13.1 Development Plan policy DP16 requires new residential development to provide at least 10% of the site area as public open space. The proposal includes 2.08 hectares of public open space, that includes playspace and an informal bridleway, which equates to over 30% of the site area. The level of open space is therefore entirely in accordance with policy DP16.

14.0 Air Quality

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

15.0 Planning Obligations

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

- Affordable Housing: 30% provision. The tenure mix of the affordable dwellings should be no less than 80% affordable rent and no more than 20% intermediate. Wheelchair accessible units should be provided.
- Community Facilities: £163,244 to be spent on the building of a new community centre on the Western Approaches Road.
- Education: £699,717 total (Primary £347,638 and Secondary £352,079). To be spent on: Primary Education Contribution for the expansion of/provision of additional primary school places at the new school to be built at land reserved on the Lakelands development. Secondary Education Contribution for the expansion of/provision of additional secondary school places.
- NHS: £36,271 to be spent on additional capacity at Ambrose Avenue Group Practice Branch Surgery.
- Public Open Space, Sport, and Recreation: £108,315.27 off-site contribution on the basis that on-site public open space and play facilities are provided and that these areas are maintained and managed and not

adopted by the Council. Contribution to be spent on ancillary facilities at Iron Latch Woods (adjacent to the application site).

15.2 Following notification of the necessary planning obligations, the Applicant submitted a Viability Assessment which concluded that the scheme could not support any planning contributions or affordable housing. The Viability Assessment was independently reviewed by a Consultant with the conclusion that the scheme was capable of meeting the planning contributions, as well as providing 30% affordable housing. Although the Applicant issued a rebuttal on certain points made by the Consultant, it was agreed that the necessary planning obligations and affordable housing requirements would be met.

15.3 A s106 legal agreement is subsequently being progressed to secure the above obligations. Further provisions will be required where they cannot be conditioned, such as securing the provision of public open space by an agreed trigger point. Mitigation measures under the Habitat Regulations and Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS) will also need to be secured via s106; further details are provided in the main body of this report.

16.0 Report

16.1 The main issues in this case are: principle of development; landscape and trees; heritage; contamination; flood risk and drainage; ecology; highway matters; layout and design; and amenity.

16.2 Principle of Development:

The site lies outside the current adopted settlement boundary of Colchester, although it is allocated for residential development in the emerging Local Plan. The emerging plan is at an advanced stage and therefore carries weight as a material planning consideration. Consideration of the principle of development needs to focus on the adopted local plan and the weight to be afforded to the emerging local plan.

16.3 Given the location outside of the settlement boundary, the proposal is a departure from the adopted Local Plan in terms of Core Strategy Policies SD1, ENV1, and ENV2 given that these policies direct new residential development to allocated sites, protect greenfield sites outside of settlement boundaries, and restrict development outside settlement boundaries to rural business, leisure, and tourism schemes.

16.4 Turning to the emerging Local Plan, the new Local Plan will inform development in the Borough over the period 2017 to 2033 and will include new housing allocations to meet the predicted growth of the Borough over that period. The Emerging Plan was submitted to the Planning Inspectorate (PINs) on 9 October 2017. Section One of the Local Plan is currently subject to examination. The Inspector wrote to the North Essex Authorities (NEAs) on 8 June 2018 outlining areas of future work required to progress the emerging Local Plan and three options for the NEAs to consider. A supplementary post hearing letter was also received on 27 June 2018 confirming the OAHN study and requirement figures contained in the Emerging Local Plan to be soundly based.

16.5 As the emerging plan is currently being examined, it is considered to be at an advanced stage. In terms of whether the emerging plan can be considered in the determination of planning applications, paragraph 48 of the NPPF states that decision-takers may give weight to relevant policies in emerging plans according to the stage of preparation, the extent to which there are unresolved objections and the degree of consistency to the policies in the Framework. The paragraphs below address the issue of weighting for relevant policies in the emerging plan.

16.6 Emerging Policy SG2 (Housing Delivery) states that:

The overall distribution of new housing, as shown in Table SG2, is guided by the settlement hierarchy set out in the Spatial Strategy and Policy SG1. New housing development will be focused on the following key areas:

- *Colchester urban area (place policies for Central, North, South, East and West Colchester)*
- *Tendring/Colchester Borders Garden Community*
- *Colchester/Braintree Borders Garden Community.*

Table SG2 Spatial Hierarchy states the hierarchy as the following:

Urban Area of Colchester

o *Central Colchester*

o *South, East, North and West Colchester including Stanway and Myland and Braiswick*

16.7 The proposal at Chitts Hill is located in Stanway which is within the Colchester Urban Area – West Colchester; and is therefore consistent with the spatial hierarchy and Policy SG2. A total of 31 representations to Policy SG2 have been made with a range of support and objection. A few comments relate to the need to be clearer and more transparent of the total housing provision (Essex County Council rep ref: 6205 and Maldon District Council rep ref: 7473). It is also suggested that the housing figure is too high given the spatial constraints of the borough when compared to Chelmsford and the Objectively Assessed Need (OAN) is considered to underestimate the housing need of Colchester (Gladman Development rep ref: 7167; House Builders Federation rep ref: 7150; and Persimmon Homes rep ref: 6916). Concerns are also raised for the infrastructure provisions that would be required, and when this would be delivered to support the total housing need across the Plan period (Colchester Hospital University Trust rep ref: 7199). It is suggested that greater reference to the Sustainable Settlements maintaining a 5-year land supply should be included within the Policy (Bloor Homes rep ref: 7248; Hopkins Homes rep ref: 7128). Additional comments to this policy relate to the Garden Community proposals and Sustainable Settlements allocations. Similarly, a number of alternative sites are proposed for inclusion within the Local Plan.

16.8 The initial LPA response to these comments are that a Minor Modification is proposed to add clarity to the total housing need figure. The Section One Local Plan Inspector has reported his findings on the NEAs OAN (Meeting the Need for New Homes, letter dated 27 June 2018). The Inspector endorses the figure of 920 dwellings per annum as representing the objectively-assessed housing need for Colchester (paragraph 35). In regard to the comments made by

Colchester Hospital University Trust, Bloor Homes, and Hopkins Homes, CBC will consider the need for modifications and this will be explored in more detail through the examination. Comments regarding Garden Communities and Sustainable Settlements will be resolved under the relevant site-specific policies.

16.9 Emerging Policy WC2 states that:

Allocations as shown on the policies map will be safeguarded for predominantly residential uses unless otherwise stated. In addition to meeting the requirements set out in Policy PP1 existing capacity issues at the primary schools will be addressed by planned expansion at a number of the schools in the short term and by the provision of a new primary school at Lakelands. A new school will also be required on 2.1 hectares of land to the north of London Road in a location to be decided. The primary school will be secured through a S106 agreement and will be co-located with a 56 place early years and childcare facility (D1 use). An additional 0.13 hectares of land for a 56 place early years and childcare facility will also be required in Stanway in a location to be decided.

All proposals must also satisfy the Local Planning Authority with regard to the site specific requirements as identified below:

Land at Chitts Hill

Development of this site will be supported where it provides:

- i. Up to a maximum of 100 new dwellings of a mix and type of housing to be compatible with surrounding development;*
- ii. Substantive landscaping in particular to reflect appropriate boundary treatment to the north along the railway line and the south around the school;*
- iii. Access to the site to be restricted to Chitts Hill;*
- iv. Open space / green infrastructure provision to compliment the biodiversity and wildlife interests of the neighbouring Local Wildlife designation (CO68) at Iron Latch Lane Woods and Meadows;*
- v. Adequate noise mitigation from the adjacent railway line; and*
- vi. Further exploration of potential archaeological significance of the site.*

16.10 The proposed site is in conformity with Policy WC2 in principle as the proposal is within the proposed settlement boundary and the allocation shown on the emerging plan policies map; it provides a mix of 100 dwellings including affordable units; landscaping is proposed along the northern boundary and around the school; access is restricted via Chitts Hill; open space and green infrastructure is proposed; noise mitigation is proposed; and matters of archaeology has been explored.

16.11 There are a total of 18 representations received relating to Policy WC2 with a range of support and objection across the five site allocations within the Policy. A number of generic comments are made relating to all allocations in the policy. This includes the potential impact upon the A12 and A120 and a traffic impact assessment for all allocations in Stanway (Highways England rep ref: 6672). It should also be established that required health infrastructure is provided for significant proposed development in Stanway (North East Essex Clinic Commission Group (rep ref: 6217). Similarly, it is suggested that an amendment to the policy is sought to ensure contributions to education are not

listed to specific sites but that policy SG7 applies to all sites and education is included within Policy PP1 (Essex County Council, rep ref: 6221). Equestrian access is suggested to be included across all proposals (Essex Bridleways Association rep ref: 6316).

- 16.12 It is noted that the main access to the proposed site is via Chitts Hill and a bridleway to the north of the site is included to provide equestrian access. A Travel Plan has been considered within this planning application. The relevant statutory consultees have not objected to the proposal and have recommended conditions to satisfy these requirements. It can be considered that the proposal has had regard to Policy WC2 and the representations from Highways England and the Essex Bridleways Association.
- 16.13 A proposed Minor Modification to Policy WC2 is suggested by CBC to clarify that residential developments in Stanway are expected to contribute towards new education facilities (see schedule of minor modifications to the Publication Draft Colchester Local Plan: Section Two October 2017). This document was included as a supporting document in submission of the Local Plan to PINs on 9 October 2017. There is currently uncertainty about the preferred approach with regard to ensuring that sufficient health infrastructure is provided. The NHS has, however, commented on the current application and are seeking a monetary contribution to mitigate the impact of the development upon health services. A contribution to mitigate the impact of the development on education services has been sought by Essex County Council and this is being met by the Applicant.
- 16.14 Comments directly relating to Chitts Hill include requests for clarification of the inclusion of a maximum housing yield (in conjunction with Policy PP1) and clarity of the access road (Hopkins Homes rep ref: 7134). It is also noted that the Local Wildlife Site integrity should not be undermined by the development and a buffer zone surrounding public open space to prevent inhibiting the use of playing fields should be provided. Concern regarding increased pollution and poor transport links is noted.
- 16.15 As the maximum number of dwellings outlined in policy WC2 and the number proposed through this application are both 100 dwellings, it is not considered necessary for clarity of a maximum housing yield to be sought. As outlined in Policy WC2, access to the site should be restricted to Chitts Hill, the proposed development conforms to this.
- 16.16 As part of this application, a master plan and ecological survey reports have been provided and the Essex Wildlife Trust have been consulted. The Trust do not object to the application and have suggested that the requirement for an Ecological Mitigation and Management Plan can be secured via condition. Similarly, consideration of surrounding playing fields has been undertaken through this application and Sports England have not objected to the application. Sports England have suggested that a Labosport Ball Strike Assessment can be secured via condition. Concerns regarding pollution can be addressed through conditions recommended by an internal consultee (Environmental Officer).

- 16.17 As noted above Highways England and the Highways Authority have not objected to the proposal, and the scheme also includes a bridleway, cycle pathway and cycle storage to provide transport links.
- 16.18 It can be considered that there are no unresolved representations directly relating to the Chitts Hill site allocation and significant weight can therefore be afforded to policy WC2 of the emerging local plan.
- 16.19 Emerging Policy SG7: Infrastructure Delivery and Impact Mitigation states that: *All new development should be supported by, and have good access to, all necessary infrastructure.*

Permission will only be granted if it can be demonstrated that there is sufficient appropriate infrastructure capacity to support the development or that such capacity will be delivered by the proposal. It must further be demonstrated that such capacity as is required will prove sustainable over time both in physical and financial terms. Where a development proposal requires additional infrastructure capacity, to be deemed acceptable, mitigation measures must be agreed with the Local Planning Authority and the appropriate infrastructure provider. Such measures may include (not exclusively):

- i. Financial contributions towards new or expanded facilities and the maintenance thereof;*
- ii. On-site provision (which may include building works);*
- iii. Off-site capacity improvement works; and/or*
- iv. The provision of land.*

Developers will be expected to contribute towards the delivery of relevant infrastructure. They will either make direct provision or will contribute towards the provision of local and strategic infrastructure required by the development either alone or cumulatively with other developments.

Small sites can have a cumulative effect on infrastructure and proportional contributions will be sought from all developments where this is demonstrated to be the case. Developers and land owners must work positively with the Local Planning Authority, neighbouring authorities and other infrastructure providers throughout the planning process to ensure that the cumulative impact of development is considered and then mitigated, at the appropriate time, in line with published policies and guidance.

Exceptions to this policy will only be considered whereby:

- i. It is proven that the benefit of the development proceeding without full mitigation outweighs the collective harm;*
- ii. A fully transparent open book viability assessment has proven that full mitigation cannot be afforded, allowing only for the minimum level of developer profit and land owner receipt necessary for the development to proceed;*
- iii. Full and thorough investigation has been undertaken to find innovative solutions to issues and all possible steps have been taken to minimise the residual level of unmitigated impacts; and*

- iv. *Obligations are entered into by the developer that provide for appropriate additional mitigation in the event that viability improves prior to completion of the development.*

- 16.20 A total of 19 representations were received to Policy SG7, including a mix of support and objection. Support for the policy is noted by the Environment Agency, Sports England, Anglian Water and NEE CCG. Bloor Homes (rep ref: 7158) and Hopkins Home (rep ref: 7129) suggest the policy is an “infrastructure first” approach which is beyond the remit of the development industry. Concerns regarding the Infrastructure Delivery Plan (IDP) is noted by Colchester Hospital University Trust (rep ref: 7198) as it is thought this has underestimated population growth over the Plan period and the resultant potential impacts to health services. Rewording of the supporting text is also suggested by ECC (rep ref: 6204) to ensure developers consider the ECC Developers Guide to Infrastructure Contributions where infrastructure provision is the responsibility of the County Council and not LPA i.e. schools and early years’ provision.
- 16.21 The initial response of the LPA is that in terms of the principle and objectives of the Policy, no significant changes are considered necessary. CBC will continue to work with ECC and NEE CCG to address concerns and prepare Statements of Common Ground and recommend modifications to the Plan where appropriate. Opportunities to improve the wording for clarity will be further explored through the examination process.
- 16.22 A minor modification is proposed to include reference to ECC Developers Guidance to Infrastructure Contributions (see schedule of minor modifications to the Publication Draft Colchester Local Plan: Section Two October 2017). This document was included as a supporting document in submission of the Local Plan to PINs on 9 October 2017.
- 16.23 The Infrastructure Delivery Plan for Colchester was updated in October 2017 to provide an accurate representation of the infrastructure requirements for allocations within Section Two of the Emerging Local Plan. The principle of seeking contributions to mitigate the impact of new developments is not new. The Adopted Plan also includes similar policies. It is therefore considered appropriate that at this early stage, when dealing with a site still to be allocated in an Adopted Plan, and where there has been no material change in circumstances, the full contribution towards infrastructure should be secured.
- 16.24 The application includes details of drainage and road infrastructure which has been accepted by the relevant statutory consultees (Anglian Water; Essex County Council SUDs; Highway Authority; Highways England). Contributions are also being secured via a s106 legal agreement in relation to health and education. The proposal is considered to meet the requirements of this policy.
- 16.25 Emerging Policy DM8: Affordable Housing states that:
The Council is committed to improving housing affordability in Colchester. Accordingly, 30% of new dwellings (including conversions) on housing developments of more than 10 dwellings in urban areas and above 5 units in

designated rural areas (in accordance with Planning Policy Guidance), should be provided as affordable housing (normally on site).

Where it is considered that a site forms part of a larger development area, affordable housing will be apportioned with reference to the site area as a whole. This level balances the objectively assessed need for affordable housing in the Borough established by the evidence base, against the requirement for flexibility to take account of changing market conditions. At present the overwhelming need in Colchester is for affordable rented properties, which should be reflected in development proposals. For sites where an alternative level of affordable housing is proposed below the target, it will need to be supported by evidence in the form of a viability appraisal.

In exceptional circumstances, where high development costs undermine the viability of housing delivery, developers will be expected to demonstrate an alternative affordable housing provision.

The Local Planning Authority will require developments to integrate affordable housing and market housing, with a consistent standard of quality design and public spaces, to create mixed and sustainable communities. The affordable housing provision should proportionately reflect the mix of market units unless otherwise specified by the Local Planning Authority. In schemes over 15 units the affordable housing should be provided in more than one single parcel. Elsewhere the affordable housing mix on any site should normally be "pepper potted" throughout the scheme in groups, the size and location of which should be discussed and agreed with the Local Planning Authority.

- 16.26 12 representations were received to Policy DM8; including support from Colne Housing Society; Andrew Granger & Co. and Angora Bare Trusts. The main comments relating to this policy are that the provision of 30% affordable housing is too high, not based upon sound evidence and represents a significant increase from the 20% outlined in the Preferred Options iteration of the Local Plan.
- 16.27 It is also noted by Bloor Homes (rep ref: 7192) and Hopkins Homes (rep ref: 7138) that the Sustainability Appraisal refers to 20% affordable housing and question the justification for an increase to 30%. The initial response from the LPA is that the evidence from the Colchester Local Plan Viability Study supports a target of 30-35% affordable housing in new developments in Colchester and the SHMA also evidences the need for a higher proportion of affordable housing.
- 16.28 The SHMA was updated in 2015 which concluded that the total annual affordable housing need in Colchester of 267 units represents 30.2% of the annual projected household growth in the Borough between 2013 and 2037. It is outlined that the affordable housing requirement can be met by the OAN identified and no adjustment is required to the figure.
- 16.29 During the examination of Section One of the Local Plan, the Inspector asked the Councils to set out the anticipated delivery of affordable housing relative to the total delivery of housing. The NEAs demonstrated that the authorities have

the means to meet the affordable housing requirement of 10,224 dwellings up to 2033 across the three authorities without the need to increase the overall housing requirement (see North Essex Authorities Affordable Housing Delivery note reference EXD/009 submitted to the Inspector during the examination).

- 16.30 The Section One Local Plan Inspector has reported his findings on the NEAs OAN (Meeting the Need for New Homes, letter dated 27 June 2018). The Inspector endorses the figure of 920 dwellings per annum as representing the objectively assessed housing need for Colchester (paragraph 35). In the same letter, the Inspector also concludes that *“there is a good prospect that affordable housing need will be met over the Plan period in Braintree and Colchester if their overall housing requirements are met in full”* (paragraph 30).
- 16.31 The proposal for 100 dwellings at Chitts Hill is required to provide 30% of affordable housing due to the development being within an urban area proposing more than 10 dwellings. It is not considered the site forms part of a larger development and an apportioned figure is not relevant. The current proposal provides 30% affordable housing in accordance with the policy.
- 16.32 In conclusion, both the adopted Local Plan and emerging Local Plan are relevant in the consideration of this application. The emerging Local Plan can be considered to be at an advanced stage given examination of Section One has commenced and significant weight can be applied to the policies discussed above in accordance with paragraph 48 of the NPPF 2018. The site is allocated for residential development through Policy WC2 in Section Two of the emerging Local Plan. The allocation could start to be delivered within 5 years and contribute to the supply of deliverable housing during the period 2020/21 to 2022/23.
- 16.33 The Local Plan process ensures that potential development locations are the subject of thorough assessment (including Sustainability Appraisal and Strategic Environmental Assessment) and meaningful engagement with residents, service providers and other key stakeholders and, in the case of the garden communities, comprehensive master planning. Colchester Borough Council considers this to be the proper process for determining the merits of new development proposals which are not compliant with current development plan policy.
- 16.34 Although the proposal is not in accordance with the Adopted Local Plan, the proposal is in general conformity with the NPPF and emerging Local Plan in terms of the principle of development. The NPPF (2018) enables the testing of prematurity of an emerging Local Plan through considering the volume and substance of representations received to the emerging Local Plan and the ability for these to be resolved on a site-specific basis prior to examination of the Local Plan. Significant weight can therefore be applied to the emerging Local Plan in this case. On this basis, the proposal is concluded to be acceptable in principle.
- 16.35 Landscape and Trees:
Core Strategy Policy ENV1 seeks to conserve and enhance Colchester’s natural and historic environment, countryside and coastline, with Development

Plan Policy DP1 requiring development proposals to demonstrate that they, and any ancillary activities associated with them, will respect and enhance the character of the site, context and surroundings in terms of (inter alia) its landscape setting. Emerging Plan Policies ENV1 and DM15 broadly accord with these requirements.

- 16.36 Experience of the site is that it is very secluded in terms of views to and from public vantage points from the wider surroundings; the site is heavily screened by trees, the majority of which would be retained as part of the development and there is a wide landscape buffer of open space along the northern edge of the site. Existing development in the vicinity of the site also restricts public views. The submitted Landscape and Visual Impact Assessment records the impact of the development on a number of vantage points, with effects ranging from 'no effect' to 'moderate to minor adverse' effect. There are two instances of 'major to moderate adverse' effect at vantage points along Iron Latch Lane which is where the development would be more readily viewed.
- 16.37 The site is surrounded by development on all sides: existing residential development to the east, south, and west; Holmwood House School to the south; and the railway line to the north. The site is not, therefore, perceived within open countryside and the railway line acts as a definite 'end stop'. Local representation has commented that the site is within a protected landscape and an Area of Outstanding Natural Beauty (AONB), but this is not the case; the site is not within a protected landscape.
- 16.38 Given the site characteristics, the proposal is not considered to have an adverse impact on the wider landscape. The proposal would, therefore, conserve Colchester's natural environment and countryside in accordance with policies ENV1 and DP1.
- 16.39 A Landscape Masterplan has been submitted with the application and the Council's Landscape Officer has no objections to these proposals. Detailed landscape proposals will be required to be approved and implemented via condition. A Landscape Management Plan will also be required to be approved via condition. Local representation has commented that there is insufficient information with which to consider landscape proposals, but this is not considered to be the case. It is entirely reasonable to submit a landscape strategy or masterplan and for detailed landscape proposals to be secured via condition.
- 16.40 With regards to trees, the submitted Arboricultural Impact Assessment states that 'the majority of trees within the proposed development envelope are located around the outsides of the site and comprise areas of individual trees and hedgerows. The proposed layout has been designed with the existing tree cover in mind and avoids impacting the sites tree population where possible. The RPAs of T4, T22, G23, T24 and G25 are indicated as having their RPAs impacted by the proposed layout. These areas will need specialist design considerations such as the use of a 'pile & beam' type foundation where heavy structures such as houses are within the RPA of trees, and the use of a 3-dimensional sub base like as 'Cellweb' for lighter structures, roads and parking bays.' Only trees of low or moderate quality are proposed for removal: With the

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proposed preliminary design layout provided by the client it is indicated that 1 section of tree group (G32) of moderate quality and value, tree group (G18), 2 sections of tree groups (G25 and G31) of low quality and value will require removal to accommodate the proposals. In addition, H43 (low value) has been identified as obstructing the visibility splay for the access and egress to the site and therefore the proposal is to remove this hedge line. The TPP shows the obstruction caused to H43 which is contained within G29 but protrudes 1m either side of the trunk centers, thus requiring its removal.

16.41 The Arboricultural Officer is in agreement with the submitted tree survey and Arboricultural Impact Assessment. The proposed development does require the felling of a number of trees but given the size, species and location of these it is deemed of limited impact to the wider area and is therefore acceptable in arboricultural terms. Conditions are recommended to secure the proposals in the submitted information, secure tree protection; and ensure hand excavation underneath the canopies of trees.

16.42 There would be a breach of the hedgerow on Chitts Hill to allow for the creation of a vehicular access. As identified by the Council's Landscape Officer, the hedgerow is considered to be important and the presumption is that it should be retained in its entirety. As discussed above, the site is allocated in the emerging plan, with access to the site being set on Chitts Hill. The site allocation (which has undergone a number of assessments to ensure appropriateness) therefore necessitates a breach of the hedge. It is important to ensure that the site access and associated visibility splays do not result in the removal of the hedge and to this end the Applicant has submitted a tree survey and protection plan to show that the required visibility splay would be to the front of the existing hedgerow and hedgerow trees. It is considered that the scheme proposes an acceptable approach to providing the site access in line with the site allocation policy with limited impact on the existing hedge boundary.

16.43 Heritage:

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 policies ENV1 and DM16 include the same principles and requirements to conserve and enhance the significance of heritage assets.

16.44 The proposal would not have an impact on built heritage as there are no listed buildings or designated conservation area within the vicinity.

16.45 In terms of archaeology, the Council's Archaeological Adviser has confirmed that an adequate desk-based assessment, geophysical survey and trial-trenched evaluation has been undertaken for this proposed development site. On the basis of the results of these surveys, no further predetermination archaeological evaluation is required. These assessments have identified archaeological remains within the area of trial trenches T22 and T23 and these will require further investigation (preservation by excavation) in advance of

development commencing in this part of the development site. In addition, the east edge of the development site, the location of the proposed access onto Chitts Hill, is across the line of Gryme's Dyke (HER no. MCC7464). Late Iron Age Colchester was protected on its western edge by a series of defensive earthworks known as the Dykes and Gryme's Dyke is the latest of these; a dyke is a bank formed from the earth dug out of a defensive ditch. A trial trenched investigation of the road line, and quite likely full excavation, will be required in this part of the site, across the Dyke in advance of development. Subject to a condition for further archaeological investigation, the proposal is considered to both conserve and enhance (by way of providing further information on heritage) the historic environment in accordance with the aforementioned planning policies.

16.46 Contamination:

Development Plan policy DP1 requires new development to undertake appropriate remediation of contaminated land. Emerging Local Plan Policy ENV5 requires an assessment of the extent of contamination and any possible risks, with a requirement for any remediation works as necessary.

16.47 A Geoenvironmental Assessment has been submitted with the application which provides details of the environmental setting, desk based information, site walkover, preliminary conceptual site model, preliminary intrusive investigations, laboratory testing of representative samples, gas monitoring and generic quantitative risk assessment of potential risks to human health and the environment based on appropriate technical guidance, culminating in provision of a revised conceptual site model for the proposed development.

16.48 The Council's Contaminated Land Officer has noted that a total of 15 representative samples were submitted for analysis and that a single sample marginally exceeded the chosen generic assessment criteria (GAC) for a single determinant: beryllium (1.8mg/kg compared to a GAC of 1.7mg/kg for a residential end use), but that this is considered unrepresentative and that there is no risk to human health from this contaminant. They also note that there has been a single round of ground gas monitoring undertaken at four locations and monitoring for volatile organic compounds. These initial results indicate a very low risk. Further monitoring is recommended to confirm the preliminary findings.

16.49 It is concluded that, based on the information available to date, there are no significant pollution linkages presently associated with the site, and that no remedial actions are required to make the site suitable for the proposed use. The submitted assessment is, therefore, considered to be satisfactory in demonstrating that the proposed works would not preclude the safe development of the site as far as contamination matters are concerned. Subject to conditions to ensure that further investigation is carried out, as well as any necessary remediation, the proposal is considered to be acceptable with regards to contamination matters.

16.50 Flood Risk and Drainage:

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. More detailed requirements to mitigate flood risk from development are also included in Emerging Local Plan Policy DM23.

16.51 The site is located within Flood Zone 1 which means that there is low probability of flooding (less than 0.1%). The development itself is, therefore, unlikely to be susceptible to flooding. It is still important, however, to assess whether/how the development could affect flood risk elsewhere.

16.52 The drainage strategy is essentially designed to mimic existing drainage at the site. Following comments received from Essex County Council SUDs, the Flood Risk Assessment was revised in order to provide further clarification on the drainage strategy and confirm that all surface water would drain via gravity to a culverted watercourse. Essex County Council SUDs have agreed this strategy subject to conditions for final details, as well as details of maintenance and management. The impact of the proposal on surface water drainage and flood risk is therefore negligible.

16.53 Foul drainage would be via a pumping station (on-site) that would discharge to an Anglian Water sewer on Chitts Hill. No objection has been received from Anglian Water who has confirmed that there is capacity for the flows from the proposed development.

16.54 The Environment Agency have confirmed that they have no comments to make in respect of the application.

16.55 On the basis of the above, the proposal is considered to accord with relevant planning policy.

16.56 Ecology:

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. Emerging Local Plan Policy ENV1 requires appropriate ecological surveys where necessary and seeks the preservation, restoration and enhancement of natural habitats where appropriate.

16.57 The submitted Habitats Survey details the relevant habitat on site, such as trees, scrub, pond, and arable land. Given the on-site habitat and desk study results, further surveys were recommended for bats, reptile, and great crested newts. A Phase 2 Ecological Survey provided the necessary surveys: a single day roost for a single soprano pipistrelle bat was recorded on site, as well as bat activity; Great Crested Newts were recorded; no reptiles were recorded.

16.58 Recommendations to mitigate the impact upon identified species, as well as enhancement measures, are included in the submitted survey and cover the following:

- Sensitive lighting;
- Retention of green and dark corridors;
- Bird and bat boxes;
- Great Crested Newt translocation;
- Tree retention; and
- Wildlife friendly planting within pond and hedgerows.

16.59 Essex Wildlife Trust have considered the information submitted as part of the application and have confirmed that the necessary survey work has been undertaken and that acceptable mitigation is proposed. The Trust considers it necessary to secure an Ecological Mitigation and Management Plan (EMMP) via condition to guide the effective implementation of the recommended mitigation measures and habitat creation/enhancement proposals. The aim should be to maximise the biodiversity potential of the site and ensure an overall net gain in biodiversity as a result of the development. This is considered to be a reasonable requirement; the Ecological Survey summarises that the proposed development would have either a neutral or moderate positive residual impact on ecological receptors (local wildlife site; habitats; rare and notable plants; bats; and great crested newts).

16.60 With a condition to secure an appropriate EMMP, the proposal is considered to conserve and enhance biodiversity in accordance with planning policy requirements.

16.61 The whole of Colchester Borough is within the zone of influence (Zol) for the Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS) and the proposal is thus subject to Appropriate Assessment (AA) under the Habitats Regulations. The proposal is for 100 dwellings and it is anticipated that such development is likely to have a significant effect upon the interest features of Habitat sites [Colne Estuary SPA and Ramsar site, Blackwater Estuary SPA and Ramsar site, Dengie SPA and Ramsar site, Stour and Orwell Estuaries SPA and Ramsar site (south shore) and Essex Estuaries SAC] through increased recreational pressure, when considered either alone or in-combination with other plans and projects. An appropriate assessment is therefore needed to assess recreational disturbance impacts.

16.62 A shadow HRA ('Habitats Regulations Assessment: report to Inform an Appropriate Assessment', dated November 2018) has been submitted in support of the planning application. The assessment details that the development will include both on-site and offsite measures which are considered below.

16.63 On-site measures:

- SANGS provision of 2.65ha greenspace to offer the estimates increase in dog walking as associated disturbance from the development at the site. The area provided would be in excess of the minimum figure (1.84ha) advised by

Natural England to offset associated disturbance. The greenspace area should be established during construction phase and managed as a SANGS through the provision of a range of measures that will include cutting and maintaining a network of paths, the provision of dog-waste bins and signage to inform residents of the SANGS area and reasons for it.

- The site is located adjacent to and directly connected with a Public Right of Way (Iron Latch Lane) that leads to a large area of public open space (to the north-east of the site) available for recreation (walking, cycling etc).

Off-site measures:

- The shadow HRA confirms that a contribution in accordance with the Essex Coast RAMS will be secured.

16.64 The Local Planning Authority (LPA) has considered the proposed avoidance and mitigation measures detailed above as part of an AA, with the conclusion that, with mitigation, the project will not have an Adverse Effect on the Integrity of the European sites included within the Essex Coast RAMS. Having made this appropriate assessment of the implications of the plan or project for the site(s) in view of that (those) site(s)'s conservation objectives and having received confirmation from Natural England that they agree with the proposed mitigation, the proposals can be agreed under regulation 63 of the Conservation of Habitats and Species Regulations 2017. Both the SANGS provision and monetary contribution can be secured via s106.

16.65 Highway Matters:

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

16.66 A large proportion of local representation was concerned with increases in traffic, as well as safety implications in respect of the proximity of the development to the railway crossing on Chitts Hill and impacts on the wider road network. Both Highways England and the Highway Authority have been consulted on the application and their comments have informed the assessment of the proposal on highway grounds. Network Rail have been consulted on the application, but despite multiple consultations and requests for comment, have not commented on the application; in this respect it is concluded that Network Rail have no concerns regarding the impact of the proposal on the railway line and railway crossing.

16.67 A Transport Assessment (TA) was submitted with the application. The TA set out that the development could generate approximately 15 arrival and 48 departure trips (63 two-way) in the morning peak hour (8am-9am), and 38 arrival

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and 17 departure trips (55 two-way) in the evening peak hour (5pm-6pm). Local representations criticise the data used in the TA and state that the development could lead to over 200 car movements. Whilst local concerns are acknowledged, the data used in the TA is from a nationally recognised database (TRICS trip data) and is considered to be reliable. The assertion that the development could result in 200 trips does not appear to be based on any evidence that can be used as part of a planning decision; in any case, it is considered to be extremely unlikely that every household on the development would have at least two cars and leave the site at the same time.

- 16.68 The potential traffic impact to the railway crossing has been assessed in the TA. Whilst it is acknowledged that the development would result in some increased queuing, this would be low and it is ultimately considered to have a negligible impact to the existing level of queuing vehicles. The Highway Authority have not expressed any concerns with this assessment.
- 16.69 Junctions have been designed to accommodate the necessary capacity, as well as the movement of larger vehicles accessing and egressing the site.
- 16.70 The Highway Authority have considered the impacts of the proposal on the local road network, as well as the safety and practical requirements for the road works within the site, the junction with Chitts Hill, and the impact on public rights of way (Iron Latch Lane). During the course of the application, the Highway Authority requested amendments in respect of footways and cycleway and these have been incorporated into revised proposals. Consequently, the Highway Authority have no objection to the proposal on highway and transportation grounds subject to conditions for a construction traffic management plan; visibility splays to be provided at the junction with Chitts Hill; a new section of footway and dropped kerbs at the Colchester bound bus stop on Halstead Road; and residential travel information packs.
- 16.71 In terms of impact on the wider network, Highway England have confirmed that they have no objections to the proposal subject to a travel plan being approved via condition.
- 16.72 Local representations have also queried statements within the application, as well as within the site allocation policy WC2, that the site is well-served by public transport. For clarity, the site is served by public transport on Halstead Road; whilst the vehicular access to the site is on Chitts Hill, there is pedestrian and cycle access to Halstead Road via Iron Latch Lane so future occupants of the development would have access to public transport; Iron Latch Lane is a public bridleway, but there is no restriction on riding bicycles or travelling on foot on a bridleway.
- 16.73 The bus service on Halstead Road is hourly and although a more regular service may be more convenient, a regular service to and from Colchester town and west to Halstead is readily available to future residents of the site which contributes to reducing the need to travel by private car. In addition, the close proximity of the site to a public right of way network and Iron Latch Woods provides amenity/leisure opportunities that again reduce the need/desire to travel by private car to the benefit of sustainable principles.

16.74 In terms of vehicle parking, the proposal includes policy compliant car parking (at least 2 spaces per dwelling) and cycle parking (at least 1 space per dwelling). With regards to visitor spaces, approximately half of the development would provide additional on-site parking for visitors (i.e. a third on-site car parking space); a further 8 visitor car parking spaces and 4 visitor motorbike parking spaces would be provided throughout the scheme and there would be opportunity for some on-road parking for visitors. On this basis, the proposal is considered to be acceptable in terms of parking provision.

16.75 In conclusion, the proposal is considered to meet planning policy requirements subject to condition.

16.78 Layout and Design:

In considering the design and layout of the proposal, Core Strategy policy UR2 and Development Plan policy DP1 are relevant. These policies seek to secure high quality and inclusive design in all developments, respecting and enhancing the characteristics of the site, its context and surroundings. With particular reference to 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. The policies go on to state that new developments must enhance local character and optimise the capacity of accessible locations. The density of developments needs to be informed by the provision of open space and parking, the character of the area, and the mix of housing, with the mix of housing types being informed by an appraisal of community context and housing need.

16.79 Further, Development Plan Policy DP12 requires high standards for design, construction, and layout. In considering proposals for new residential development, the following needs to be taken into consideration:

- i. The avoidance of adverse overshadowing between buildings or over neighbouring land uses, and of other adverse microclimatic effects resulting from medium and high-rise buildings at a high density;
- ii. Acceptable levels of daylight to all habitable rooms and no single aspect north-facing homes;
- iii. Acceptable levels of privacy for rear-facing habitable rooms and sitting-out areas;
- iv. A management and maintenance plan to be prepared for multioccupancy buildings and implemented via planning conditions to ensure the future maintenance of the building and external spaces;
- v. Flexibility in the internal layout of dwellings to allow adaptability to different lifestyles;
- vi. Vehicle parking (including secure cycle and motorcycle parking) to an appropriate standard, as set by Essex County Council and policy DP19, and provided in a visually acceptable manner. In the case of flats, secure cycle storage should be incorporated into flat blocks and readily located at the building entrances, and;
- vii. An accessible bin and recycling storage area, and external drying areas.

- 16.80 The above principles are carried forward in the emerging Local Plan policies (in particular, policies DM9, DM10, and DM15).
- 16.81 The proposal includes a variety of house types: two-bed apartments; 2-4 bed houses; and 2-3 bed bungalows, with 30 units being for affordable housing. This is considered to meet Core Strategy objectives to provide a range of house types and tenures.
- 16.82 The proposals have undergone extensive negotiation with regards to layout and design in response to Urban Designer comments. This has included establishing a more continuous frontage along the main route through the site and improving the relationship between dwellings and adjacent public open space. The Urban Designer still has recommendations for further amendments but given that these relate to very limited instances within the layout and would have unsatisfactory 'knock on effects', the further amendments have not been carried forward by the Case Officer (further clarification is provided in the Urban Designer consultation comment at section 8 of this report).
- 16.83 The layout and design of the scheme is considered to be acceptable. There is a generous provision of public open space which is complementary to the rural edge of the site. The proposed dwellings are well-designed, with traditional forms, proportions, and materials. Conditions can secure precise details in order to ensure a high standard of design.
- 16.84 Some local representations have criticised the scheme in terms of it not reflecting the context. Given that the application site would not be seen in direct context with existing development (the site is heavily screened), the relationship between new and existing development is not significant. In any case, the proposal is for one and two storey houses in the main which is considered to be in character with surrounding development.
- 16.85 In response to policy DP12, the proposal is not considered to cause adverse overshadowing; appropriate back-to-back distances are preserved; acceptable levels of daylight would be afforded to the proposed dwellings; there would be flexibility in the internal layout of dwellings to allow for adaptability; parking provision is considered to be acceptable; multi-occupancy buildings will be managed and maintained by a management company; and bin, recycling, and drying areas, will be accessible.
- 16.86 The proposed scheme is considered to adhere to relevant planning policy in design terms.
- 16.87 Amenity:
Development Plan policy DP1 requires all development to be designed to a high standard that protects existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, and daylight and sunlight. These requirements are also included in emerging Local Plan Policy DM15.
- 16.88 The proposal would not have any adverse impacts on existing residents by way of overlooking or overshadowing given the degree of separation afforded.

A number of proposed dwellings would back onto the adjacent school, but a landscape buffer is proposed, as well as boundary fencing so and views to or from the school would be restricted or filtered.

16.89 Matters of noise to future residents from the adjacent railway line have been considered by the Council's Environmental Protection team. The acoustic assessment submitted with the application surveyed the impacts from road traffic noise, railway noise, and vibration from the railway. The assessment demonstrated that there would not be any significant adverse effects to the development from vibration. There would be some ambient noise levels (from the railway and A12 traffic), but the scheme has been designed to mitigate this impact. The assessment does not specifically discuss noise exposure by habitable room per plot with allowances for sound reduction offered by a potential acoustic barrier at the top of the railway embankment, although Environmental Protection are satisfied that suitable mitigation can be provided and that the need to rely on fixed windows and mechanical ventilation can be minimised. Mitigation can be dealt with by condition. Further conditions have been recommended by Environmental Protection in terms of protecting existing residential amenity during the construction phases of development (by restricting working and delivery hours). The recommendation for a condition to require a scheme that considers air quality is considered to be somewhat vague and the requirements can be subsumed by the highway conditions relating to residential travel packs and a travel plan.

16.90 The proposal is therefore considered to be acceptable in terms of amenity, subject to conditions.

16.91 Other Matters:

A Health Impact Assessment has been submitted with the application in accordance with Development Plan Policy DP2. This document would have been available to the NHS as part of their consultation on the application. The NHS have confirmed that it is necessary to mitigate the impacts of the development on healthcare by way of a monetary contribution.

16.92 Paragraph 170 of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by recognising, inter alia, the economic and other benefits of the best and most versatile agricultural land (i.e. grade 1, 2, and 3a agricultural land classification). The site has been identified as being grade 2 agricultural land according to Defra mapping. This mapping is at a very high level so further assessment on a site specific basis is often required in order to ascertain the true agricultural classification. In this case, an Agricultural Land Classification and Soil Resources report has been submitted that concludes that the site is grade 3b agricultural land; this is below the classification of 'best and most versatile agricultural land'.

16.93 Sport England have commented on the application in terms of whether the development could negatively impact the use of the adjacent school cricket pitches by restricting the use of these pitches should there be any issue of ball strike. A condition is recommended to seek further assessment of the risks of ball strike and to implement any mitigation as necessary. This condition is considered to be appropriate and can be applied.

16.94 Local representations have been taken into account and matters relevant to material planning considerations have been considered in the above assessment. The level of local objection is noted, but the proposal is ultimately found to be acceptable and in accordance with emerging planning policy to which weight can be given.

16.95 The original description of the proposal as 'redevelopment' has caused some confusion to local residents. The description has therefore been amended to 'development' in the interests of clarity.

17.0 Conclusion

17.1 In conclusion, whilst the proposal is contrary to the provisions of SD1, ENV1, and ENV2 of the adopted Local Plan nevertheless the application site is allocated in the emerging Local Plan which can be afforded significant weight in the consideration of this application given its advanced stage and low level of objection to relevant policies. The proposal is considered to be in accordance with those emerging policies that can be afforded significant weight and is broadly in accordance with relevant policies (aside from SD1, ENV1, and ENV2) of the adopted plan. Impacts from the proposal can be mitigated by condition or s106 legal agreement. The proposal is therefore recommended for approval as it represents sustainable development.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to:

- Agreement of pre-commencement conditions with the Applicant as per the Town and Country Planning (Pre-commencement conditions) Regulations 2018, and delegated authority to revise those conditions as necessary in accordance with the regulations;
- 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:

APPROVAL of planning permission subject to the following condition:

1. Time Limit for Full Permissions

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

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

2. Development to Accord With Approved Plans

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

Site Location Plan RP-001

External Works Layout RP-002 Rev E

Planning Layout RP-003 Rev E

Materials Plan RP-004 Rev D

Street Scenes RP-005 Rev C

Cross Sections RP-006 Rev B

HT 1300 Floor plan- 21H, 25, 69 RP-010 Rev B

HT 1300 Elevations- 21H, 25, 69 RP-011 Rev B

HT 1042 Floor plans and Elevations- 26 RP-012 Rev A

HT 1567 Floor plans- 67, 70 RP-013 Rev A

HT 1567 Elevations- 67, 70 RP-014 Rev A

HT 946 Floor Plans 84-85 RP-017 Rev C

HT 946 Floor Plans 84-85 RP-018 Rev C

HT 1050 Floor plans- 80-81 RP-019 Rev B

HT 1050 Elevations- 80-81 RP-020 Rev B

HT 1635 Floor plans- 17H, 27, 56H, 61, 72, 74, 86H RP-021 Rev B

HT 1635 Elevations- 17H, 27, 56H, 61, 72, 74, 86H RP-022 Rev B

HT 1635 Elevations- 5, 61 RP-022.1 Rev A

HT 1200 & 1050 Floor plans - 18-20 RP-023 Rev A

HT 1200 & 1050 Elevations 1 - 18-20 RP-024 Rev A

HT 1200 & 1050 Elevations 2 - 18-20 RP-025 Rev A

HT 1302 Floor plans- 1 RP-026 Rev A

HT 1302 Elevations- 1 RP-027 Rev A

HT 1460 Floor plans- 3, 22, 75H RP-028 Rev B

HT 1460 Elevations- 3, 22, 75H RP-029 Rev B

HT 1050 Floor plans- 23, 24 RP-030 Rev B

HT 1050 Elevations- 23, 24 RP-031 Rev B

HT 1200 & 1469 Floor plans- 50-51 RP-032 Rev A

HT 1200 & 1469 Elevations 1- 50-51 RP-033 Rev A

HT 1200 & 1469 Elevations 2- 50-51 RP-034 Rev A

HT 654 & 807 Floor plans 1- 45-49 RP-037 Rev A

HT 654 & 807 Floor plans 2- 45-49 RP-038 Rev A

HT 654 & 807 Elevations 1- 45-49 RP-039 Rev A

HT 1145 Floor plans- 54-55 RP-042 Rev A

HT 1145 Elevations- 54-55 RP-043 Rev A

HT 1762 Floor plans- 52, 73 RP-044

HT 1762 Elevations- 52, 73 RP-045

HT 1762 Floor plans- 57, 62H RP-046 Rev B

HT 1762 Elevations- 57, 62H RP-047 Rev B

HT 1469 Floor plans- 59-60, 82-83 RP-048 Rev A

HT 1469 Elevations 1- 59-60, 82-83 RP-049 Rev A

HT 1469 Elevations 2- 59-60, 82-83 RP-050 Rev A

HT 1481 Floor plans- 68 RP-051 Rev A

HT 1481 Elevations- 68 RP-052 Rev A

HT 1200 Floor plans- 63-64 RP-053 Rev A

HT 1200 Elevations 1- 63-64 RP-054 Rev A

HT 1200 Elevations 2- 63-64 RP-055

HT 1250B Floor plans and Elevations- 65 RP-056 Rev C

HT 1400 Floor plans- 66 RP-057 Rev B
 HT 1400 Elevations- 66 RP-058 Rev B
 HT 1481 Floor plans- 71 RP-059 Rev A
 HT 1481 Elevations- 71 RP-060 Rev A
 HT 1050 & 1350 Floor plans- 76-79 RP-061 Rev A
 HT 1050 & 1350 Elevations- 76-79 RP-062
 HT 1302 Floor plans- 86, 100 RP-063 Rev B
 HT 1302 Elevations- 86, 100 RP-064 Rev B
 HT 800 Floor plans and Elevations- 91 RP-067 Rev B
 HT 1200 Floor plans- 92-93 RP-068 Rev A
 HT 1200 Elevations 1- 92-93 RP-069 Rev A
 HT 1200 Elevations 2- 92-93 RP-070
 HT 1145 Floor plans- 7-9 RP-071 Rev A
 HT 1145 Floor plans & Elevations- 7-9 RP-072
 HT 1145 Elevations- 7-9 RP-073
 HT 887 & 673 Floor plan 1- 94-97 RP-077
 HT 887 & 673 Floor plan 2- 94-97 RP-078
 HT 887 & 673 Elevations 1- 94-97 RP-079
 HT 887 & 673 Elevations 2- 94-97 RP-080
 HT 1042 Floor plans- 98-99 RP-081
 HT 1042 Elevations- 98-99 RP-082
 HT 1200sp Floor plans - 2 RP-083 Rev A
 HT 1200sp Elevations 1 - 2 RP-084 Rev A
 HT 1200sp Elevations 2 - 2 RP-085 Rev A
 HT 946, 673 Floor plans 1 - 28, 29, 39, 40 RP-086 Rev A
 HT 946, 673 Floor Plans 2, Elevations 1 - 28, 29, 39, 40 RP-087 Rev A
 HT 946, 673 Elevations 2 - 28,29,39,40 RP-088 Rev A
 HT 852 Floor plans - 6 RP-089 Rev B
 HT 852 Elevations - 6 RP-090 Rev B
 HT 1145, 852 Floor plans 1 - 53, 58, 87 RP-091
 HT 1145, 852 Elevations 1 - 53, 58, 87 RP-092
 HT 1145, 852 Elevations 2 - 53, 58, 87 RP-093
 HT 1119 Floor Plans - 10-11, 43-44 RP-100 Rev C
 HT 1119 Elevations - 10-11, 43-44 RP-101 Rev C
 HT 1119 & 946 Floor Plans- 12-14 RP-102 Rev B
 HT 1119 & 946- Elevations- 12-14 RP-103 Rev B
 HT 654 & 802 Floor plan 1- 33-36 RP-104 Rev B
 HT 654 & 802 Floor plan 2- 33-36 RP-105 Rev B
 HT 654 & 802 Elevations 1- 33-36 RP-106 Rev B
 HT 1232 Floor Plans & Elevations 89 RP-109 Rev B
 HT 903 Floor Plans & Elevations 88, 90 RP-110 Rev B
 HT 946 Floor plans 15-16 RP-111 Rev B
 HT 946 Elevations- 15-16 RP-112 Rev B
 HT 673 Floor Plans 4 RP-113
 HT673 Elevations 4 RP-114
 HT 946 Floor Plans – 41, 42, 84 RP-115
 HT 946 Elevations – 41, 42, 84 RP-116
 HT 946, 1119 Floor Plans 30, 31, 32, & 37, 38, 85 RP-117
 HT 946, 1119 Elevations 30, 31, 32 & 37, 38, 85 RP-118
 Single Garage RP-200 Rev B
 Double Garage RP-201 Rev B

Twin Garage RP-202 Rev C
Double Garage (sales centre) - 5 RP-203
External works details RP-300
Substation plan & Elevations RP-301
Pumping station Enclosure RP-302
Typical Bins & Cycle storage Details RP-303

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

3. Tree Works and Protection

The development hereby approved shall be carried out in accordance with the SES Arboricultural Impact Assessment, dated May 2018. All of the tree protection measures set out in the assessment and accompanying Tree Protection Plans shall be implemented before any works commence on site and shall be maintained for the duration of the development.

Reason: In order to safeguard existing trees on and immediately adjacent the site in the interest of visual amenity and landscape value.

4. Tree Canopy Hand Excavation

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

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

5. Trees and Hedgerows

All existing trees and hedgerows not shown for removal on the approved drawings shall 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.

6. Hours of Demolition/Construction

No demolition or construction work shall take outside of the following times;
Weekdays: 08:00 to 18:00
Saturdays: 08:00 to 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.

7. Hours of Construction Deliveries

No construction deliveries to or from the site, worker vehicle movements, or construction work shall take place outside of the following times;

Weekdays: 08:00 to 18:00

Saturdays: 08:00 to 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.

8. Removal of PD for All Residential Extensions & Outbuildings

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

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

9. Removal of PD for Fences/Walls

Notwithstanding the provisions of Class A of Part 2 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no fences, walls, gates or other means of enclosure, other than any shown on the approved drawings, shall be erected in advance of any wall of the dwelling to which it relates (including a side or rear wall) which faces a highway or public area (including a footpath or bridleway; public open space; and communal parking areas) unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: In the interests of visual amenity with regard to the context of the surrounding area.

10. Construction Traffic Management Plan

No development shall commence until a construction traffic management plan, to include (but shall not be limited to) details of vehicle/wheel cleaning facilities within the site and adjacent to the egress onto the highway, has been submitted to and approved in writing by the Local Planning Authority. The development shall then be constructed in accordance with the agreed plan.

Reason: To protect highway efficiency of movement and safety.

11. Archaeological Investigation

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 with Policy SD1 and ENV1 of Colchester Borough Council's Core Strategy (2008) and Supplementary Planning Document 'Managing Archaeology in Development (adopted 2015).

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

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

(i) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos;

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

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

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

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

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

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

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

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

15. Ecological Mitigation and Management Plan

No works shall take place until an Ecological Mitigation and Management Plan (EMMP), in accordance with the SES Phase 2 Ecological Surveys and Assessment report dated February 2018, has been submitted to and approved in writing by the Local Planning Authority. The mitigation and management measures shall then be fully implemented as approved.

Reason: In the interests of conserving and enhancing the biodiversity of the site.

16. Noise Mitigation

No development shall commence until a detailed acoustic mitigation report has been submitted to and approved in writing with the Local Planning Authority. The report

shall provide details of the noise exposure at the facade of proposed residential dwellings, internal noise levels in habitable rooms and noise levels in all associated amenity spaces.

The design and layout shall avoid, as far as practicable, exposure of habitable rooms to noise levels to above the following criteria

- 60dBLAeq16hours (Daytime outside)
- 55dBLAeq8hours (night outside)

Acoustic barriers, Site design (including building orientation) and internal layout of dwellings shall be used to minimise noise exposure to habitable rooms and reduce the need to rely on closed windows as far as practicable.

The report shall show where the levels are less than those above that the mitigation provided by glazing and acoustic passive ventilation measures ensure that internal noise levels are satisfactory

Where exposure to noise levels exceeds those stated above full details of fixed acoustic glazing and suitable mechanical ventilation options shall be submitted that demonstrate that internal noise levels do not exceed the internal noise levels stated in Table 4, paragraph 7.7.2 of BS8233:2014 Guidance on sound insulation and noise reduction for buildings. This includes with any mechanical ventilation operating where required.

Reason: In the interests of amenity of future residents of the development.

17. Acoustic Barrier

No works shall commence until full details of the design, construction and acoustic performance of an acoustic barrier, not less than 2.0m high along the boundary with the railway line has been submitted in writing to the local planning authority for agreement. The agreed barrier shall be retained and maintained in that form thereafter.

Reason: In the interest of protecting future residents from noise.

18. Full Landscape Proposals

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

- proposed finished levels or contours;
- means of enclosure and boundary treatments;
- car parking layouts;
- other vehicle and pedestrian access and circulation areas;
- hard surfacing materials;
- minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.);

- proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.);
- retained historic landscape features;
- proposals for restoration;
- planting plans;
- written specifications (including cultivation and other operations associated with plant and grass establishment);
- schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and
- implementation timetables and monitoring programs.

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

19. Surface Water Drainage

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

- Limiting discharge rates to 10 l/s for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change.
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

Reason: The National Planning Policy Framework paragraph 103 states that local planning authorities should ensure flood risk is not increased elsewhere by development. Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore, the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

20. Scheme to Minimise off-site Flooding during Construction

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

Reason: In order to ensure that the development does not increase flood risk elsewhere and does not contribute to water pollution.

21. SUDs Maintenance and Management Plan

No works shall take place until a Maintenance and Management Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

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

22. Architectural Detailing

Notwithstanding the details submitted, no works shall commence (above ground floor slab level) until additional drawings (at scales between 1:20 and 1:1) that show details of the architectural detailing of the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. Details shall include window detailing (including details of the lintel and cill, the depth of reveal and dormer features); rooflights to be used; recessed brickwork and timber cladding; and any eaves, verge, ridge, and guttering details. The development shall then be implemented in accordance with the approved drawings.

Reason: Insufficient detail has been submitted to ensure that the proposed works are of high quality design for the rural edge location.

23. Materials To Be Agreed

Notwithstanding the submitted details, no external facing or roofing materials shall be used in the construction of the development hereby permitted until precise details of the manufacturer, types and colours of these (including samples as necessary) have been submitted to and approved, in writing, by the Local Planning Authority. Such materials as may be approved shall be those used in the development.

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

24. 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.

25. Validation Certificate

Prior to the first OCCUPATION/USE of the development, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 14.

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

26. Highway Works

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

- a. A priority junction off Chitts Hill as shown in principle on the planning application drawing but to include but not limited to a 59 x 2.4 x 59 metre visibility splay
- b. A new section of footway and dropped kerbs/tactile paving to connect the Colchester bound bus stop in Halstead Road (west of its junction with King Coel Road) with existing footway
- c. Residential Travel Information Packs in accordance with Essex County Council guidance

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

27. Travel Plan

The development hereby approved shall not be brought into use unless and until the measures set out in the Travel Plan have been implemented following approval in writing by the Local Planning Authority. The Framework Travel Plan shall include the following:

The identification of targets for trip reduction and modal shift;

- The methods to be employed to meet these targets;
- The mechanisms for monitoring and review;
- The mechanisms for reporting;
- The penalties to be applied in the event that targets are not met;
- The mechanisms for mitigation including budgetary provision ;
- Implementation of the travel plan (until full occupation) to be agreed timescale or timescale and its operation thereafter;
- Mechanisms to secure variations to the travel plan following monitoring and reviews.

The completed development shall be occupied in accordance with the approved Travel Plan which shall be retained in place thereafter unless otherwise amended in accordance with a review to be agreed in writing by the Local Planning Authority.

Reason(s) for the direction given at b), c) or d) overleaf and the period of time for a direction at e) when directing that the application is not granted for a specified period:
1) To ensure the A12 trunk road continues to serve its purpose as part of a national system of routes for through traffic, to satisfy the reasonable requirements of road safety accordance with section 10 of the Highways Act 1980.

28. Ball Strike Assessment

Plots 67-80 (inclusive) as shown on Planning Layout RP-003 Rev E shall not be occupied until a Ball Strike Assessment, to include full details of the design and specification of any mitigation measures and management and maintenance responsibilities, has been submitted to and approved in writing by the Local Planning Authority. The details shall then be fully implemented as approved.

Reason: To provide protection for the occupants of the development and their property from potential ball strike from the adjacent playing field or sport facility, to reduce conflict between neighbours and thereby safeguard sporting use of the adjacent sports facilities.

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

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 12, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 13, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 14.

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

30. Street Name Signs

Street signs shall have been installed at the junction of the new highway with the existing road network prior to occupation of the respective dwellings on that street.

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

19.1 Informatives

19.1 The following informatives are also recommended:

Advisory Note on Construction & Demolition

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

Informative on Conditions Stating Prior to Commencement/Occupation

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

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.

Informative on Archaeology

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

Anglian Water Informative

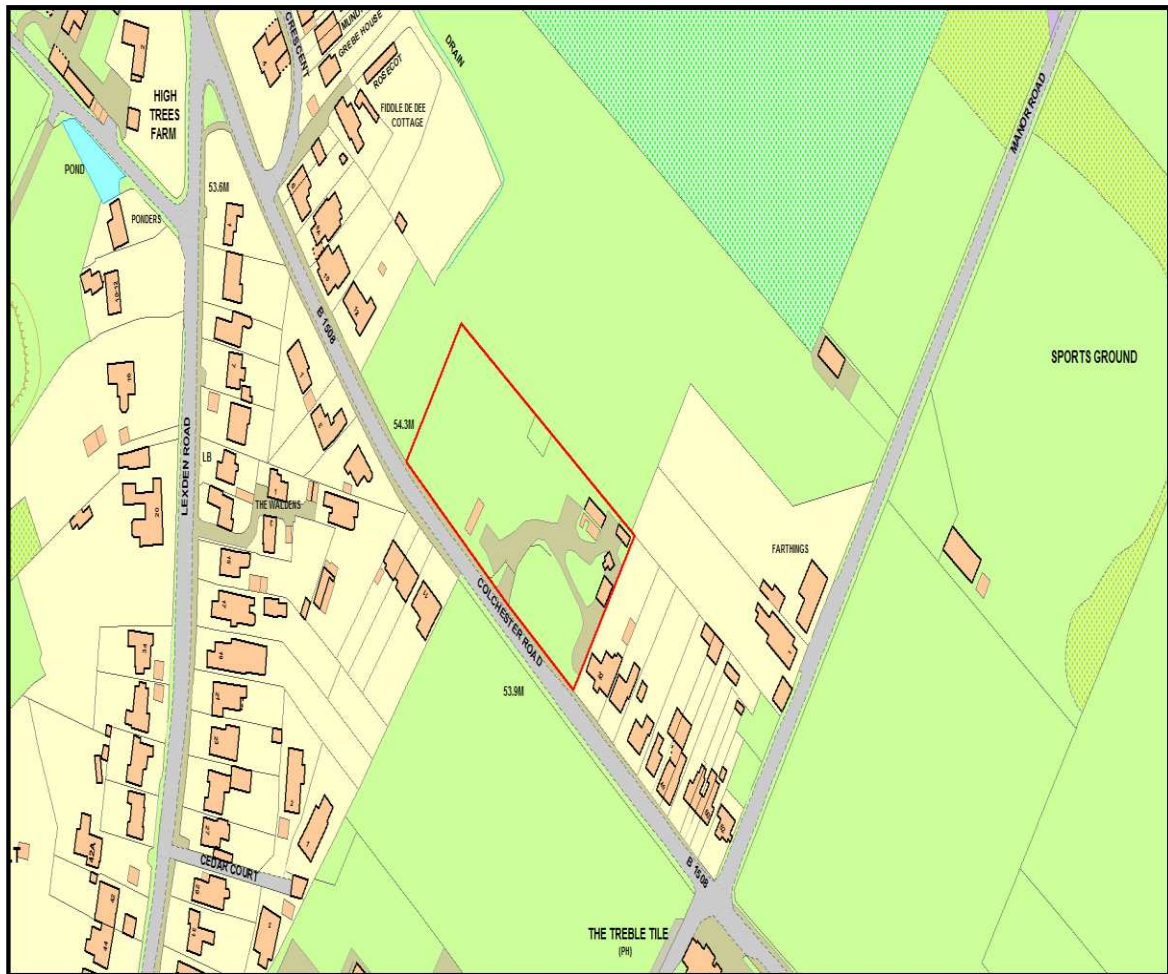
Anglian Water has assets close to or crossing this site or there are assets subject to an adoption agreement. Therefore the site layout should take this into account and accommodate those assets within either prospectively adoptable highways or public open space. If this is not practicable then the sewers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

Informative regarding materials

Construction materials should be in accordance with the Essex Design Guide, i.e. weatherboarding to be natural timber, 'clay' tiles to be natural clay plain tiles and pantiles on subsidiary buildings, Any 'black/grey' tiles should be natural or slim-line fibre-cement slates.

Informative regarding boundary treatments

Boundary treatments adjacent public areas (including communal parking areas) shall be brick walls in accordance with details submitted and approved by the Local Planning Authority.



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Item No: 7.2

Application: 181458
Applicant: Mr Jonathan Greenberg
Agent: Mr Jonathan Greenberg
Proposal: Outline application for the erection of 13 dwellings with vehicular access, landscaping, footpath links and other related infrastructure. (Reconsultation - further to the advanced position of the Neighbourhood Plan)
Location: 32 Colchester Road, West Bergholt, Colchester, CO6 3JG
Ward: Lexden & Braiswick
Officer: Chris Harden

Recommendation: Approval subject to a legal agreement

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 Councillor Barber who states, "This is premature in the Neighbourhood Plan process and is outside the current settlement boundary." In addition, it is a Major Item that has received objections and also contributions are required that will need to be secured by legal agreement under Section 106 of the Town and Country Planning Act 1990.

2.0 Synopsis

- 2.1 The key issues for consideration are the principle of the proposal in terms of planning policy and assessment of the detailed planning merits of the case including layout and design, landscape impact, residential amenity, highway safety, affordable housing provision, wildlife impact, flood risk and contamination.
- 2.2 The application is subsequently recommended for Approval. In Policy terms, the site is on land which is outside of the current settlement boundary of West Bergholt in both the Adopted Local Plan and Emerging Local Plan. The site has, however, under Policy SS5 of the Emerging Local Plan, been allocated for housing in the West Bergholt Neighbourhood Plan. The Neighbourhood Plan has reached a very advanced stage having successfully completed the Examination by Inspector stage and now just has the final referendum stage to go through towards formal adoption.
- 2.3 Accordingly the proposal is not considered to be a Departure to current Local Plan Policy owing to the advanced stage of the Neighbourhood Plan and the fact that current Local Plan Policy SD1 states that planning applications that accord with policies in Neighbourhood Plans will be approved without delay unless material considerations indicate otherwise. In addition, weight can be given to the Emerging Local Plan as it is at an advanced stage in accordance with the provisions of the revised National Planning Policy Framework (NPPF). The principle of the proposal is therefore considered acceptable in Policy terms based on the weight that can now be afforded to the emerging West Bergholt Neighbourhood plan.
- 2.4 In terms of the planning merits of the case, the site is large enough to be able to accommodate 13 dwellings without appearing cramped or overdeveloped. The submitted drawings are primitive and for illustrative purposes only and an improved layout and building form would be expected at the Reserved Matters stage. Appropriate landscaping will allow a scheme to relate satisfactorily to its surroundings in terms of landscape impact. It is not considered the proposed 13 dwellings would compromise the provision of the total of 120 dwellings required for the overall land allocations in West Bergholt.
- 2.5 The scheme is acceptable from a highway safety point of view with adequate visibility splays and parking provision. Subject to appropriate conditions there is unlikely to be any detriment to neighbouring residential amenity or

significant impact upon important vegetation or wildlife. A 30% provision of affordable housing will be required. In terms of flood risk, a surface water drainage condition can be applied.

- 2.6 A Phase 1 contaminated land survey and RAMS wildlife mitigation payment will be required. A Section 106 agreement will also need to be completed for contributions and the relocation of a bus stop.

3.0 Site Description and Context

- 3.1 The site is located on the northern edge of West Bergholt in an area classified as countryside but within the wider settlement and extends to approximately 2.106ha. Access is currently gained from Colchester Road and there is frontage hedging either side of the access. The site contains of a number of outbuildings and ancillary stores formerly used as part of the previous business on-site. The site is bound by Colchester road to the south, beyond which are playing fields and residential properties. Dwellings also continue along Colchester Road to the east and west of the site. To the north of the site are agricultural fields.
- 3.2 Services and facilities within West Bergholt include a convenience store, post office, hairdresser, public house, GP surgery, church, primary school and bus stops, all of which are within 500 metres of the site.

4.0 Description of the Proposal

- 4.1 The proposal is an Outline application for 13 dwellings with two vehicular access points. All matters are received apart from the access. An illustrative plan has been submitted showing a linear layout of 13 dwellings.
- 4.2 The proposed dwelling mix comprises of 6 x 2 bed and 7 x 3 bed dwellings. The scheme proposes 3 affordable dwellings. The new development will consist of 2 storey dwellings reflecting the height of the surrounding residential properties.

5.0 Land Use Allocation

- 5.1 Countryside. Allocated for housing in the emerging West Bergholt Neighbourhood Plan. (Part of a 120-dwelling allocation).

6.0 Relevant Planning History

- 6.1 CL/COL/96/0351 – Certificate of Lawful Use approved for Pest Destruction Business and associated buildings/structures/land used in connection with the business; open storage for up to four touring caravans; and open storage for up to ten cars for repair and restoration. Approved 26th March 1997.

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. In particular, the following policies are of relevance to this application:
- SD1 - Sustainable Development Locations
 - H1 - Housing Delivery
 - H2 - Housing Density
 - H3 - Housing Diversity
 - H4 - Affordable Housing
 - UR2 - Built Design and Character
 - ENV1 - Environment
 - ENV2 - Rural Communities
- 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:
- SA H1 Housing Allocations
- 7.5 The Neighbourhood Plan for West Bergholt is also relevant. This forms part of the Development Plan for this area of the Borough.
- 7.6 Submission Colchester Borough Local Plan 2017-2033:
The Council is developing a new Local Plan that has been submitted to the Planning Inspectorate (October 2017) for examination. An Inspector has been

appointed and the formal examination commenced in January 2018. The examination is ongoing.

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

1. The stage of preparation of the emerging plan;
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 some weight in the consideration of this application, but as it is yet to undergo a full and final examination.

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
Backland and Infill
Affordable Housing
Sustainable Construction
Cycling Delivery Strategy
Urban Place Supplement
Sustainable Drainage Systems Design Guide
Street Services Delivery Strategy
Planning for Broadband 2016
Managing Archaeology in Development.
Developing a Landscape for the Future
ECC's Development & Public Rights of Way
West Bergholt Parish Plan & West Bergholt Village Design Statement

7.8 The West Bergholt Neighbourhood Plan (subject to Referendum)

Policies: PP13 Housing
PP24 Highways Network

8.0 Consultations

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

8.2 Highway Authority states:

All housing developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to the Advance Payments Code, Highways Act, 1980. The Developer will be served with an appropriate notice within 6 weeks of building regulations approval being granted and prior to the commencement of any development must provide guaranteed deposits which will ensure that the

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new street is constructed in accordance with acceptable specification sufficient to ensure future maintenance as a public highway by the ECC.

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

1 Prior to the first occupation of the development, the proposed estate road, at its bellmouth junction with Colchester Road shall be provided with 10.0m. radius kerbs returned to an access road carriageway width of 5.5m. and flanking footways 2m. in width returned around the radius kerbs and new pram crossing on both sides. The new road junction shall be constructed at least to binder course prior to the commencement of any other development including the delivery of materials.

2 Prior to the proposed access being brought into use, vehicular visibility splays of 85m N.W. by 2.4m by 96m S.E. 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.

3 Prior to the first occupation of each dwelling on the proposed development, the individual proposed vehicular access for that dwelling shall be constructed at right angles to the highway boundary and to a width of 3.7m and each shared vehicular access shall be constructed at right angles to the highway boundary and to a width of 5.5m and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

4 No unbound materials shall be used in the surface treatment of the proposed vehicular access within 6m of the highway boundary / throughout.

5 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.

6 All carriageways should be provided at 5.5m between kerbed footways or 6.0m where vehicular access is taken but without kerbing.

7 All footways should be provided at no less than 2.0m in width.

8 All off street car parking shall be in precise accord with the details contained within the current Parking Standards being provided within the site which shall be maintained free from obstruction and retained thereafter..

9 Any garage provided with its vehicular door facing the highway or proposed highway shall be sited a minimum of 6m from the highway boundary.

10 Prior to the occupation of the proposed development, details of the provision for the storage of bicycles for each dwelling sufficient for all

occupants of that dwelling, of a design this 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.

11 Each internal estate road junction shall be provided with a clear to ground level visibility splay with dimensions of 25m by 2.4m by 25m on both sides. Such visibility splays shall be provided before the road is first used by vehicular traffic and shall be retained and maintained free from obstruction clear to ground thereafter.

12 No development shall take place, including any ground works or works of demolition, until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

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

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

14 Prior to the occupation of any of the proposed dwellings the footway across the entire sites frontage shall be extended to a minimum of 2.0m in width and being provided entirely at the Applicant/Developer's expense including new kerbing, surfacing, drainage, any adjustments in levels and any accommodation works to the footway and carriageway channel and making an appropriate connection in both directions to the existing footway to the

15 Prior to the first occupation of any of the proposed dwellings the existing bus stop outside or in the vicinity to number 36 Colchester Road (eastbound) shall be relocated adjacent to the new vehicular access to the proposed development and shall be improved by the provision of a bus shelter to current standards, level entry kerbing, new post and flag, timetables, any adjustments in levels, surfacing and any accommodation works to the footway and carriageway channel being provided entirely at the applicant/Developer's expense to the specifications of the Highway Authority.

Design Informative:

- 1. There should be no vehicular access over any radius kerbs.
- 2. The new carriageways should be provided with a centreline bend radius of 13.6m together with adequate forward visibility.

3. Any trees provided within the adoptable highway will attract a commuted sum of no less than £750 per tree.
4. The applicant should be requested to consider the provision and location of street Lighting columns, particularly at road junctions, these should be within the adoptable areas.
5. The proposed carriageway to enable future expansion of the site should be shown at no less than 5.5m in width together with 2.0m wide footways.
6. Refuse freighters are unlikely to manoeuvre over Private Drives.

Informative1: The applicant should be advised to submit a Stage 1 Road Safety Audit together with the Designers responses with the submission of a FULL or Reserved Matters Application.

8.3 Archaeologist states:

The proposed development site is located to the west of an archaeological complex recorded by aerial photography (Colchester Historic Environment Record Monument no. MCC8635). Consequently, there is high potential for further below-ground heritage assets (i.e. archaeological remains) to be present within the proposed development area. However, the proposed development site has not been the subject of any previous systematic archaeological investigation. Groundworks relating to the proposed development would cause significant ground disturbance that has potential to damage any archaeological deposits that exist.

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 141), 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.

The following archaeological condition (**Z00**) is recommended:

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

- 8.4 Environmental Protection state: given the vulnerability of the proposed new use, Environmental protection would expect to be in receipt of the minimum of a 'Phase 1' Desk Study provided in support of this application.

8.5 Tree Officer states:

1.0 Survey and Analysis

- 1.1 Regarding the proposed development and the arboricultural impact assessment provided by DF Clarke Bionomique Ltd dated 15th May 2018 (Ref: DFCP 4198):
- 1.2 I am in agreement with the tree survey and arboricultural impact assessment.

- 1.3 The proposal requires the felling of six C category trees as per BS5837:2012.
- 1.4 Given the condition and categorisation of these trees this is acceptable.
- 1.5 The report adequately details how trees will be protected during the development.

2.0 Conclusion

- 2.1 In conclusion, I am satisfied with the arboricultural content of the proposal

3.0 Recommendation

- 3.1 Agreement to the landscape aspect of the application subject to condition

4.0 References:

- 4.1 Local Plan Policies - DP1

5.0 Recommended Landscape Conditions:

Z00 - Tree and Natural Feature Protection: Protected Areas

No works shall take place until all trees, shrubs and other natural features not scheduled for removal on the approved plans have been safeguarded behind protective fencing to the standard shown in the arboricultural impact assessment provided by DF Clarke Bionomique Ltd dated 15th May 2018 (Ref: DFCP 4198). All agreed protective fencing shall thereafter be maintained during the course of all works on site and no access, works or placement of materials or soil shall take place within the protected area(s) without prior written consent from the Local Planning Authority.

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

ZFS - Tree and Hedgerow Protection: General

All existing trees and hedgerows shall be retained throughout the development construction phases, unless shown to be removed on the approved drawing 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

Z00 - No works or development shall take place until a scheme of supervision for the arboricultural protection measures required by condition [-] has been approved in writing by the local planning authority. This scheme will be appropriate to the scale and duration of the works and will include details of: (select as appropriate)

- a. Induction and personnel awareness of arboricultural matters
- b. Identification of individual responsibilities and key personnel
- c. Statement of delegated powers
- d. Timing and methods of site visiting and record keeping, including updates
- e. Procedures for dealing with variations and incidents.
- f. The scheme of supervision shall be carried out as agreed.
- g. The scheme of supervision will be administered by a qualified arboriculturist instructed by the applicant and approved by the local planning authority.

9.0 Parish Council Response

9.1 The Parish Council have stated (at the time of submission of this application):

‘Whilst the Parish Council supports the application in principle when in keeping with the Neighbourhood Plan, it must object as this application is premature and outside the current settlement boundary.’

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.

19 letters of objection have been received which make the following comments:

- Object to the revised application as there doesn’t appear to be any change to the original plans and all of our previous objections still stand.
- Only received notice of the revised plans a few days ago which is not acceptable. everyone who should have had an opportunity to comment most probably has not been able to.
- note the comment on amendments to Colchester Road, and agree our previous objection was based on far more than just these - we would want far more detail on the proposed changes to Colchester road before we can make an informed comment.
- concerns that any changes to Colchester road will result in increased danger to our safety and to the safety of our neighbours with young children when exiting our properties, so full plans must be published before this application can be reviewed properly.

- Concerns of the people this planning application affects the most have been totally ignored.
- Advise that CBC that Heathlands Primary School would not be able to guarantee a place for children of primary school age moving into the development. Parents should check with ECC Planning and Admissions.
- object to the appearance of these dwellings. The design of the homes with solar panels to the front of the premises are ugly and not in keeping with other homes in vicinity and village as a whole. These homes should not be an eye sore.
- Village Infrastructure already stretched. Phase 2 to follow.
- Until infrastructure approved, should be rejected.
- Colchester Rd already busy enough. Possible accident blackspot.
- Should wait until village plan completed.
- 13 houses is too many.
- Affordable housing needs to be situated away from houses 7, 9 & 11.
- Design is not in keeping, it is appalling.
- Doctor's surgery is now only an emerging hub.
- Already parking problem.
- eventual loss of privacy and noise disturbance while work is being carried out.
- School cannot accept more children.
- Outside the village plan.
- Wrong part of West Bergholt to develop.

11.0 Parking Provision

11.1 Space for 32 cars shown in full compliance with adopted standards.

12.0 Accessibility

12.1 In terms of the Equality Act, the proposal provides a variety of house size types that would be provide flexible choice for different lifestyle requirements. The dwellings would be capable of adaption.

13.0 Open Space Provisions

13.1 Development Plan policy DP16 requires new residential development to provide at least 10% of the site area as public open space. Whilst this is an outline application, it is clear from the submitted illustrative plan that there is space to meet this standard and therefore there is potential for the level of open space to accord with policy DP16.

14.0 Air Quality

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

15.0 Planning Obligations

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

- Affordable Housing: 30% provision. The tenure mix of the affordable dwellings should be no less than 80% affordable rent and no more than 20% intermediate. Wheelchair accessible units should be provided.
- Community Facilities: No request.
- Public Open Space, Sport, and Recreation: £62,232.43. Public Open Space Maintenance dependent on landscape proposals.

16.0 Report

Principle of the Development

16.1 Policy Summary:

The site proposed for the 13 dwellings is on land which is outside of the settlement boundary of West Bergholt in the Adopted Local Plan and Emerging Local Plan. The site has, however, under Policy SS5 of the Emerging Local Plan, been allocated in the West Bergholt Neighbourhood Plan. The Neighbourhood Plan has reached a very advanced stage having successfully completed the Examination by Inspector stage and now just has the final referendum stage to go.

16.2 Accordingly the proposal is not considered to be a Departure to current Local Policy owing to the advanced stage of the Neighbourhood Plan and the fact that current Local Plan Policy SD1 states that planning applications that accord with policies in Neighbourhood Plans will be approved without delay unless material considerations indicate otherwise. In addition, weight can be given to the Emerging Local Plan as it is at an advanced stage in accordance with the provisions of the revised National Planning Policy Framework (NPPF). This favourable Policy background will be explored in more detail below.

16.3 Policy Detail:

West Bergholt is identified as a Settlement and Key Development Area within the Settlement Hierarchy of the current Local Plan and provides a variety of services and facilities. The Village also has a regular bus service into Colchester Town Centre and the site is considered to be in a sustainable location. The Local Plan Core Strategy allocates 50 dwellings to West Bergholt

however the emerging Local Plan has allocated a further 120 dwellings for the new plan period. The application site forms part of this allocation.

- 16.4 The NPPF sets out in Paragraphs 48 and 49 that weight may be given to relevant policies in emerging plans according to the stage of preparation with greater weight being given to more advanced the preparation. The planning policy approach to the proposal reflects the Council's current position in the plan-making process where both an adopted and an emerging Local Plan are relevant. The relationship of the proposal to each of those plans and the compliance of relevant adopted and emerging policies with the NPPF are accordingly key variables in assessing the planning balance.
- 16.5 It is considered that the fundamental principles of both the Adopted and Emerging Local Plans as well as the emerging Neighbourhood Plan are compliant with the new NPPF. For the Emerging Local Plan and Neighbourhood Plan, the following analysis reflects the NPPF criteria on the weight to be given to policies, which depends on the stage of preparation of the plan; the extent to which there are unresolved objections to relevant policies; and the degree of consistency of the relevant policies to the Framework (see paragraphs 48 - 50).
- 16.6 In the Adopted Plan, Policy SD1 is consistent with the NPPF's approach to decision-taking which entails approving proposals that accord with the Local Plan and Neighbourhood Plan unless material considerations indicate otherwise. It is noted, however, that the housing and jobs target provided in the policy no longer remain current. Whilst the supply figure itself may be out of date the principles of the overarching spatial strategy and the settlement hierarchy are not and as such weight should still be afforded to the settlement strategy.
- 16.7 The approach of Policy SD1 is consistent with the continued thrust of the NPPF seeking to achieve sustainable development as set out in paragraphs 7 and 8. It also accords with Paragraph 23 which indicates that: "*Strategic Policies should provide a clear strategy for bringing sufficient land forward, and at a sufficient rate to address objectively assessed needs over the plan period, in line with the presumption in favour of sustainable development. This should include planning for and allocating sufficient sites to deliver the strategic priorities of the area*". It is considered that Policy SD1 seeks to achieve these requirements and therefore fundamentally accords with the NPPF.
- 16.8 The allocations made in Policy H1 accord with the requirement in Paragraph 59 of the NPPF, which directs local authorities to allocate a sufficient amount and variety of land for housing. Weight can be given to Policy H1 with the exception of the housing target which has been superseded by later figures but the principle of the overarching spatial strategy and the settlement hierarchy are not, and as such weight should still be afforded to the allocations made in the policy.
- 16.9 The NPPF also advocates consideration of other factors including emerging local plans which can be afforded weight when they reach an advanced stage of preparation. The emerging Local Plan is considered to be at an advanced

stage having been submitted in 2017 with examination having commenced in January 2018.

16.10 The emerging Local Plan seeks to allocate additional land to meet the housing targets up to 2033 of 920 homes per year on sites which are in accordance with the revised Spatial Strategy (SG1). West Bergholt is identified as a Sustainable Settlement and thus is considered to have the potential to accommodate further proportionate growth. Policy SS5 outlines that the West Bergholt Plan will allocate a preferred site(s) to deliver 120 dwellings. The relevant Neighbourhood Plan Policies are as follows:

Policy Housing Planning Policies
No.

PP13: The settlement boundary is shown on Map PP13/1. The minimum number of
Housing dwellings to be provided over the Neighbourhood Plan period will be 120. These
Sites dwellings will be provided on Site A and Site B as shown on Map PP13/2.
Development on land on the North East side of Colchester Road and identified on
Map PP13/2 as Sites A and B for one, two and three bedroomed dwellings
suitable for first time buyers, homes for older people or small families will be
supported.
The density of the development should be within the range of 20-25 per hectare
on average.
A mix of housing tenure will be encouraged. It is expected that the development
will include at least 30% affordable housing including affordable rent or shared
ownership.
Satisfactory access must be provided.
A 12-metre strip of land parallel to the highway boundary of Colchester Road will
be retained and integrated into the design and layout of the scheme to respect
the semi-rural village aspect.
Landscaping will be an important and integral part of the design and layout of the
scheme. It is expected that all principal roads will incorporate a minimum 1 metre
wide green verge to each side and the development should include an
appropriate amount of public open space.
In order to ensure that a stock of smaller dwellings is retained to meet the
village's needs, permitted development rights will usually be withdrawn for
extensions through the imposition of conditions on any grant of planning
permission.
The provision of land for a cemetery indicated on Map PP13/2 will be supported.
The provision of land to accommodate sports facilities adjacent to the cricket club
as indicated on Map PP13/2 will be a requirement of the developer of this site.

Also relevant;

PP24: Colchester Road (in the vicinity of the two development sites), will be the
Highways subject of speed reduction and accessibility improvements. New mini
Network roundabouts are to be installed at the junctions of the new development areas
with Colchester Road, and a new zebra crossing sited to allow access to the rest
of the village safely including the school and sports fields. This is to be funded by
the developers of Site A and Site B.

- 16.11 The Spatial Strategy (Policy SG1), West Bergholt allocation (SS5) and West Bergholt Neighbourhood Plan are aligned with the NPPF which reinforces the plan-led system (paragraph 15) and sets out at paragraph 16 how plans should be prepared. The policies will contribute to the delivery of sustainable development. Paragraph 59 reiterates the Government objective of increasing the supply of homes. Paragraph 29 outlines the importance of Neighbourhood Plans and the West Bergholt Neighbourhood Plan is one of a number of neighbourhood plans which will allocate sites for residential dwellings within Colchester as identified by the Spatial Strategy.
- 16.12 The key policies in the emerging Local Plan relevant to this scheme are considered to be highly consistent with the NPPF and should therefore be afforded considerable weight.
- 16.13 The final issue to be taken into account when considering the weight to be afforded to the emerging Local Plan is the level of unresolved objection to the relevant policies. The examiner of the emerging Local Plan has fully endorsed the housing figure of 920 dwellings per annum as representing the objectively assessed housing need for Colchester in his letter dated 27th June 2018.
- 16.14 Policy ENV 1 of the Local Plan also has relevance and this aims to protect unallocated greenfield land outside settlement boundaries. It should be noted that the site has areas that have been previously developed during the previous commercial uses so is partly brownfield land which adds additional policy weight to the proposal. Policy H1 provides that Colchester will seek to provide 80% of housing on previously developed land during the plan period.
- 16.15 In conclusion, having regard to the above detailed policy issues, the proposal is considered acceptable in principle. The site proposed for residential development is allocated in the West Bergholt Neighbourhood Plan which can be afforded sufficient weight in the determination of this application due to its advanced stage. Accordingly, it is considered that the principle of development of the site accords with the relevant policies in the current Local Plan and in the Emerging Local Plan which are compliant with the NPPF and support approval of residential development on sites that accord with the Neighbourhood Plan and are sustainable. The policies in the Emerging Plan can be afforded sufficient weight in the determination of this application. The Planning Policy team have confirmed that they support the general principle of development on this sustainable site for the above reasons. There should therefore be a presumption in favour of this sustainable development and the proposal should be judged on its planning merits as follows.

Layout and Visual Impact

- 16.16 Policy DP1 of the Local Plan requires all development to respect and enhance the character of the site, its context and surroundings. Whilst the submitted layout plan is purely for illustrative purposes only it shows that 13 dwellings on the site could be accommodated without appearing cramped or the site appearing overdeveloped. It is however, considered that the illustrative layout (and illustrative design forms) are unlikely to be acceptable in detail and that an improved layout and design forms would be required to be submitted at any Reserved Matters stage. The layout shows a linear, hard surface dominated, uniformly spaced built form which would need improving by locating parking and hard surfaces, including accessways in less prominent locations. There would also need to be more variety in terms of house positioning and plot widths. In addition, deep plan buildings with shallow pitched roofs would be unlikely to be acceptable so improved design and forms would be required in this respect.
- 16.17 The number of dwellings whilst of relatively low density accord with the parameters of the NPPF and would be appropriate for this prominent part of the Neighbourhood Plan allocation. To achieve the allocation of 120 overall, other less prominent areas of the overall allocation would need to be developed at a higher density.
- 16.18 The majority of the frontage hedging could be retained and replaced where necessary and with appropriate additional landscaping and retention of boundary trees the proposal could be accommodated on the site without particular detriment to the character of the street scene and surroundings. The existing pattern of development is predominantly linear and a proposal could be tailored to respect this form. Existing buildings and structures would be removed.
- 16.19 Overall, there is the potential for a development of 13 dwellings on this site to respect the character of the site and surroundings (Policy DP1) and to secure a high-quality design that is in keeping with its context (Policy UR2) and conserve the landscape and townscape (Policy ENV1).

Impacts on Neighbouring Properties

- 16.20 Any proposed development on this site, carefully designed with regards to positioning of dwellings and placement of windows, is unlikely to have any adverse impact on the residential amenities of existing properties from an overbearing impact or overlooking. There is scope to position access drives and parking areas in locations that would not lead to significant noise and disturbance to neighbouring residents.
- 16.21 It is therefore considered there is potential to achieve a scheme that would not have a significant detriment to neighbouring residential amenity and accord with Policy DP1 which aims to protect existing public and private residential amenity.

Affordable housing

16.22 The National Planning Policy Framework seeks to deliver a 'wide choice of high-quality homes' and that planning authorities should set policies for meeting the identified affordable housing need. Given the advanced position of the Emerging Local Plan and the nature of the application it is considered that the Affordable Housing Policy in the Local Plan is applicable which states:

Policy DM8: Affordable Housing states that:

Accordingly, 30% of new dwellings (including conversions) on housing developments of more than 10 dwellings in urban areas and above 5 units in designated rural areas (in accordance with Planning Policy Guidance), should be provided as affordable housing (normally on site).

Where it is considered that a site forms part of a larger development area, affordable housing will be apportioned with reference to the site area as a whole. This level balances the objectively assessed need for affordable housing in the Borough established by the evidence base, against the requirement for flexibility to take account of changing market conditions. At present the overwhelming need in Colchester is for affordable rented properties, which should be reflected in development proposals. For sites where an alternative level of affordable housing is proposed below the target, it will need to be supported by evidence in the form of a viability appraisal.

In exceptional circumstances, where high development costs undermine the viability of housing delivery, developers will be expected to demonstrate an alternative affordable housing provision.

The Local Planning Authority will require developments to integrate affordable housing and market housing, with a consistent standard of quality design and public spaces, to create mixed and sustainable communities. The affordable housing provision should proportionately reflect the mix of market units unless otherwise specified by the Local Planning Authority. In schemes over 15 units the affordable housing should be provided in more than one single parcel. Elsewhere the affordable housing mix on any site should normally be "pepper potted" throughout the scheme in groups, the size and location of which should be discussed and agreed with the Local Planning Authority.

16.23 Accordingly a Section 106 Agreement will be required to secure this 30% provision of affordable homes.

Highways and Parking Issues

16.24 There is a single proposed vehicular access point into the site off Colchester Road with a proposed secondary road which expands the existing site entrance to include a 'T' junction enabling this road to branch both left and right. The access design has been informed by traffic surveys along Colchester Road. The Highway Authority has confirmed that the proposed access points are acceptable in principle and that the required visibility

splays can be achieved. An appropriate condition would be applied in this respect.

16.25 There will also need to be the following highway improvements and additional details (to be secured by a Section 106/278 agreement and conditions:

a) Relocation of existing bus stop in the vicinity of 36 Colchester Road West Bergholt (eastbound) to the vicinity of the proposed vehicular access to the site eastbound including 1x new shelter, raised kerbs, timetables, post and flag (Approximate cost of £12,000 total)

b) Provision of Residential Travel Information Packs for each dwelling.

16.26 In accordance with Policy DP19, the adopted 2009 Essex County Council Parking Standards require at least 2 parking spaces for dwellings with 2 or more bedrooms (measured at 2.9m by 5.5m). A garage space would need to have an internal minimum measurement of 3m by 7m. The development has the space to comfortably meet these standards and appropriate conditions can be applied. There is also room to provide visitor spaces. Policy DP1 could therefore be met which aims to create a safe environment.

Amenity Space Provisions

16.27 Policy DP16 provides the standards for private amenity space. For houses, these standards are as follows:

- One or two bed – a minimum of 50 sqm.
- 3 bed – a minimum of 60 sqm.
- 4 bed – a minimum of 100 sqm.

16.28 There is ample space within the development site to meet these standards.

Landscape and Trees

16.29 There are some trees and vegetation within the site and on the boundaries. An Arboricultural Impact Assessment has been submitted and concludes that the development would not have a significant effect on the surrounding area from an Arboricultural perspective. Six trees and small sections of hedges are to be removed as part of the development. Only one tree is of moderate quality and all others are of low quality. All trees around the boundary of the site are to be retained, including hedgerows and the impact of tree removals from outside the site will be minimal. Overall, subject to appropriate tree protection conditions, the impact of the development on trees and vegetation is considered acceptable.

16.30 There is adequate space to provide additional landscaping on the site, including on the boundaries and it is concluded that subject to an appropriate layout and landscaping scheme, a development can be achieved that would not significantly impact upon the surrounding

landscape. Appropriate details will however need to be submitted at the Reserved Matters stage.

Public Open Space Provision

- 16.31 The indicative layout shows that there is potential to provide public open space and play areas on the site although details of the layout and landscaping of the scheme would be required as part of a Reserved Matters application rather than at this stage. It would be necessary, however, to secure that at least 10% public open space is provided on site in accordance with Development Plan Policy DP16. This requirement is carried forward to Policy DM18 of the emerging Local Plan.

Wildlife:

- 16.32 An extended Phase 1 Habitat Survey has been submitted. This concludes:

“The proposed development has potential to impact nesting birds, foraging/commuting bats and reptiles. Appropriate mitigation has been recommended. The hedgerows and trees are the most valuable habitats on the site and are to be retained as part of the proposed development. There is potential to further enhance the site for the benefit of wildlife and its ecological value by implementing the recommended enhancements outlined in this report such as soft landscaping and wildlife-friendly planting.”

- 16.33 Accordingly, subject to appropriate wildlife enhancement and mitigation conditions it is considered that there will not be an unacceptable impact upon wildlife on the site. A RAMS wildlife mitigation payment will be required for £122.30 per dwelling. The proposal would thus accord with Policy DP21 which provides that development should conserve or enhance biodiversity.

Other Matters:

- 16.34 The land is not within an area identified as being liable to flooding. A flood risk assessment has been submitted. The Environment Agency flood zone mapping shows the site lies within Flood Zone 1 and is not at risk of fluvial or tidal flooding. As part of the FRA, a SUDs/surface water drainage strategy has been prepared to demonstrate how the run-off will be disposed of. To dispose of the surface water run-off generated by the development scheme, it is anticipated that the run-off will be directed to a range of infiltration drainage devices in the form of various soakaway techniques.
- 16.35 Detailed hydraulic modelling has been carried out which demonstrates that the SuDS/surface water drainage system can withstand the impact of a 1:100-year rainfall event (including an additional 40% as an allowance for climate change), thus complying with the requirements of the NPPF. The FRA identifies the opportunity to provide a scheme which fully adopts the principles outlined within the NPPF.

- 16.36 Accordingly, it is not considered there will be a flood risk problem subject to an appropriate surface water drainage condition being applied. The proposal would then comply with Policy DP20 of the Local Plan.
- 16.37 With regard to archaeological issues, an archaeological programme of works condition will be applied. This will allow appropriate recording of any items of archaeological interest in accordance with Policy DP14.
- 16.38 With regard to contaminated land issues a Phase 1 Desk Top survey will need to be submitted and this is currently awaited. Appropriate conditions would then be applied.

17.0 Conclusion

- 17.1 To summarise, in Policy terms, the site proposed for the 13 dwellings is on land which is outside of the current settlement boundary of West Bergholt in the Adopted Local Plan and Emerging Local Plan. The site has, however, under Policy SS5 of the Emerging Local Plan, been allocated in the West Bergholt Neighbourhood Plan. The Neighbourhood Plan has reached a very advanced stage having successfully completed the Examination by Inspector stage and now just has the final referendum stage before formal adoption.
- 17.2 Accordingly the proposal is not considered to be a Departure to current Local Plan Policy owing to the advanced stage of the Neighbourhood Plan and the fact that current Local Plan Policy SD1 states that planning applications that accord with policies in Neighbourhood Plans will be approved without delay unless material considerations indicate otherwise. In addition, weight can be given to the Emerging Local Plan as it is at an advanced stage in accordance with the provisions of the revised National Planning Policy Framework (NPPF). The principle of the proposal is therefore considered acceptable in Policy terms.
- 17.3 In terms of the planning merits of the case, the site is large enough to be able to accommodate 13 dwellings without appearing cramped or overdeveloped. The submitted drawings are for illustrative purposes only and an improved layout and building form would be expected at the Reserved Matters stage. Appropriate landscaping will allow a scheme to relate satisfactorily to the its surroundings in terms of landscape impact. It is not considered the proposed 13 dwellings would compromise the provision of the total of 120 required for the overall land allocations in West Bergholt.
- 17.4 The scheme is acceptable from a highway safety point of view with adequate visibility splays and parking provision. Subject to appropriate conditions there is unlikely to be any detriment to neighbouring residential amenity or significant impact upon important vegetation or wildlife. A 30% provision of affordable housing will be required.

17.5 A Phase 1 contaminated land survey and RAMS wildlife mitigation payment will be required. A Section 106 agreement will also need to be completed to secure developer contributions and bus stop provision:

- Affordable Housing: 30% provision. The tenure mix of the affordable dwellings should be no less than 80% affordable rent and no more than 20% intermediate. Wheelchair accessible units should be provided.
- Public Open Space, Sport, and Recreation: £62,232.43. Public Open Space Maintenance dependent on landscape proposals.

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:

1. ZAC - Time Limit For Outline Planning Permissions

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. ZAD- Time Limit For Outline Permissions

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. ZAE – Time Limit For Outline Permissions

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. 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: 001 Rev A and 180230-001 Rev A received 7/6/18.

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

5. 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.

6. Z00- Junction Layout

Prior to the first occupation of the development, the proposed estate road, at its bellmouth junction with Colchester Road shall be provided with 10.0m. radius kerbs returned to an access road carriageway width of 5.5m. and flanking footways 2m. in width returned around the radius kerbs and new pram crossing on both sides. The new road junction shall be constructed at least to binder course prior to the commencement of any other development including the delivery of materials.

Reason: To ensure that all vehicular traffic using the junction may do so in a controlled manner and to provide adequate segregated pedestrian access, in the interests of highway safety.

7. Z00- Visibility Splays

Prior to the proposed access being brought into use, vehicular visibility splays of 85m N.W. by 2.4m by 96m S.E. 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.

8. Z00- Vehicular Access

Prior to the first occupation of each dwelling on the proposed development, the individual proposed vehicular access for that dwelling shall be constructed at right angles to the highway boundary and to a width of 3.7m and each shared vehicular access shall be constructed at right angles to the highway boundary and to a width of 5.5m and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

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

9. Z00- No Unbound Materials

No unbound materials shall be used in the surface treatment of the proposed vehicular access within 6m of the highway boundary / throughout.

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

10. ZJV – Estate Road Layout

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.

11. Z00- Kerbing

Prior to first occupation, all carriageways should be provided at 5.5m between kerbed footways or 6.0m where vehicular access is taken but without kerbing.

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

12. Z00 - Footways

Prior to first occupation, all footways should be provided at no less than 2.0m in width.

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

13. Z00- Off street parking.

All off street car parking shall be in precise accord with the details contained within the current Parking Standards being provided within the site which shall be maintained free from obstruction and retained thereafter.

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

14. Z00 – Garage provision

Any garage provided with its vehicular door facing the highway or proposed highway shall be sited a minimum of 6m from the highway boundary.

Reason: To ensure that the vehicle to be garaged may be left standing clear of the highway whilst the garage door is opened and closed, in the interests of highway safety.

15. Z00 – Cycle storage

Prior to the occupation of the proposed development, details of the provision for the storage of bicycles for each dwelling sufficient for all occupants of that dwelling, of a design this 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. Z00- Internal Estate Road Junction

Each internal estate road junction shall be provided with a clear to ground level visibility splay with dimensions of 25m by 2.4m by 25m on both sides. Such visibility splays shall be provided before the road is first used by vehicular traffic and shall be retained and maintained free from obstruction clear to ground thereafter.

Reason: To ensure a reasonable degree of intervisibility between drivers of vehicles at and approaching the road junction, in the interests of highway safety.

17. Z00 - Construction Method Statement

No development shall take place, including any ground works or works of demolition, until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

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

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

18. Z00 – Boundary Planting

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

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

19. Z00- Footways

Prior to the occupation of any of the proposed dwellings the footway across the entire sites frontage shall be extended to a minimum of 2.0m in width and being provided entirely at the Applicant/Developer's expense including new kerbing, surfacing, drainage, any adjustments in levels and any accommodation works to the footway and carriageway channel and making an appropriate connection in both directions to the existing footway 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.

20. Z00 – Bus shelter

Prior to the first occupation of any of the proposed dwellings the existing bus stop outside or in the vicinity to number 36 Colchester Road (eastbound) shall be relocated adjacent to the new vehicular access to the proposed development and shall be improved by the provision of a bus shelter to current standards, level entry kerbing, new post and flag, timetables, any adjustments in levels, surfacing and any accommodation works to the 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.

21. Z00 - Tree and Natural Feature Protection: Protected Areas

No works shall take place until all trees, shrubs and other natural features not scheduled for removal on the approved plans have been safeguarded behind protective fencing to the standard shown in the arboricultural impact assessment provided by DF Clarke Bionomique Ltd dated 15th May 2018 (Ref: DFCP 4198). All agreed protective fencing shall thereafter be maintained during the course of all works on site and no access, works or placement of materials or soil shall take place within the protected area(s) without prior written consent from the Local Planning Authority.

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

22. ZFS - Tree and Hedgerow Protection: General

All existing trees and hedgerows shall be retained throughout the development construction phases, unless shown to be removed on the approved drawing 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

23. Z00 – Tree Protection

No works or development shall take place until a scheme of supervision for the arboricultural protection measures required by conditions 21 & 22] has been approved in writing by the local planning authority. This scheme will be appropriate to the scale and duration of the works and will include details of: (select as appropriate)

- a. Induction and personnel awareness of arboricultural matters
- b. Identification of individual responsibilities and key personnel
- c. Statement of delegated powers
- d. Timing and methods of site visiting and record keeping, including updates
- e. Procedures for dealing with variations and incidents.
- f. The scheme of supervision shall be carried out as agreed.
- g. The scheme of supervision will be administered by a qualified arboriculturist instructed by the applicant and approved by the local planning authority.

24. Z00 - Hours of Demolition/Construction

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

Weekdays: 08:00 to 18:00

Saturdays: 08:00 to 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.

25. Z00 - Hours of Construction Deliveries

No construction deliveries to or from the site, worker vehicle movements, or construction work shall take place outside of the following times;

Weekdays: 08:00 to 18:00

Saturdays: 08:00 to 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.

26. ZNL- Archaeological Investigation

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 with Policy SD1 and ENV1 of Colchester Borough Council's Core Strategy (2008) and Supplementary Planning Document 'Managing Archaeology in Development (adopted 2015).

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

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

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

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can

be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

28 ZGY - Contaminated Land Part 2 of 4 (Submission of Remediation Scheme)

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

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

29- ZGZ Contaminated Land Part 3 of 4 (Implementation of Approved Remediation Scheme)

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

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

30 ZG0- Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 26 number, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 27, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 28.

Reason: To ensure that risks from land contamination to the future

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

31 Z00 - Ecological Mitigation and Management Plan

No works shall take place until an Ecological Mitigation and Management Plan (EMMP), in accordance with the submitted Ecological Habitat Survey submitted 7/6/18 has been submitted to and approved in writing by the Local Planning Authority. The mitigation and management measures shall then be fully implemented as approved.

Reason: In the interests of conserving and enhancing the biodiversity of the site.

32 Z00- Full Landscape Proposals

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

- proposed finished levels or contours;
- means of enclosure and boundary treatments;
- car parking layouts;
- other vehicle and pedestrian access and circulation areas;
- hard surfacing materials;
- minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.);
- proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.);
- retained historic landscape features;
- proposals for restoration;
- planting plans;
- written specifications (including cultivation and other operations associated with plant and grass establishment);
- schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and
- implementation timetables and monitoring programs.

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

33 Z00- Surface Water Drainage

No works shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and certified as technically acceptable in writing by the SUDs

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approval body or other suitably qualified person(s). The certificate shall thereafter be submitted by the developer to the Local Planning Authority as part of the developer's application to discharge the condition. No development shall commence until the detailed scheme has been approved in writing by the Local Planning Authority. The approved scheme shall subsequently be implemented prior to occupation and should include but not be limited to:

- Limiting discharge rates to 10 l/s for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change.
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

Reason: The National Planning Policy Framework paragraph 103 states that local planning authorities should ensure flood risk is not increased elsewhere by development. Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore, the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

34 SUDs Maintenance and Management Plan

No works shall take place until a Maintenance and Management Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

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

19.1 Informatives

19.1 The following informatives are also recommended:

INS – Highway Informatives:

Design Informative:

1. There should be no vehicular access over any radius kerbs.
2. The new carriageways should be provided with a centreline bend radius of 13.6m together with adequate forward visibility.
3. Any trees provided within the adoptable highway will attract a commuted sum of no less than £750 per tree.
4. The applicant should be requested to consider the provision and location of street Lighting columns, particularly at road junctions, these should be within the adoptable areas.
5. The proposed carriageway to enable future expansion of the site should be shown at no less than 5.5m in width together with 2.0m wide footways.
6. Refuse freighters are unlikely to manoeuvre over Private Drives.

Informative1: The applicant is advised to submit a Stage 1 Road Safety Audit together with the Designers responses with the submission of a FULL or Reserved Matters Application.

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.

WA1- Positivity Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including

planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

spaces within the site and for further reducing the potential conflict between motor vehicles and other users of the lane.

2.0 Synopsis

- 2.1 The issues explored in the report submitted to committee on 30 May 2019 were land-use, design, traffic and highway implications, flood risk, impact on ecology and built heritage. The impact on neighbouring amenity and the surrounding area are also discussed in the report. This report concluded that the development proposal was acceptable.
- 2.2 Following the Planning Committee's resolution to defer this application for further consideration has been given for the potential for providing additional parking and for additional measures to ensure the safety of the cycle route. This report concludes that the amended scheme provides a balanced design solution to addressing the concerns raised by Members and recommends that the proposed development is approved subject to the stated mitigation measures (conditions and s106 obligations).

3.0 Site Description

- 3.1 The application site (East Bay Mill) is located on the south side of East Hill and is bounded by the River Colne to the east and by the East Bay Allotments to the south. To the west of the site is East Bay House, a large late Georgian building which is listed grade II for its special architectural and historic interest, with further residential dwellings beyond.
- 3.2 The application site was formerly used for the sale of animal feed with associated residential accommodation. The site has been vacant since about 2004. Within the site there is a derelict Granary Barn (listed grade II) which has been severely damaged by fire and is currently enclosed by wrapped scaffolding. The remainder of the site contains areas of overgrown shrubs, fly-tipping and mounds of rubble. Access to the site is from East Hill and a non-adopted lane bisects the site. The lane forms part of National Cycle Route 1 and the Wivenhoe Trail. The northern part of the site is located within Colchester Conservation Area No.1 (Town Centre). The Sycamore tree in the centre of the site is the subject of a tree preservation order (18/02). The group of trees to the boundary of East Bay House are also protected by a tree preservation order (169/10). The trees that stand between the access and East Hill are also important in terms of their contribution to character of the area; these trees stand within the highway and are not covered by a tree preservation order.
- 3.3 The character of the surrounding area is varied. To the north and west, the character is predominantly residential with two and three storey terraced properties. Large footprint industrial development is situated to the east of the site across the River Colne and there is an area of open space and playing fields to the north. To the south is an area of allotments and The Moors.

4.0 Description of the Proposal

- 4.1 The application seeks permission for the construction of 20 residential units together with parking, landscaping & associated works, including the refurbishment of the redundant Grade II Listed Granary Barn. A listed building application has also been submitted for the alteration of the former Granary Barn.

5.0 Land Use Allocation

- 5.1 Open space
Green Link
Conservation Area (northern part of the site)
- 5.2 Emerging Plan; Residential – up to 22 units including the listed building

6.0 Relevant Planning History

- 6.1 The relevant planning historic for this site includes:
- O/COL/02/1697 Outline permission for demolition of existing agricultural outbuildings and the retention, refurbishment and change of use of existing Grade II granary building to lounge and the erection of 49 retirement apartments (including 9 affordable units) with access, parking and associated works)
 - RM/COL/04/0884 - Application for Reserved Matters concerning Siting, Design and Access for demolition of existing buildings shown on plans and erection of 55 no. retirement apartments with access road, parking and associated works
 - 072117 Application for Reserved Matters concerning Landscaping for demolition of existing buildings and erection of 55 retirement apartments
 - LB/COL/03/0459 and CA/COL/02/1782 – conversion and alteration of listed building (the Granary Barn) and the demolition of ancillary buildings

In addition to the above, an appeal against an enforcement notice (ref. 200-000-090) was dismissed on 6th March 2013. This confirmed that the consented retirement apartment scheme had not been lawfully implemented and this permission has now lapsed.

- 6.2 More specific to the current application are the following preliminary enquiries:
- 180838 - Restore former mill building for flexible A1/A3 use and to develop apartment buildings to provide 48 new homes.
 - 182522 Preliminary Enquiry – Erection of 20 residential units together with parking, landscaping and associated works. This Preliminary Enquiry was also subject of an early Member Engagement Meeting.

7.0 Principal Policies

7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. Colchester's adopted Development Plan comprises the following documents:

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
- SD3 - Community Facilities
- H1 - Housing Delivery
- H2 - Housing Density
- H3 - Housing Diversity
- H4 - Affordable Housing
- UR2 - Built Design and Character
- PR1 - Open Space
- PR2 - People-friendly Streets
- TA1 - Accessibility and Changing Travel Behaviour
- TA2 - Walking and Cycling
- TA3 - Public Transport
- TA4 - Roads and Traffic
- TA5 - Parking
- ENV1 - Environment
- ENV2 - Rural Communities
- ER1 - Energy, Resources, Waste, Water and Recycling

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

- DP1 Design and Amenity
- DP3 Planning Obligations and the Community Infrastructure Levy
- DP4 Community Facilities
- DP12 Dwelling Standards
- DP14 Historic Environment Assets
- DP15 Retention of Open Space and Indoor Sports Facilities
- DP16 Private Amenity Space and Open Space Provision for New Residential Development
- DP17 Accessibility and Access
- DP18 Transport Infrastructure Proposals
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage
- DP21 Nature Conservation and Protected Lanes

7.4 Emerging Local Plan

In addition to the above, consideration also needs to be given to the Submission Draft Colchester Borough Local Plan 2017-2033 (the emerging local plan). The following emerging policies are considered to be relevant:

- SP1 Presumption in Favour of Sustainable Development
- SP2 Spatial Strategy for North Essex
- SP3 Meeting Housing Needs
- SP5 Infrastructure and Connectivity
- SP6 Place Shaping Principles
- SG1 Colchester's Spatial Strategy
- SG2 Housing Delivery
- SG7 Infrastructure Delivery and Impact Mitigation
- ENV1 Environment
- ENV3 Green Infrastructure
- ENV5 Pollution and Contaminated Land
- CC1 Climate Change
- PP1 Generic Infrastructure and Mitigation Requirements
- DM1 Health and Wellbeing
- DM2 Community Facilities
- DM3 Education Provision
- DM8 Affordable Housing
- DM9 Development Density
- DM10 Housing Diversity
- DM12 Housing Standards
- DM15 Design and Amenity
- DM16 Historic Environment
- DM18 Provision of Public Open Space
- DM19 Private Amenity Space
- DM20 Promoting Sustainable Transport and Changing Travel Behaviour
- DM21 Sustainable Access to Development
- DM22 Parking
- DM23 Flood Risk and Water Management
- DM24 Sustainable Urban Drainage Systems
- DM25 Renewable Energy, Water, Waste and Recycling

Paragraph 216 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.

As to the first limb, the Local Plan was submitted to the Planning Inspectorate in October 2017 and the formal examination commenced in January 2018. The

Plan is at an advanced stage and may therefore be taken into consideration in the determination of planning applications. Many of the Development Management Policies follow similar principles to those of the current Local Plan and reflect national policy in the NPPF.

- 7.5 S66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess. Section 72(1) of the same Act requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of conservation areas.
- 7.6 The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy.
- 7.7 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):
- The Essex Design Guide
 - EPOA Vehicle Parking Standards
 - Backland and Infill
 - 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
 - Planning Out Crime
 - Air Quality Management Guidance Note, Areas & Order

8.0 Consultations

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

Urban Design Officer

- 8.2 The comments from the Urban Design Officer, in respect of the amended scheme can be summarised as follows:

Objection - the extent of proposed additional parking fundamentally conflicts with the strategic foot and cycle path and other design, sustainable transport and conservation policies. The line of 6 spaces to the north could reluctantly be accepted. The two additional 90 degree spaces to the SW of the site would contribute to parking overly dominating the strategic foot and cycle route, and

the new and existing development, in a way which is clearly in conflict with the adopted Essex Design Guide and local plan policies. The car parking in the green would be very prominent and untidily project into the potential usage of the small and only public open space provided (in conflict with DP16 of our Development Policies). Any additional parking space adjoining the listed mill to the north would inappropriately dominate key views of the listed mill. Increasing parking by 6-8 spaces will improve the situation and crucially these spaces would be nearest the main road.

Landscape Officer

- 8.3 The comments from the Landscape Officer, in respect of the amended scheme can be summarised as follows:

The landscaping to the western boundary helped to soften the impact of the parked cars; the removal of the tree planting would weaken the concept of a green link that runs through the site. The insertion of the parking bays within the central green space would serve to undermine the green link and create a car dominated environment. Further to the north of the listed mill would undermine its setting and the townscape character of the river corridor. It is worth noting the level of green enclosure and tree planting that formed part of the historic setting of the listed building as illustrated in this extract from the 1881 OS map, which underlines the importance of maintaining its setting.

Historic Buildings and Areas Officers

- 8.4 To be reported

Transportation Officer

- 8.5 The Transportation Officers comments can be summarised as follows:

- There is mention of the car club mitigating the need for additional parking spaces in the developers correspondence.
- There is concern that the additional car park spaces would jeopardise the viability of the car club.
- The car club would serve as a 2nd car for the residents. If there is only approximately one car park space per house then with the right marketing, anyone needing a second car is highly likely to use the car club car. If houses have two car park spaces the need for a car club is reduced and there is unlikely to be the take up required to make it commercially viable.
- The intention is to develop a network of car club cars in Colchester. There is a desire for a second and third car club car to be implemented close by in Castle Road and Priory Street, this would provide further close by access to vehicles on a pay as you go basis for the residents of East Bay in addition to their own car club car on site.

9.0 Parish Council Response

- 9.1 Not Parish

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 the representations received is available to view on the Council's website. A summary of the material considerations received was set out in the committee report of 30 May 2019.
- 10.2 The Highway Authority's consultation response was received after the main report was drafted and were set out on the amendment sheet. For convenience, their comments are set out below.

Highway Authority

- 10.3 The Highway Authority has carried out a site visit and have evaluated the highways and transportation information submitted in support of the planning application that includes a road safety audit. It is noted that vehicular access to the site is currently afforded from the southern side of East Street via an access road which forms part of the highway network along part of its length before becoming a private access road. The access road currently serves the East Bay Allotments and forms part of National Cycle Route 51. The Highway Authority concluded that, from a highway and transportation perspective, the impact of the proposal is acceptable to the Highway Authority subject to conditions to cover:

- A construction method statement (to include: a the parking of vehicles of site operatives and visitors; b. loading and unloading of plant and materials; c. storage of plant and materials used in constructing the development; and d. wheel and underbody washing facilities.
- the provision of the highway works to include:
 - a The removal of existing gates and fencing and the carrying out of any works to the trees/vegetation along that part of the access track located within highway.
 - b Full depth reconstruction of that part/part(s) of the access road located within the highway and provision of a 6 metre wide access road with adjacent parking area/lay-by and local widening to form a turning area.
 - c Build out of the eastern radius kerb at the junction with East Street and the provision of a 2 metre wide footway and associated dropped kerbs.
 - d The provision of associated signage and road markings, including additional replacement signage/sculpture for National Cycle Route 51
 - e associated surface water drainage and street lighting works.
 - f An appropriate Traffic Order to regulate parking in the highway.
- the private access and parking arrangements to include:
 - a Stand-off area from wall adjacent to listed building to afford improved forward visibility splays.
 - b Widening to the track to allow where possible to provide enough width for the passage of two vehicles.

- c Reconstruction/surfacing of the access track.
 - d Vehicle and cycle parking.
 - e Cycle compatible traffic calming measures.
 - f Overrun strips
 - g Signage for private parking beyond the southern junction of the loop with the access road.
- Residential Travel Information Pack per dwelling.

Sustrans

10.4 Following the committee meeting on 30 May, a letter of representation was received from Sustrans. The representation noted that the National Cycle Network route 51 (NCN51) passes through the centre of the site and is a popular cycle route for locals and those using the Harwich ferries accessing Colchester, NCN1 and railway stations. Concern was expressed that the cycle path must always be maintained clear for access by all non-motorist users. If permission is given there must be clear conditions that there can be no obstructions to NCN 51, particularly by parked white vans, delivery vehicles, cement mixer lorries etc during construction and that no parking along the cycle path should be permitted for any vehicles for residents or visitors to the new houses. Clear access will be as important for cyclists, walkers and those accessing the allotments to the south. Whilst we appreciate that the site needs tidying up and that redevelopment is required, we are concerned that the density of development on this site is too dense for the space available, whilst maintaining unhindered access of the cycle route

10.5 Following the above representation, the applicant has discussed their proposals further with Sustrans. The following elements were discussed:

- Speed bumps to control traffic speeds along the access road/NCN51. These are currently shown as raised cobbles with a 2m wide gap in the middle for cyclists access on level ground. Sustrans commented about using a smooth sinusoidal profile, so that they could be accessed by cycles with tag-alongs/trailers to the allotments. There is clearly a need to be appropriate to the Conservation Area, whilst maintaining access for cyclists
- Using 'Shared Space' signs at the north and south of the site, using Diagram 886 from TSRGD 2016. To help encourage 'share with care' from all users
- It was noted that additional parking spaces were being proposed and that the lane was to be widen where feasible, including to either side of the listed barn for improved visibility.
- It was noted that the if parking within the site became a problem, restricting access along NCN51, the applicant would implement double yellow line marking along both sides of the road, to deter illegal parking

Sustrans has advised that the above addresses their concerns about potential conflict on the site from the proposed application.

11.0 Report

The Proposed Development

- 11.1 Planning permission is sought for the construction of 20 residential units together with parking, landscaping & associated works, including refurbishment of the existing Grade II Listed Granary Barn. A concurrent listed building application has also been submitted.
- 11.2 The applications were considered by the Planning Committee on 30 May 2019. A copy of the reports presented to the Members are attached to Appendix 1 for reference. Having considered the applications, Members resolved that they should be deferred to enable officers to explore the possibility of increasing the number of parking spaces and to consider ways to further minimise the potential for conflict between the different users of the lane. It was clarified at the Committee meeting that these were the only elements of the proposed scheme that Members wished Officers to reconsider.

Parking and Policy Background

- 11.3 CS Policy TA5 refers to parking and states that development proposals should manage parking to accord with the accessibility of the location and to ensure people friendly street environments. DPD Policy DP19 states that the Council will refer developers to the Essex Planning Officers Association (EPOA) Vehicle Parking Standards which was adopted by Colchester Borough Council as a Supplementary Planning Document (SPD) in November 2009.
- 11.3 The Council's adopted parking standards state that for new dwellings of two or more bedrooms, two car parking spaces should generally be provided. In addition to this, provision for visitor parking at a ratio of 0.25 spaces per unit is required. The guidance does however state that in accessible locations, such as town centres, a reduction in car parking can be considered.
- 11.4 The NPPF (Paragraph 105) states that local parking standards for residential (and non-residential) development should take into account the following factors:
- a the accessibility of the development;
 - b the type, mix and use of development;
 - c the availability of and opportunities for public transport;
 - d local car ownership levels; and
 - e the need to ensure an adequate provision of spaces for charging plug-in and other ultra-low emission vehicles.
- 11.5 The parking policy in the emerging local plan (Policy DM22) reflects more closely the guidance set out in the NPPF and provides a similar criterion-based assessment. In addition to the criterion set out in the NPPF, the emerging local plan

policy advises that consideration should also be given the appropriate mix of parking types including opportunities for car-sharing (e.g. car club).

Assessment of the Parking

- 11.6 The scheme as originally submitted for Members' consideration proposed 26 car parking spaces; this represented a parking provision of 1.3 spaces per unit. Two sets of tandem parking spaces were proposed, whilst the remaining 22 spaces were independently accessible spaces.
- 11.7 Representations to the original application were made on the grounds that the application provided insufficient car parking and that this would exacerbate parking problems in the area.
- 11.8 The application site is located in an accessible location, due to close proximity to the town centre and public transport facilities. Given this, it is considered that the site has good accessibility and sustainability credentials and therefore a reduced level of parking can be accepted.
- 11.9 In addition to the above, consideration was also given to local car ownership levels. It was explained in the previous report that average car ownership levels in the local area equated to 0.85 cars per household. If this figure was applied to the proposed development it would lead to an anticipated car parking demand of 17 vehicles. At the committee, Members questioned whether this figure was misleading as there is a high proportion of smaller units in the Castle Ward which could distort the average car ownership level. The car ownership data for the Castle Ward obtained to support the application confirms that based on houses which are 5 rooms (i.e. 3 bed plus kitchen and lounge) the average car ownership is 0.946 cars per unit whilst those with 4 rooms (3 bed plus 1 kitchen/lounge) are 0.814 cars per unit. The proposed units would generally have 5 rooms, although two are 4 room units. Based upon these figures the applicant has advised that the anticipated number of cars would be 19 cars (18.7) and, together with a visitor allowance of 5 spaces, this would result in a total of 24 cars which is below the original 26 space provision.
- 11.10 It was also explained that the proposed layout had been designed to reduce the potential for indiscriminate parking and that this had been achieved by:
- The widened and private sections of the access road would be the subject to parking enforcement through a management company responsible for the private areas of the site;
 - The proposed layout is designed such that private parking is accessed from the access road thereby meaning that drivers would not be able to park in certain locations due to the fact that it would block access to designated parking spaces;
 - The width of the looped arrangement is designed to be tight; the reduced width of the loop ensures that it is not practical for a car to

park on the loop without obstructing the roadway and therefore would be self-policing; and

- The lack of parking including on street parking outside the application site will discourage car ownership. All other parts of the public highway within 250 metres of the site are restricted by double yellow lines where no parking can occur. It is typical for residents to park up to a maximum of 200 metres (as per the Lambeth parking stress methodology) from their home if parking on street, hence 250 metres represents a robust assumption.

11.11 In addition to the above, the following mitigation measures were also proposed to encourage to use of alternative modes of transport / reduced car use:

- Up grading of the bus stop on East Hill (opposite the site);
- The provision of travel packs;
- A contribution to upgrading of the Wivenhoe trail; and
- A contribution to a car club

11.12 At the Planning Committee meeting Members expressed reservations at the level of proposed parking. In the light of these concerns, Members resolved to defer the planning application so that further consideration could be given to the possibility of increasing the number of parking spaces.

11.13 In response to the points raised at Planning Committee, the applicant has carefully considered the opportunities for accommodating additional parking within the scheme. The applicant has proposed four additional car parking spaces; two additional spaces in the southwestern strip of parking and two spaces on the central communal green. This creates a total of 30 residential car parking spaces, which will comprise 22 allocated bays, seven visitor / unallocated spaces and one car club space. A further six formalised bays are proposed within the public highway, to the north of the site, which will form part of a 'package' of highway improvement works proposed but do not form part of the allocation for this development

11.14 Under the original submission, nine parking spaces were proposed adjacent to the south west boundary. This parking was interspersed by two treed landscaping bays. The landscaping beds were designed to act a visual break between this line of parking and, as such, helped to reduce the dominance of the parked cars and reinforce the green link that runs through the site. The amended scheme has omitted the two planting beds and, by doing this, it has been possible to accommodate two extra parking bays. Whilst this revision creates an extra two parking spaces, the loss of the planting beds will have negative impact on the overall landscape qualities of the scheme. Both the Council's Urban Design Officer and Landscape Officer consider this to be a retrograde step as it would lead to the parking being overly dominant.

11.15 The amended scheme provides two parking spaces within the central green space. To avoid impacting on the existing trees the new parking spaces are

proposed within the proposed grassed areas and will therefore reduce its usability. The Council's Urban Design Officer has advised that this car parking would be very prominent and untidily project into the potential usage of the public open space (in conflict with DP16 of our Development Policies). The Landscape Officer has expressed similar concerns. In order to reduce the detrimental impact that this parking would have on the appearance of the development, it is recommended that this parking is reduced to a single parking bay that is set parallel to the carriageway. A condition has been recommended to this effect.

11.16 The possibility of creating an additional parking bay to the west of plot 20 was raised by Members at the Committee meeting. This option has been explored by the applicant but was found not to be feasible. The opportunity for increasing parking to the north of the listed barn has also been considered. It has not however been possible to achieve a layout that provides additional parking in a safe convenient manner that safeguards the setting of the listed barn and that of the conservation area, particularly when viewed from East Bridge. In addition to this, the incorporation of any additional parking in this location would impact (reduce) the size of the private garden to the converted barn and/or restrict access to the riverside walk. The amended scheme also now proposes formal parking bays adjacent to the site entrance, to which there is no objection.

11.17 The sensitivities surrounding parking are appreciated. Through the amendments described above, a further three additional parking spaces will be provided. It is considered that this provision has maximised the number of spaces whilst being weighed in the balance of a high quality design which retains the visual greenness of the area and the development not being dominated by hard standing and parked cars. The need to ensure that the proposals do not have an adverse impact upon the setting of the Listed barn, the character and appearance of the conservation area and the need to maintain good levels of amenity to all proposed houses have also been considered. Furthermore, a car club space is now identified on site which will provide another option for residents who wish to travel by car and contribute to reducing demand on car parking spaces.

Cycle Route Safety

11.18 The existing vehicular access to the site is afforded from the southern side of East Street via a lane, the northern part of which is public highway (under the jurisdiction of ECC); the remainder of the track is owned by Colchester Borough Council. The access road is used by cyclists (as part of cycle route NCR51) and pedestrians, as well as serving East Bay House, the electricity substation and the allotments.

11.19 Both officers and applicant have been very conscious of the need to ensure National Cycle Route continues its role as a safe route for cyclists and pedestrian. To this end, Essex County Council, in its capacity as the Highway Authority, has been fully engaged both at the preliminary enquiry

stage and during the course of the application. Their input has helped to shape the layout, parking locations and treatment of the internal road.

- 11.20 It is proposed to retain the access road along its existing alignment and widened this, where possible, to around 6.0 metres. This would ensure that two vehicles could generally pass each other without causing inconvenience to other users of the track. It is acknowledged that the access road narrows in the vicinity of the listed barn; however the Transportation Statement explains that due the straightening of the lane in this location, larger vehicles would be able to access the site and drivers would be afforded with suitable forward inter-visibility. In addition to the above, upgrade works are proposed to the junction with East Street to improve this junction.
- 11.21 The Highway Authority has advised that they have no objection to the planning application and has recommended conditions to control the detailed design of the lane (including warning signage) and its junction with East Hill.
- 11.22 Further to the Committee on 30th May, additional safety measures have been introduced which will further ensure that the safety of the cycle route is not compromised. This includes the use of granite setts to slow speeds of vehicles with a central gap which allows cyclists to pass through easily. 'Share with care' signs are also proposed at the north and south entrance to the site to alert drivers to the presence of cyclists and pedestrians. In addition, the treatment of the internal road originally proposed has been retained. This proposes a shared space internal road surfaced in buff tarmac with block paving parking spaces. This treatment is intended to ensure that the character of the lane retains its informal character which further contributes to reducing vehicle speeds.
- 11.23 In addition to the above, the applicant has provided further clarification of the proposed parking management measures. The applicant has explained that they propose to appoint a Site Management Company who would act as the Parking Coordinator. The applicant has explained that the following enforcement measures would be adopted at the site:
- The site would be patrolled at random times by the Parking Coordinator to ensure vehicles are not parked inappropriately within the site;
 - The Site Management Company would provide assistance to residents and visitors wherever necessary; and
 - Additionally, residents would be encouraged to report any unauthorised parking at the site or on the surrounding highway network. Contact information for the Site Management Company would be displayed on signage within and around the site for residents.
- 11.24 With regarding to potential conflict between construction traffic and users of the lane, a condition has been proposed requiring a construction method statement. This requires details to be submitted, amongst other items, the parking of vehicles arrangements of site operatives and visitors and the arrangements for handling construction delivery traffic. The applicant has also

advised that the usage of servicing and deliveries within the site will also be monitored by the Parking Coordinator to ensure that sufficient space is retained at all times for larger servicing vehicles so that they do not cause an obstruction to the cycle way.

17.0 Conclusion

17.1 The current application will deliver 20 residential units on a brownfield site in a sustainable and accessible location. The development will contribute positively towards the Borough's supply of housing. There would be economic benefits as a result of construction activity, the regeneration of the East Bay Mill area and the possible creation of additional jobs. There is sufficient evidence to be confident that overall the development would not cause significant harm to the amenity of local residents, ecology, flood risk, air quality or would not have a severe impact upon the highway network in terms of capacity.

17.2 The NPPF has at its heart the promotion of sustainable development. The proposal has significant sustainability credentials. A core planning principle of the NPPF is to conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations. The proposal would secure the repair and reuse of Granary Barn, a grade II listed building and will serve to enhance the character and appearance of this part of Colchester Conservation Area No.1. It is considered that the scheme would acceptably fulfil the environmental dimension of sustainable development by preserving and enhancing the identified heritage assets and by promoting new development of a high quality design. The failure to fully mitigate its impact by through the provision of s106 obligations weighs against this scheme; however, on balance, the benefits of this scheme are considered to outweigh this shortcoming.

18.0 Recommendation

18.1 It is recommended that Members resolve to grant planning permission and listed building consent and that the Assistant Director for Policy and Corporate is authorised to enter into and complete a legal agreement under Section 106 of the Town and Country Planning Act 1990 within six months from the date of the Committee meeting to provide the following:

- Archaeology - £14,627.5
- Education - £30,000.00 for early years, £90,000 towards St James Primary School: the Education Authority to have five year to spend the money; if the money is not spent within five years, the money is to be reallocated for the provision of off-site affordable housing.
- £6,000 to car club
- £23,000 for upgrading of the Wivenhoe Trail.
- All sums to be index linked
- RAMS payment

- Management of open space and public access to this
- Trigger points for refurbishment of the listed building
- Viability Review
- The introduction of a Parking Control Zone

18.3 In the event that the legal agreement is not signed within six months from the date of the Planning Committee, the Assistant Director is authorised at their discretion to refuse the application.

Listed Building Consent – 190425 (as per recommendation set out in the report submitted on 30 May 2019)

Planning 190424 **Conditions**

1. ZAA - Time Limit

The development hereby permitted shall be begun before the expiration of eighteen months 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 implemented in accordance with the submitted plans and documents listed below.

0001 Site Location Plan Rev

0502 PL_1100 REV C Proposed Ground Floor Plan

0502 PL_1300 REV D Proposed House Type 1 - Listed Building

0502 PL_1301 REV B Proposed House Type 2

0502 PL_1302 REV C 1302 Proposed House Type 3

0502 PL_1303 REV B Proposed House Type 3A

0502 PL_1304 REV C Proposed House Type 3B (received on 14 May 2019)

0502 PL_1305 REV B Proposed House Type 3C

0502 PL_1306 REV C Proposed House Type 4 (received on 14 May 2019)

0502 PL_1307 REV C Proposed House Type 5 (received on 14 May 2019)

2018 4413 019 Rev D Surface Materials Plan

0502 PL 3000 REV D Proposed Street Elevations 1

0502 PL 1002 REV C Proposed Site Plan

No variation from the approved plans should be made without the prior approval of the Local Planning Authority. Amendments may require the submission of a further application

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

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

No works shall take place until an investigation and risk assessment, in addition to any assessment provided with the planning application, has been completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval, in writing, of the Local Planning

Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos;

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

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

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

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

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

5 ZGZ - Contaminated Land Part 3 of 4 (Implementation of Approved Remediation Scheme)

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

carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

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

6. ZG0 - Contaminated Land Part 4 of 4 (Reporting of Unexpected Contamination)

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 3, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 4, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 5.

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

7. ZG3 - *Validation Certificate*

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

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

8. Non Standard Condition - Construction Method Statement

No works, including works of demolition and/or enabling works shall take place 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. The Statement shall provide for:

- i) the parking of vehicles of site operatives and visitors
- ii) hours of deliveries
- ii) loading and unloading of plant and materials
- iii) storage of plant and materials used in constructing the development
- iv) the hours of work
- v) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- vi) wheel washing facilities

- vii) measures to control the emission of dust and dirt during construction
- viii) a scheme for recycling/disposing of waste resulting from demolition and construction works
- ix) a method statement for piling works
- x) the arrangements for handling construction delivery traffic

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

9. Non Standard Condition - Recording and Protection of Heritage Assets

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.

10. Non Standard Condition – Programme of building recording

Prior to the commencement of any works *relating to the Listed Building*, a programme of building recording and analysis shall have been undertaken and a detailed record of the building shall have been made by a person or body approved by the Local Planning Authority and in accordance with a written scheme which first shall have been submitted to and approved, in writing, by the Local Planning Authority.

Reason: To secure provision for recording and analysis of matters of historical importance associated with the site, which may be lost in the course of works.

11. Non Standard Condition - Materials and detailing

No development shall take place (except for underground enabling works) until full details of the materials (including brick bond and mortar type) to be used in the construction of the external surfaces of the buildings hereby permitted have been

submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: In order to ensure that suitable materials are used on the development and to safeguard the character and appearance of the heritage assets and their setting.

12. Non Standard Condition – Additional drawings

Notwithstanding the details submitted, no works shall start (except for underground enabling works) until additional drawings that show details of any proposed new windows (including the depth of reveals), doors, eaves, verges, cills, arches, plinths, porches, balconies and screens, brickwork / stonework detailing, roof features and rainwater goods to be used, by section and elevation, at scales between 1:20 and 1:1, as appropriate, are submitted to and approved, in writing, by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved additional drawings.

Reason: In order to ensure that the architectural detailing of the development is appropriate and to safeguard the character and appearance of the heritage assets and their setting.

13. ZFQ - Tree and Natural Feature Protection: Protected Areas

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

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

14. ZFS - Tree and Hedgerow Protection: General

All existing trees and hedgerows shall be retained throughout the development construction phases, unless shown to be removed on the approved drawing 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 existing trees, shrubs and other natural features within and adjoining the site in the interest of amenity.

15. Non Standard Condition – Tree Pruning Details

Notwithstanding the submitted tree pruning details, a revised package of tree pruning works (including a timeframe for implementation) shall be submitted to and approved in writing prior to the commencement of any works on site. The development shall be implemented in accordance with the agreed details.

Reason The proposed pruning works are too high and will distort the shape of the trees crown.

16. ZFB - *Full Landscape Proposals TBA*

No works of development shall take place *above 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:

- proposed finished levels or contours;
- means of enclosure;
- car parking layouts;
- other vehicle and pedestrian access and circulation areas;
- hard surfacing materials;
- minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.);
- proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.);
- Works to the river embankment;
- proposals for restoration;
- planting plans;
- written specifications (including cultivation and other operations associated with plant and grass establishment);
- schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and
- implementation timetables and monitoring programs.

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

17. 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.

18. Non Standard Condition – Boundary walls

All boundary walls that front onto a public or semi public space shall be enclosed by a brick wall unless otherwise agreed in writing by the Local Planning Authority. Brick walls shall be finished with a brick on edge coping and terminated at each end by either a pier or return. Where changes in the height of walls occur, the higher wall shall be raked smoothly downwards to the level of the lower wall.

Reason: To ensure a satisfactory form of development and in the interests of visual amenity.

19 – Non Standard Condition – Bat Survey

No works shall take place until a Bat Survey has been undertaken and a scheme of mitigation and enhancement (which shall include as a minimum the provision of bat boxes, an implementation timetable and responsibilities for maintenance) have been submitted to and agreed in writing by the Local Planning Authority. The development shall subsequently be carried out in accordance with the agreed details unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the protection of bats during the course of this development and to ensure that there is appropriate and enhancement.

20. Non Standard Condition – Reptile Survey

No works shall take place until a Reptile Survey has been undertaken and a scheme of mitigation and enhancement strategy (including an implementation timetable and responsibilities) have been submitted to and agreed in writing by the Local Planning Authority. The development shall subsequently be carried out in accordance with the agreed details unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the protection of reptiles during the course of this development and to ensure that there is appropriate enhancement

21. Non Standard Condition – Provision of bird boxes

Prior to the occupation of the dwellings hereby permitted, a scheme for the provision of bird boxes shall be submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be implemented prior to the occupation of any the dwellings.

Reason: To ensure that appropriate provision is made for birds as a part of the development.

22. ZCF - Refuse and Recycling As Shown

The refuse and recycling storage facilities shall be implemented in accordance with the details shown on the approved plans and made available prior to the occupation of each building they are intended to serve. Such facilities shall thereafter be retained unless otherwise agreed in writing by the Local Planning Authority

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

23. Non Standard Condition – Parking Provision

Notwithstanding the details shown the submitted drawings, a revised parking scheme, which shall include a dedicated car parking space for the car club, shall be submitted to and approved in writing by the Local Planning Authority. No unit shall be occupied until the car parking space(s) intended to serve that unit and any associated unallocated visitor car parking space(s) intended to serve that part of

the development have been hard surfaced, sealed, marked out and made available for use to the satisfaction of the Local Planning Authority. The respective spaces shall thereafter be retained at all times for their designated purpose.

Reason: To ensure that each unit is provided with an appropriate parking space and that the unallocated parking space available for use by all residents and their visitors and in the interest of highway safety
Reason: To ensure that each unit is provided with an appropriate parking space and that the unallocated parking space available for use by all residents and their visitors and in the interest of highway safety.

24. Non Standard Condition – Cycle Parking space

Each residential unit shall be provided with at least one secure covered cycle parking space that is convenient to access / use. No unit shall be occupied until cycle parking for that unit has been provided in accordance with details that shall previously have been submitted to and approved in writing by the Local Planning Authority. The cycle parking shall thereafter be retained in accordance with the agreed details.

Reason: To ensure that adequate provision is made for cycle parking in order to encourage and facilitate cycling as an alternative mode of transport and in the interests of both the environment and highway safety

25. Non Standard Condition - Travel Pack

On the first occupation of each dwelling, the residents shall be provided with Travel and Information Packs, the contents of which shall previously have been agreed in writing by the Local Planning Authority, in consultation with Essex County Council.

Reason: To promote modal shift towards more sustainable forms of transports.

26. Non Standard Condition - Drainage

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

- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the CIRIA SuDS Manual C753
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

- A Management and Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system, the maintenance activities/frequencies and the retentions of maintenance of logs.

The scheme shall subsequently be implemented prior to occupation

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

27. Non Standard Condition – Offsite flooding

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

Reason: The National Planning Policy Framework paragraph 163 and paragraph 170 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution. Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development. The construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

28. Non Standard Condition - Drainage

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

Reason: To ensure that drainage system implemented at the site will adequately function and dispose of surface water from the site. The failure to carry out the required maintenance before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

29. Non Standard Condition - Flood Resilient Measures

Prior to the commencement of the development hereby permitted details of the

Flood Resilient Measures to be incorporated within the scheme shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

Reason: To minimise flood risk of damage to property.

30. Non Standard Condition - Flood Warning and Evacuation Plan

Prior to the occupation of the units hereby permitted a Flood Warning and Evacuation Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved Flood Warning and Evacuation Plan shall be adhered to at all times

Reason: To minimise flood risk to residents.

Permitted Development Rights

31. ZDC - Removal of PD for All Residential Extensions & Outbuildings

Notwithstanding the provisions of Classes A, B, C, D and E of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or the equivalent provisions of any order revoking and re-enacting that Order), no extensions, ancillary buildings or structures shall be erected unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: In the interest of visual amenity and to ensure the development avoids an overdeveloped or cluttered appearance and to safeguard the character and appearance of heritage assets and their setting

32. ZDI - *Removal of PD for Windows Above Ground Floor Level*

Notwithstanding the provisions of Classes A, B and C of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or the equivalent provisions of any order revoking and re-enacting that Order), no windows, rooflights or other openings shall be installed above ground floor level unless otherwise approved, in writing, by the Local Planning Authority.

Reason: To protect the privacy of adjacent dwellings.

33. Non Standard Condition - Permitted Development Rights

Notwithstanding the provisions of Part 40 of the Town and Country Planning (General Permitted Development) Order 1995 (or the equivalent provisions of any order revoking and re-enacting that Order), no micro-generation equipment shall be installed unless otherwise approved, in writing, by the Local Planning Authority.

Reason: In the interest of visual amenity and to safeguard the character and appearance of heritage assets and their setting.

34. Non Standard Condition - Permitted Development Rights

The single flat roofed addition to plot 20 shall not be used or accessed except for the purpose of maintenance.

Reason To protect the privacy of adjacent dwellings.

35 Non Standard Condition - Highway

Notwithstanding the details submitted, additional drawings of the highway works shall be submitted to and approved in writing by the Local Planning Authority.

The additional drawing shall in principle reflect the highway works shown on drawing 2018/4413/010 D and shall include the following:

- The removal of existing gates and fencing and the carrying out of any works to the trees/vegetation along that part of the access track located within highway.
- Full depth reconstruction of that part/part(s) of the access road located within the highway and provision of a 6 metre wide access road with adjacent parking area/lay-by and local widening to form a turning area.
- Build out of the eastern radius kerb at the junction with East Street and the provision of a 2 metre wide footway and associated dropped kerbs.
- The provision of associated signage and road markings, including additional replacement signage/sculpture for National Cycle Route 51.
- Associated surface water drainage and street lighting works.
- An appropriate Traffic Order to regulate parking in the highway.

The approved work shall be implemented prior to the occupation of the development.

Reason: To ensure that appropriate access is provided for all highway users in the interests of highway safety.

36. Non Standard Condition – Highway

Notwithstanding the details submitted, additional drawings for the provision of the private access and parking arrangements shall be submitted to and approved in writing by the Local Planning Authority. The drawings shall be substantially in accordance with drawing no. 2018/4413/019 A and shall include details of:

- Stand-off area from wall adjacent to listed building afford improved forward visibility splays.
- Widening to the track to allow where possible to provide enough width for the passage of two vehicles.
- Reconstruction/surfacing of the access track.
- Vehicle and cycle parking.
- Cycle compatible traffic calming measures.
- Overrun strips
- Signage for private parking beyond the southern junction of the loop with the access road.
- The access, parking and turning arrangements shall be retained in perpetuity for their intended purpose.

The approved work shall be implemented prior to the occupation of the development.

Reason: To ensure that appropriate access, parking and turning is provided and to maintain access for pedestrians and cyclists using National Cycle Route 51.

37. Non Standard Condition – Highway

Prior to the occupation of any units hereby permitted, the bus stop to the north of the site on East Hill / East Street (east bound) shall be up graded in accordance with a scheme that shall have previously been agreed in writing with the Local Planning Authority but shall comprise as a minimum level entry kerbing, new post and flag. The development shall be implemented in accordance with the agreed details.

Reason In the interest of promoting public transport and improving mode shift

38. Non Standard – landscape

Notwithstanding the details submitted, the two parking bays shown on drawing no. 2018/4413/019 rev D within the central green space (to the west of plots 5 and 6) shall be amended to show a single parking bay set parallel to the carriageway.

Reason: The arrangement of parking bays are shown will detract from the landscape qualities of the public open space, the character and appearance of the conservation area and that of the development.

39

Notwithstanding the details submitted, the width of the driveway between plots 10 and 11 shall not be less than 2.9m.

Reason: To ensure that the both parking spaces are fully accessible.

19.0 Informatives

The following informatives are also recommended:

1. ZT0 – Advisory Note on Construction & Demolition

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

2 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.

3 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.

4 Informative on Archaeology:

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

5 Informative on Anglian Water

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.

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

Notification of intention to connect to the public sewer under S106 of the Water Industry Act

Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.

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

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

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

6 Informative – Works on River Bank

The applicant may need an environmental permit for flood risk activities if they want to do work in, under, over or within 8 metres (m) from a fluvial main river and from any flood defence structure or culvert or 16m from a tidal main river and from any flood defence structure or culvert. The River Colne, is designated a 'main river'.

7 Informative Refuse Collection

Please Note: The Council is under no obligation to collect refuse from properties on private streets and/or private drives that are located more than 25m from the adopted highway. Prior to the Council agreeing to the collection of refuse and recycling from properties located on private roads, the applicant will need to

provide evidence that each relevant residential property is party to a covenant that stipulates that Colchester Borough Council (or any future third party provider) has:

- rights of access the road at all times (including the ability to turn collection vehicles around free from obstruction);
- no-one at any time can refuse the collection provider access;
- the Council has no maintenance liability; and

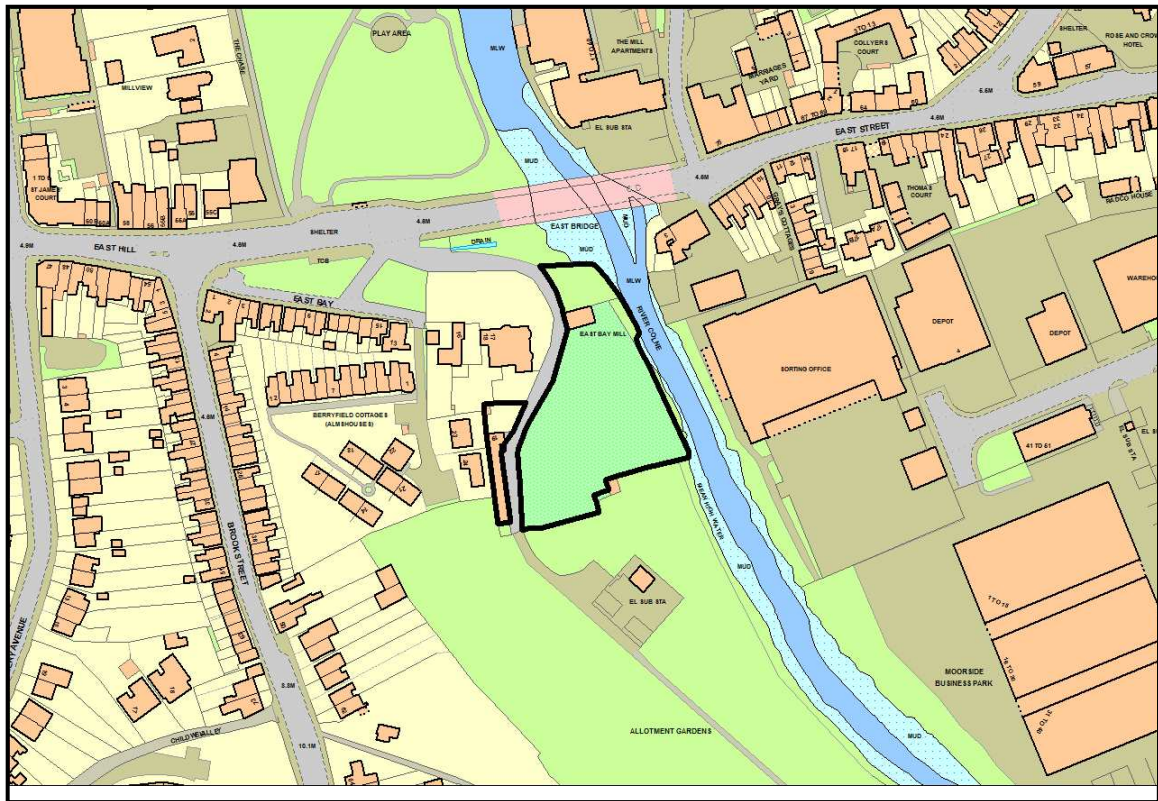
If the above is not provided, the Council will not collect refuse and/or recycling from the said properties and alternative collection arrangements will need to be made. It should also be noted that should the Council encounter a problem with the collection of waste from the private roads within this development, it reserves the right to withdraw its waste collection service.

The applicant is asked to draw to the attention and fully explain the implications of the above requirements to all purchasers of these properties.

Highway Informatives:

- i All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to: SMO1-Essex Highways, 653 The Crescent, Colchester C04 9YQ.
- ii. The layout as submitted would not be suitable for adoption by the Highway Authority.
- iii. All housing developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to The Advance Payments Code, Highways Act, 1980. The Developer will be served with an appropriate Notice within 6 weeks of building regulations approval being granted and prior to the commencement of any development must provide guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specification sufficient to ensure future maintenance as a public highway
- iv. Under Building Regulations B5, access for fire tenders is required to a point not further than 45 metres from the entrance to the dwelling. Any road or private drive forming part of such a fire access must be no less than 3.7 metres wide between kerbs (this may be reduced to 3.1 metres for a gateway or similar short narrowing) and should have a minimum centre line bend radius of 6.55 metres. The access way should be capable of carrying a 12.5 tonne vehicle. A cul-de-sac which is more than 20 metres long must have a turning head of a least Size 3.

Appendix 1



The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of Rowan House, 33 Sheepen Road, Colchester CO3 3WG under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority. Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use. This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Crown Copyright 100023706 2017

Item No:

Application:	190424
Applicant:	Regent Land And Developments
Agent:	Avison Young
Proposal:	Construction of 20 residential units together with parking, landscaping & associated works, including refurbishment of the existing Grade II Listed Granary Barn
Location:	Land At, East Bay Mill, 19 East Bay, Colchester, CO1 2UD
Ward:	Castle
Officer:	Alistair Day
Recommendation:	Approval

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because it has been called in by Cllr Crowe on the following grounds:

- Design - the proposed houses make no concessions to nearby architecture, they are simply designed in a modern style that could be found in any recent development in any town or city and therefore would look completely out of place in this setting.
- Parking - providing 26 parking spaces for 20 three bedroom family homes will be unmanageable and add to existing problems in the area.
- Access – this is unsuitable for large vehicles and due to the narrow nature of the track, there is concern for potential collisions between cars, and cars and cyclists, and cars and pedestrians.

1.2 This application would also have needed to come before the Planning Committee because it is a major development to which objections have been received and a s106 legal agreement is required.

2.0 Synopsis

2.1 The key issues explored below are land-use, design, traffic and highway implications, flood risk, impact on ecology and built heritage. The impact on neighbouring amenity and the surrounding area are also discussed in the report. The report concludes that subject to appropriate mitigation measures (conditions and s106 obligations), the development is acceptable and is consequently recommended approval

3.0 Site Description and Context

3.1 The application site (East Bay Mill) is located on the south side of East Hill and is bounded by the River Colne to the east and by the East Bay Allotments to the south. To the west of the site is East Bay House, a large late Georgian building which is listed grade II for its special architectural and historic interest, with further residential dwellings beyond.

3.2 The application site was formerly used for the sale of animal feed with associated residential accommodation. The site has been vacant since about 2004. Within the site there is a derelict Granary Barn (listed grade II) which has been severely damaged by fire and is currently enclosed by wrapped scaffolding. The remainder of the site contains areas of overgrown shrubs, fly-tipping and mounds of rubble. Access to the site is from East Hill and a non-adopted lane bisects the site. The lane forms part of National Cycle Route 1 and the Wivenhoe Trail. The northern part of the site is located within Colchester Conservation Area No.1 (Town Centre). The Sycamore tree in the centre of the site is the subject of a tree preservation order (18/02). The group of trees to the boundary of East Bay House are also protected by a tree preservation order (169/10). The trees that stand between the access and East

Hill are also important in terms of their contribution to character of the area; these trees stand within the highway and are not covered by a tree preservation order.

- 3.3 The character of the surrounding area is varied. To the north and west, the character is predominantly residential with two and three storey terraced properties. Large footprint industrial development is situated to the east of the site across the River Colne and there is an area of open space and playing fields to the north. To the south is an area of allotments and The Moors.

4.0 Description of the Proposal

- 4.1 The application seeks permission for the construction of 20 residential units together with parking, landscaping & associated works, including the refurbishment of the redundant Grade II Listed Granary Barn. A listed building application has also been submitted for the alteration of the former Granary Barn.

5.0 Land Use Allocation

- 5.1 Open space
Green Link
Conservation Area (northern part of the site)
- 5.2 Emerging Plan; Residential – up to 22 units including the listed building

6.0 Relevant Planning History

- 6.1 The relevant planning historic for this site includes:
- O/COL/02/1697 Outline permission for demolition of existing agricultural outbuildings and the retention, refurbishment and change of use of existing Grade II granary building to lounge and the erection of 49 retirement apartments (including 9 affordable units) with access, parking and associated works)
 - RM/COL/04/0884 - Application for Reserved Matters concerning Siting, Design and Access for demolition of existing buildings shown on plans and erection of 55 no. retirement apartments with access road, parking and associated works
 - 072117 Application for Reserved Matters concerning Landscaping for demolition of existing buildings and erection of 55 retirement apartments
 - LB/COL/03/0459 and CA/COL/02/1782 – conversion and alteration of listed building (the Granary Barn) and the demolition of ancillary buildings

In addition to the above, an appeal against an enforcement notice (ref. 200-000-090) was dismissed on 6th March 2013. This confirmed that the consented retirement apartment scheme had not been lawfully implemented and this permission has now lapsed.

6.2 More specific to the current application are the following preliminary enquires:

- 180838 - Restore former mill building for flexible A1/A3 use and to develop apartment buildings to provide 48 new homes.
- 182522 Preliminary Enquiry – Erection of 20 residential units together with parking, landscaping and associated works. This Preliminary Enquiry was also subject of an early Member Engagement Meeting.

7.0 Principal Policies

7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. Colchester's adopted Development Plan comprises the following documents:

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
- SD3 - Community Facilities
- H1 - Housing Delivery
- H2 - Housing Density
- H3 - Housing Diversity
- H4 - Affordable Housing
- UR2 - Built Design and Character
- PR1 - Open Space
- PR2 - People-friendly Streets
- TA1 - Accessibility and Changing Travel Behaviour
- TA2 - Walking and Cycling
- TA3 - Public Transport
- TA4 - Roads and Traffic
- TA5 - Parking
- ENV1 - Environment
- ENV2 - Rural Communities
- ER1 - Energy, Resources, Waste, Water and Recycling

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

- DP1 Design and Amenity
- DP3 Planning Obligations and the Community Infrastructure Levy
- DP4 Community Facilities
- DP12 Dwelling Standards
- DP14 Historic Environment Assets
- DP15 Retention of Open Space and Indoor Sports Facilities
- DP16 Private Amenity Space and Open Space Provision for New Residential Development
- DP17 Accessibility and Access
- DP18 Transport Infrastructure Proposals
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage
- DP21 Nature Conservation and Protected Lanes

7.4 Emerging Local Plan

In addition to the above, consideration also needs to be given to the Submission Draft Colchester Borough Local Plan 2017-2033 (the emerging local plan). The following emerging policies are considered to be relevant:

- SP1 Presumption in Favour of Sustainable Development
- SP2 Spatial Strategy for North Essex
- SP3 Meeting Housing Needs
- SP5 Infrastructure and Connectivity
- SP6 Place Shaping Principles
- SG1 Colchester's Spatial Strategy
- SG2 Housing Delivery
- SG7 Infrastructure Delivery and Impact Mitigation
- ENV1 Environment
- ENV3 Green Infrastructure
- ENV5 Pollution and Contaminated Land
- CC1 Climate Change
- PP1 Generic Infrastructure and Mitigation Requirements
- DM1 Health and Wellbeing
- DM2 Community Facilities
- DM3 Education Provision
- DM8 Affordable Housing
- DM9 Development Density
- DM10 Housing Diversity
- DM12 Housing Standards
- DM15 Design and Amenity
- DM16 Historic Environment
- DM18 Provision of Public Open Space
- DM19 Private Amenity Space
- DM20 Promoting Sustainable Transport and Changing Travel Behaviour

- DM21 Sustainable Access to Development
- DM22 Parking
- DM23 Flood Risk and Water Management
- DM24 Sustainable Urban Drainage Systems
- DM25 Renewable Energy, Water, Waste and Recycling

Paragraph 216 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.

As to the first limb, the Local Plan was submitted to the Planning Inspectorate in October 2017 and the formal examination commenced in January 2018. The Plan is at an advanced stage and may therefore be taken into consideration in the determination of planning applications. Many of the Development Management Policies follow similar principles to those of the current Local Plan and reflect national policy in the NPPF..

- 7.5 S66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess. Section 72(1) of the same Act requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of conservation areas.
- 7.6 The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy.
- 7.7 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):
- The Essex Design Guide
 - EPOA Vehicle Parking Standards
 - Backland and Infill
 - 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
 - Planning Out Crime

- Air Quality Management Guidance Note, Areas & Order

8.0 Consultations

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

Landscape Officer

- 8.2 The Landscape Officer has advised there are no objections to this application on landscape grounds. Conditions are recommended

Archaeological Advisor

- 8.3 The development affects a designated heritage asset (Grade II Listed building, The Old Mill, NHLE no. 1350373) and the site of East Bay Mill, which was located to the south of the Listed Building (granary). The Heritage Statement Addendum, by the Heritage Collective, provides adequate information relating to the Mill. A condition should be attached requiring an historic building recording survey of the barn.

- 8.4 In terms of below-ground archaeology, an adequate pre-determination field evaluation has been undertaken by the applicant and the archaeological implications of the development have now been established. Based on the findings of the evaluation, there are now 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 141), 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.

Environmental Protection

- 8.5 Environmental Protection do not wish to raise an objection to this application and have recommended conditions to cover a Construction Method Statement.

Contamination Land Officer

- 8.6 The Council's Contaminated Land Officer has not raised an objection to this application and has recommended conditions.

Environment Agency

- 8.7 The site is currently protected by flood defences with an effective crest level of 5.5m AOD which is above the present-day 0.5% (1 in 200) annual probability flood level of 4.28m AOD. Therefore the site is not at risk of flooding in the present-day 0.5% (1 in 200) annual probability flood event. The defences will continue to offer protection over the lifetime of the development, provided that the hold the line SMP policy is followed and the defences are raised in line with climate change.
- 8.8 We have inspected the application, as submitted, and we have no objection to this planning application because the site is currently defended and the SMP policy for this area has an aspiration for hold the line. If the SMP policy is not taken forward the development would be unsafe in the future.

SUDS

- 8.9 Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we recommend no objection to the granting of planning permission subject to conditions.

Urban Design Officer

- 8.10 The comments from the Council's Urban Design Officer (on the amended submission) can be summarised as follows:
- 8.11 Proposals are good in many ways, though have some non-ideal elements. In this respect, I understand the scheme has questionable viability and making previously suggested improvements (dated 19/3/19) would make it distinctly unviable. Crucially, the proposed development would on balance improve the area and restore the listed mill building. I would therefore support the application subject conditions to cover: landscaping and boundary treatments (particularly to the river and western and northern boundaries); the widening of parking space 25 to 2.7m; materials and architectural features.

Arboricultural Officer

- 8.12 The Arboricultural Officer has confirmed that he is in agreement with the tree survey and impact assessment provided and has stated that the proposal will have minimal impact on important landscape features to be retained. The trees shown to be removed are categorised as low value as per BS5837: 2012. However, the extent of pruning suggested within the document, specifically the height of crown raising, needs to be reconsidered as it is too high and will distort the shape of the crown.

Essex Fire and Rescue

- 8.13 The access for fire service appliances appears not to comply with ADB B5 in regard to the necessary dimensions required for an appliance turning point. More detailed observations on an access and facilities for the Fire Service will be considered at the Building Regulation consultation stage.

Council for British Archaeology

- 8.14 The summary from the Council for British Archaeology (CBA) is set out below:
- The CBA are supportive of a degree of development at this site, if it is deemed necessary to ensure the conservation-led restoration of East Bay Mill.
 - To meet the requirements of the National Planning Policy Framework, your Authority should be satisfied that the harm to the Conservation Area and the setting of East Bay Mill is outweighed by public benefit.
 - The CBA strongly advise that the conservation-led restoration of the mill should be secured by a section 106 agreement, or similar, should your Authority be minded to permit development at this site.

Anglian Water

- 8.15 The foul drainage from this development is in the catchment of Colchester Water Recycling Centre that will have available capacity for these flows. The sewerage system at present has available capacity for these flows.
- 8.16 The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option. Building Regulations (part H) on Drainage and Waste Disposal for England includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to watercourse and then connection to a sewer. From the details submitted the proposed method of surface water management does not relate to Anglian Water operated assets. As such, we are unable to provide comments on the suitability of the surface water management. The Local Planning Authority should seek the advice of the Lead Local Flood Authority. The Environment Agency should be consulted if the drainage system directly or indirectly involves the discharge of water into a watercourse.

Historic Buildings and Areas Officer

- 8.17 The comments from the HBAO can be summarised as follows:
- The former granary barn has been vacant since 2002/3 and is currently in a very poor state of repair after having suffered extensive damage from fire. Unless a viable use is secured for the building, its condition is expected to keep deteriorating, resulting in further loss of its evidential and historical value. The scheme to convert the building into a residential unit is welcomed in compliance with NPPF's Par. 192(a) which states that the determination of applications should take into

account the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. The Heritage Addendum provides an analysis of the structure's present condition and this has informed a new set of proposals for its conversion. There is some margin for further improvements, e.g. by a more limited use of the proposed rooflights whose number, size and distribution on both sides of the roof results in a strong visual impression that detracts from the building's character, the benefit from the development of the redundant heritage asset to secure its viability, outweighs the concerns regarding specific details which can be addressed at a later stage.

- The redundant East Bay Mill is seen in conjunction with East Bay House and its present fire damaged condition reflects poorly on the setting of the listed house. Any harm caused to the setting of listed buildings will need to be weighed against the public benefits. The public benefit of securing a viable use for the barn which is currently at risk is considered to outweigh any resultant harm identified.
- The site falls partly within the limits of the Conservation Area. The damaged structure is very visible when crossing East Bridge and its very dilapidated condition leaves an impression of neglect that detracts from the quality of the Conservation Area. The redevelopment of this derelict site is expected to benefit the Conservation Area by addressing this situation.
- Taking the above into consideration, there are no objections heritage objections to the proposals.

9.0 Parish Council Response

9.1 The site is not parish

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 the representations received is available to view on the Council's website. However, a summary of the material considerations is given below:

- Insufficient parking is proposed for the development, which when combined with the inadequacy of the existing availability will cause substantial problems. It is a fallacy to think that people will not have cars.
- The access is inappropriate - the existing lane is not wide enough for emergency service or refuse vehicles and is frequently obstructed by parked cars.
- There will be a conflict between vehicle users and users of the National cycle path.
- The development is of inappropriate density - the proposed number of dwellings and scale of properties is disproportionate to the scale and nature of the site (which is a conservation area).
- The design of the buildings is inappropriate. The style and layout of the dwellings is inconsistent with the listed buildings in the immediate vicinity

- The proposal to build 3-storey houses will be unacceptably intrusive and detrimental to the amenity of adjacent residents
- The development should comprise c12-14 bungalows, with a 30-40 parking provision.
- It is stated that in highway terms the proposed development is more akin to a mews. This is significant because the maximum permitted development of a mews is 20 dwellings, and the minimum width of the road must be 6m.
- It is stated that the nearest bus stop to the site is located on East Street and “accommodates a high frequency of bus services (every 2-5 minutes or so on average).” This is very misleading – the majority of services are every 30 minutes or more. Furthermore, the Department for Transport’s ‘Transport Statistics Great Britain 2017’ (published November 2017) found that just 7% of the population nationally use the bus as the usual mode of transport to work. It is unrealistic to suggest that car need for these proposed family dwellings isn’t necessary.
- The report suggests that the redevelopment of the site is not likely to cause a significant impact on local air quality; the current levels are already unacceptable.
- The proposed development has a Risk banding of ‘Black 1’ – the fourth out of a possible fifth ranking in terms of exposure to flood – which corresponds to a high probability of flooding according to the Environment Agency.
- It is stated that all windows passed the 25 degrees line test and were therefore automatically excluded from the detailed day light / sun light assessment. Our own assessment concludes that the windows would not pass the 25 degrees test and therefore a detailed assessment must take place.

10.2 The following comments have been made by Cllr Crowe:

- Design - The surrounding area of East Street and East Bay contains many unique buildings. Recent new builds in the area at Grosvenor Place and Riverside Place have borrowed and replicated architectural features from the Mill, and the new build cottages in Marriages Yard mimic a Tudor style with render and an overhanging first floor. By contrast the proposed houses make no such concessions to nearby architecture, they are simply designed in a modern style that could be found in any recent development and would look completely out of place in this setting.
- Parking - If there were one- or two-bedroom flats then it might work, but providing only 26 parking spaces for 20 three bedroom family homes is completely unrealistic. With the best will in the world people's needs change, someone in the household may get a new job requiring the household to need an additional car, a child passes their driving test and wants a car, and visitors need somewhere to park. This will be unmanageable and add to problems in existing problems in East Bay, Grosvenor Place and nearby Rouse Way as people search for places to park.
- Access - Essex County Fire and Rescue service have informed that the site does not comply with the guidance in ADB B5 with regard necessary dimensions for an appliance turning point. Additionally, residents are concerned that access to the site for fire engines can only be made via

a gap of less than 4 metres between the barn and a listed boundary wall. I am told that the dustbin lorries do not attempt to enter the site due to this restriction, and with such a narrow opening there is also great concern for potential collisions between cars, and cars and cyclists, and cars and pedestrians.

10.3 The Civic Society comments on the amended plans can be summarised as follows:

- We have studied the amended scheme and do appreciate the changes made to address some of the issues attending the original design.
- We note the efforts to improve the visual appearance of the housing by the use now of more sympathetic materials in keeping with the historic nature of the conservation area and the considerable work to reuse the Mill building itself as a modern house.
- The problem remains of the continuing use of the three storey houses which are not a reflection of the local character of the area. The result is a large massing of repeated forms of heights and blocks. There has been no change to produce a mix of building heights that would be more in keeping with the landscape and the historic setting.
- We remain concerned by the dominant nature of the parked cars adjacent to the National Cycle route and the pedestrian pathway. This parking has a detrimental effect on the tranquility of the lane and the strategic nature of the routes. These will include not merely the residents but all the many types of service traffic that housing brings: fire service, delivery vans, refuse service etc. We are quite unconvinced that some surface detail to the road surface can provide the necessary safety that this route deserves.
- We have concerns for the under provision of parking places for the development and unconvinced by the data and arguments in favour of this.
- In conclusion it is our belief that this development would not bring an improvement to the adjacent conservation area and the gain of the restoration of the Mill building will be largely lost in the massing of the site.

11.0 Parking Provision

11.1 Parking provision is considered in the main body of the report.

12.0 Accessibility

12.1 Please refer to Design & Access Statement regarding duties under the Equalities Act

13.0 Open Space Provisions

13.1 The provision of public and private amenity space is referred to below in the main body of the report.

14.0 Air Quality

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

15.0 Planning Obligations

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

- Archaeology £14,627.5+VAT Display, promotion and management of archaeological discoveries on the site (£12,000+VAT for museum quality display case, design and display material, £2,000+VAT for an interpretation panel, £627.50+VAT for enhancement of the Colchester HER and £290+VAT will be required if no archaeological remains are affected by the development, to integrate the information from the archaeological).
- Parks and Recreation - £136,632.25 was requested for Castle Park and East Bay Walk.
- Communities - £33,000. This contribution was being put forward to St Botolphs Church
- Affordable Housing - Standard 30% Policy
- Highways - Bus stop (eastbound) immediately opposite the site on East Street, Level entry kerbing, new post and flag (approx. £5000).
- NHS - No request as the scheme is under 50 dwellings.
- Education - £30,000.00 for early years, £90,000 towards St James Primary School
- Transportation - £6,000 to car club and £23,000 to Wivenhoe Trail Improvements.

If the site was shown to not be viable, a proportionate approach to the contributions (excluding affordable housing, which would not be required) was recommended.

16.0 Report

The Proposed Development

16.1 Planning permission is sought for the construction of 20 residential units together with parking, landscaping & associated works, including refurbishment of the existing Grade II Listed Granary Barn. A concurrent listed building application has also been submitted.

Principle of the Development and the Planning Background

- 16.2 The site was last used for sale of agricultural feed with a linked residential property. These activities ceased in about 2003 with the sale of the land for redevelopment. At that time, the site comprised an eighteenth-century Granary Barn with a modern framed building attached and mid twentieth century brick extension. To the south of these structures were various outbuildings arranged around a courtyard. Set against the west boundary was a group of much altered cottages.
- 16.3 In 2004, outline planning permission was granted for the erection of 49 two-bedroom retirement apartments with access, parking and associated works. Listed building consent was also granted for the alteration and conversion of the former Granary Barn to a lounge for the retirement apartments and for the demolition of other listed curtilage buildings. Reserved matters applications pursuant to the outline planning permission were submitted in 2004 (siting, design and access) and 2007 (landscaping). The approved development was essentially 3 storeys in height with the main entrance rising to four storeys to create a focal feature. The layout of the proposed building was 'L' shaped, providing a continuous frontage to the river and a courtyard style development to the interior of the site. The form of the proposed development was designed to reflect the historic layout of the former granary yard. The approved development was not however commenced and this planning permission has now lapsed.
- 16.4 Today, with the exception of the listed Granary Barn, all of the buildings have been cleared from the site due repeated problems of vandalism, anti-social behaviour and arson. The listed building has also suffered from vandalism and arson and is currently in a very poor condition.
- 16.5 The Council's Core Strategy (CS) provides the spatial strategy for the Borough and this directs development towards the most accessible and sustainable locations. The application site is located in close proximity to the town centre and is thus considered to be in an accessible and sustainable location.
- 16.6 The adopted Proposals Map identifies the site as forming part wider riverside 'open space / green link'. Notwithstanding this, the site, due to its past use, is a brownfield site where the principal of development can be accepted.
- 16.7 The emerging local plan shows evolved thinking in respect of this site and takes into account that this site is previously developed land (brownfield land) and the planning history. The relevant policy in the emerging plan is Policy EC3. This policy states that development will be supported where it provides:
- (i) Up to 22 new dwellings of a mix and type of housing to be compatible with surrounding development, including the Listed Building;
 - (ii) Adequate access including appropriate treatment / diversion of the existing Public Right of Way;
 - (iii) A satisfactory NPPF flood risk exception test and if met, provide flood risk mitigation measures;

- (iv) Protection and enhancement of the setting of listed buildings and the conservation area;
- (v) Appropriate conversion of the listed mill;
- (vi) Satisfactory contamination mitigation measures as required;
- (vii) An air quality assessment and mitigation against any harmful effects to the AQMA likely to be caused by proposals.
- (viii) Access to river frontage”

16.8 Given that the site constitutes previously developed land and is located in an accessible location, there is not an objection in principle to its redevelopment. Officers are also mindful that that planning permission has in the recent past been granted for the redevelopment of this site, albeit the previous permission has now lapsed. With regard to the emerging policy for this site, officers do not consider that the current scheme conflicts with the criterion set out in Policy EC3 (for the reasons set out in the report).

Heritage and Design Considerations

16.9 The Planning (Listed Building and Conservation Areas) Act 1990 requires that special regard is paid to the desirability of preserving listed buildings and their setting and that special attention is paid to the desirability of preserving or enhancing the character or appearance of a conservation area. CS Policy ENV1 and DPD Policy DP14 seek to conserve and enhance Colchester’s historic environment. With regard to design, CS Policy UR2 and DPD Policy DP1 seek to secure high quality and inclusive design in all developments, respecting and enhancing the characteristics of the site, its context and surroundings. The emerging plan policies reflects the requirements of currently adopted policies in terms of design, place shaping principles and heritage matters.

16.10 The NPPF sets out the desirability of sustaining and enhancing the significance of heritage assets (paragraph 192). It establishes that great weight should be given to an asset’s conservation and the more important that asset, the greater that weight should be (paragraph 193). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Any harm to, or loss of significance of a designated heritage asset (from its alteration or destruction, or from development within its setting) should require clear and convincing justification, (paragraph 194). Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, that harm should be weighed against the public benefits of the proposal, including securing its optimum viable use (paragraph 196). The NPPF also promotes good design advising that permission should be refused for development of poor design.

16.11 Objections have been received to this application claiming the design of the proposed buildings is inappropriate for this context, they are too large (tall)

and that the proposal constitutes overdevelopment. Objection has also been received alleging, due to the design and layout, that the scheme will have a detrimental impact on the character and appearance of the conservation area / setting of nearby listed buildings.

16.12 The proposed development has been designed to create an enclave of terraced housing arranged around the principal trees on the site. Most of the proposed dwellings are three storey units while the westernmost unit has been limited to part one/part two storeys. The Planning Statement explains that the size of the smaller unit has been designed to ensure that it has an appropriate relationship to the adjacent dwellings. The listed Granary Barn is also proposed to be converted into a two-storey dwelling with a mezzanine level. The proposed new buildings adopt a traditional domestic form and use materials that are typically found in Colchester. The use of weatherboarding, in addition to two types of brick, has been proposed to visually tie the new development to the former Granary Barn. The concerns raised regarding the three-storey nature of the dwellings are appreciated. It is however important to note that the scheme previously approved by the Planning Committee was for a denser development which ranged in height between two and four storeys. Given this fact, provided it can be adequately demonstrated that the current application does not have a significant detrimental impact on the amenity of the adjacent residential properties, it is not considered that an objection can be sustained to the height of the proposed dwellings. The concerns expressed regarding the design of the proposed dwellings are also noted. As originally submitted, large picture windows were set in a random disposition. Through negotiation, the treatment of the facades has been amended so that they now adopt a more ordered composition and, in doing so, reflect more closely the pattern found on traditional Victorian dwellings, albeit reinterpreted in a contemporary style. There is not an objection to this approach, provided high quality materials are used and architectural features are appropriately detailed. Conditions to cover such elements are accordingly recommended. Whilst the design of the scheme is generally considered acceptable, further amendments have been requested to house type 5 and the listed building. Amended drawings are expected prior to the Planning Committee meeting.

16.13 The impact that the proposed development will have on the character and appearance of the conservation area and the setting of the nearby listed building is an important consideration. The group of buildings at East Bay are described as follows in the draft Colchester No.1 Conservation Area Character Appraisal:

“East Bay, with its green and trees in front, has something of a village character. The curving block of houses (nos.1-13) mostly dates from the early and mid 19th century, but nos.1 and 2 incorporate the remnants of a 15th century cross wing with screens passage. No.16 (Bay Cottage) is a detached timber-framed and plastered cottage dating from the 18th century. Further towards the river is East Bay House (nos.17/18), a large late Georgian red brick house c1780, with a doorcase with Ionic columns”

The views north and south from the bridge are also considered:

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“The view north from the bridge is pleasant, with the green open space on one side and the restored and new buildings and terraced walkway on the other. In contrast, the view south is not so attractive and there is little or no public access to the riverbanks. On the west bank stands the dilapidated remains of the old East Bay Mill, built of Baltic pine and weatherboarding in the 18th century. “

- 16.14 The Colchester No.1 Conservation Area Appraisal (Area 4) identifies the “derelict site” of the old East Bay Mill as the one area in need of significant improvement. In its current form, the site detracts from the character and appearance of the conservation areas and its redevelopment has the potential to enhance both the site and its surroundings.
- 16.15 The listed Granary Barn is an important building in terms of the historic development of Colchester and the Colne river frontage. It originally formed part of a wider complex of mill buildings (located to the south). The barn itself was converted by the Doe family into a feed mill in about 1923. A large lorry shed was added to the south side of the building in the 1930s and a brick extension added to the east gable in the 1940s. The barn has been vacant since about 2003 and is currently in a very poor condition due to extensive fire damage. In its present condition, the building is of diminished ‘evidential’ value, with its upper floors substantially destroyed and with it, limited ability to understand or interpret the way in which the building was constructed and/or used. Even before the fire, the alterations to the barn and the wider site made it difficult to appreciate how the building once functioned and/or its relationship with river transport. The overall significance of the Granary Barn in its present state remains high, but the ability to appreciate it as low. The barn remains at extreme risk. The current application proposes the full repair and conversion of the Granary Barn which is welcomed. The comments made by the Archaeological Officer regarding the need for further historic context analysis and building recording are noted. A further Heritage Statement has been submitted to address these concerns. With regard to building recording, a condition is proposed, and the result of this analysis will be used to inform the repair of the listed building.
- 16.16 It is accepted that the proposed new development will affect (change) the setting of nearby listed buildings, most notably the Granary Barn and East Bay House. Whilst the proposed new housing is taller than the listed barn, the height difference is not considered to be so great so as to dominate (and therefore significantly detract) from the setting of this building. The harm caused is therefore considered to be less than substantial and, as such, the public benefits need to be weighed against the harm caused. In this instance, the public benefits constitute the repair and re-use of the listed building ‘At Risk’ and this is considered to outweigh the harm caused by the new development to the setting of the barn. The enhancement of the conservation area is also considered to be a public benefit. With regard to East Bay House, the proposed development is subservient to the height and presence of this building and set at a distance from it. In view of this, it is not considered that the proposed development would introduce a new element

of built form that would significantly detract from the setting of this building. Any harm caused to the setting of East Bay House would again be outweighed by the public benefits of securing the repair of the listed barn and the enhancement of the conservation area. The comments made by some residents that the scheme constitutes overdevelopment are noted. The density of the proposed development is 54 dwellings per hectare which is reasonable given the site's central location and the pattern of surrounding development. Member should also note that the emerging local plan for this site indicates that up to 22 dwellings would be suitable; the current application provides fewer dwellings than that anticipated by the emerging plan.

- 16.17 An archaeological assessment has been undertaken to assess the likelihood of archaeological remains existing on the application site. The Council's Archaeological Officer has advised that in terms of below-ground archaeology, an adequate pre-determination field evaluation has been undertaken. Based on the findings of the evaluation, there are now no grounds to consider refusal of permission in order to achieve preservation *in situ* of any important heritage assets. A planning condition to record and advance understanding of the significance of any buried heritage asset is recommended.
- 16.18 The design and layout of the proposed development is considered to be consistent with relevant adopted and emerging policies and the guidance set out in the NPPF in so far as they promote high quality design and the conservation of heritage assets. Viewed from the north (within the conservation area), the refurbished Granary Barn will reassume a positive role as part of a group of 18th and 19th century buildings. Any harm that will be caused by this development will be less than substantial. In this instance, the public benefits (which include the redevelopment of a derelict site, which detracts from the appearance of the conservation area, and the repair and reuse of an 'At Risk' listed building) weigh heavily in favour of the scheme. Given this, the proposed development is considered to be consistent with the aforementioned relevant adopted local plan policies and national planning policy guidance in relation to the historic environment.

Residential Amenity

- 16.19 DPD Policy DP1 states that all development must be designed to a high standard and avoid unacceptable impacts on amenity. DPD Policy DP12 requires high standards for design, construction and layout in new residential development. The adopted Essex Design Guide also provides guidance on the protection of residential private amenity. Emerging Policy SP6 states that all new development should protect the amenity of existing and future residents and users with regard to noise, vibration, smell, loss of light and overlooking.
- 16.20 Objections have been made to this application on the grounds that it would have a detrimental impact on the existing residential properties (including loss of private amenity and outlook). Concern has also been raised

regarding noise and disturbance from construction and additional residential traffic.

- 16.21 East Bay House and 23 Berry Fields are the two existing properties that are potentially most affected by this application. The Essex Design Guide considers that where properties are set parallel to one another, a back-to-back distance of 25m is sufficient to protect private amenity. The proposed terrace of housing to the south of the listed barn is set (at its nearest point) approximately 18m from the side return of East Bay House and is angled away from it. The first and second floors of the new dwellings (facing East Bay House) contain bedrooms and bathrooms. It is understood that bedrooms are also located on the upper floors of side return of East Bay House. The relationship between the proposed development and East Bay House is more akin to a situation where a side return of a house addresses a street and the properties opposite front onto that street. In such circumstances the key consideration is the potential impact on daylight / sunlight (discussed below). There are also two proposed dwellings that 'face' directly towards the south elevation of East Bay House (which is considered to be the rear elevation of the property). Plot 20 is located directly adjacent to the southern boundary of East Bay House. There are two windows on north elevation of the ground floor of the proposed dwelling which serve a kitchen and bathroom. These windows, although facing directly towards East Bay House will not cause an overlooking issue due to the intervening boundary wall. At first floor level, no windows are proposed on the north elevation of the new dwelling and therefore an issue of overlooking is not created. Plot 15 is also located south of East Bay House. This property is set at an angle to and some 27m from the rear elevation of the East Bay House. Given the degree of separation between these properties, a significant issue of overlooking is not created. With regard to 23 Berry Field, the nearest proposed dwelling (plot 20) has been designed so that there are no windows in the west elevation at first floor level (i.e. directly looking towards the property). Furthermore, the number of windows to the first-floor bedroom on the south elevation of this plot have also been reduced from two to one and the window has been moved further to the east (i.e. away from the boundary) to help prevent the perception of overlooking of 23 Berry Fields. Regarding the siting and design of the other proposed dwellings, these have been detailed with careful consideration to the orientation of windows and the use of obscured glazing for the proposed roof terraces to mitigate the potential overlooking to neighbouring properties. Given the sensitivity surrounding potential overlooking, it is recommended that conditions are attached removing permitted development rights for the insertion of new windows and that balcony screens are installed prior to the occupation (and thereafter retained)
- 16.22 Concern has been expressed that the development will also result in the overshadowing of existing properties. The Building Research Establishment's Report "Site Layout Planning for Daylight and Sunlight 1991 suggests that acceptable daylight to interiors is achieved if a 25° vertical angle from a point two metres above the floor is not obstructed. Details submitted with the application show that the proposed development will not result in the infringement of this guideline. It is also stated the layout of the

proposed development has followed the methodology of the BRE Guidelines in assessing the area of the neighbouring amenity spaces receiving more than 2 hours of sunlight, as this is the BRE criterion for adequate sunlight provision throughout the year. With the exception of plot 20, the proposed development is largely located away from existing residential properties and it is not considered that these units will have an unacceptable impact on neighbouring properties. Plot 20 is located in close proximity to the adjacent properties (notably East Bay House and 23 Berry Field). Given this, and in order to safeguard the amenity these properties, the height of this building has been limited to part 1 and part 2 storeys. The BRE tests described above have been applied and demonstrate that the proposals would have minimal to no impact to the lighting levels to existing properties.

- 16.23 With regard to noise and disturbance from construction work, it is accepted that this can have an adverse impact on local residents and, as such, it is recommended that a condition is attached requiring the submission of a Construction Method Statement.
- 16.24 For the reasons given above, it is considered that the proposed development would not have a significant adverse effect on the amenity of neighbouring properties. In view of this, the proposed development is not considered to conflict with DPD Policies DP1 and DP12 or the NPPF insofar as they seek to secure a good standard of amenity for all occupants of land and buildings

Trees and Landscape

- 16.25 Policy ENV1 states that the Borough Council will conserve and enhance Colchester's natural and historic environment. Central Government guidance on conserving the natural environment is set out in the NPPF.
- 16.26 There are a number of mature trees within and adjacent to the application site, which make an important contribution to the character of the area. An Arboricultural Impact Assessment (AIA) has been prepared in support of this application. The Council's Tree Officer confirmed that he is in agreement with submitted report and that the trees proposed for removal are low value. The concerns expressed regarding the extent of proposed pruning work are noted and a condition is proposed recommending a revised pruning scheme to be agreed.
- 16.27 In terms of landscaping, the scheme provides a central communal area and a landscaped path alongside the river embankment. The hard and soft landscaping proposals will result in a significant visual enhancement of the site and its immediate surroundings. It is proposed that the open space is maintained by a management company; it is recommended that this is secured in the legal agreement and that the general public have access to this space. The comments made by the Council's Urban Design Officer regarding the boundary treatment to the river bank frontage are noted. The Council's Landscape Officer has not however raised an objection to these

elements and it is considered the concerns raised can be adequately controlled through the detailed landscape scheme (condition).

- 16.28 In terms of the tree protection and the landscaping proposals, the planning application is considered to accord with CS Policy ENV1 and policies DPD DP1 and DP21 that require development schemes to respect and enhance the landscape and assimilate it into new development.

Outdoor Space and Private Amenity Space

- 16.29 DPD Policy DP16 sets out standards for private amenity space and public open space as part of new housing developments. Regarding public open space, this policy states that open space provision will depend on the location of the proposal but as a guideline, at least 10% of the gross site area should be provided as useable open space. The emerging local plan sets out a similar requirement to the adopted local plan in respect of amenity space.

- 16.30 With regard to private amenity space, Policy DP16 sets out a range of garden sizes which are as follows for houses:

- One or two bedroom houses – a minimum of 50m²
- 3 bedroom houses – a minimum of 60m²
- 4 bedroom houses – a minimum of 100m²

- 16.31 The proposed development provides each dwelling with a private garden that range in size from 20sqm to 58sqm. In addition to this, 12sqm roof terraces are also proposed to maximise amenity space provision to all units (other than to the Granary Barn and western most detached dwelling). Notwithstanding this, some of the amenity areas fall short of the required 60sqm. Whilst it is a clear aspiration to achieve a policy compliant scheme in respect of garden sizes, it has not been possible to achieve this due to the constraints of the site. Moreover, in constrained / historic urban areas, it is not unusual for residential properties to have smaller gardens. In this instance, the proposed private amenity space is, on balance, considered to be acceptable.

- 16.32 With regard to public open space, the scheme provides a landscaped central communal area of 303sqm. There is also a landscaped riverside path for the enjoyment of residents which provides further communal amenity space. This amenity space exceeds the 10% policy requirement.
- 16.33 In terms of the private and public amenity space, it is accepted that the scheme does not fully comply with policy DPD 16, however given the site's context and constraints, the proposal is, on balance, considered to be acceptable.

Ecology and Biodiversity

- 16.34 Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. DPD 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. Policy ENV1 states that the Borough Council will conserve and enhance Colchester's natural and historic environment. Conserving and enhancing the natural environment is also a core principle of the NPPF.
- 16.35 The application site largely consists of rough ground. In terms of biodiversity, a Phase 1 Habitat Survey has been undertaken to support the application. This survey notes that the site itself does not fall within a statutory/non-statutory designation, but that there are three statutory designated sites and 17 non-statutory designated sites within 2 km of the site. The Local Wildlife Site of the Moors is found 0.2km to the south, beyond the East Bay Allotments.
- 16.36 The original submitted habitat assessment notes that the site has the potential to support reptiles, bats, nesting birds, invertebrates and hedgehogs, with possible otters using the connectivity provided by the River Colne. The original report notes that the remains of a Granary Barn and a single mature sycamore tree have the potential for bat roosts. The site was further inspected by a licenced bat surveyor and the tree was re-assessed as being of low potential and the barn, in its current condition, as being of negligible to low roost potential. The supplemental report does however comment that a survey at a later date could be used to identify species active in the area and inform enhancement in the form of new roosting provision in the restored building and wider development. With regard to reptiles, the supplemental report notes that the site contains a limited amount of potential for reptiles but is connected to suitable habitats. This report goes on to state that it will be necessary to determine whether common reptile species are present; if they are, the proposed landscape buffer will provide a connecting habitat and a suitable receptor area during construction. If reptiles are not found, an exclusion fence is recommended along the southern boundary of the site to prevent reptiles entering the site during construction. The supplemental report states that, with a few exceptions most invertebrates

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are not legally protected or considered to be species of principal importance. Of those with potential to be present in Colchester town centre only *Lucanus cervus* (stag beetle) is anticipated in the wider area and however there are currently no suitable habitat for this species within the site. Finally, the supplemental report notes that both otters and water voles are present in the River Colne but that the application site does not provide a suitable habitat for these species. Conditions are recommended for the additional survey works described above and for the submission of a scheme of ecological mitigation and enhancement. In addition to the above, the installation of bird boxes is also recommended.

- 16.37 The application site also lies within a zone of influence of a European designated site and to comply with the Habitats and Species Regulations 2017 (as amended), mitigation of any recreational impact will be required in accordance with the draft Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS). This will equate to a financial contribution that can be secured via S106 agreement
- 16.38 The ecological potential of the site has been carefully considered and the potential for European Protected Species to use the habitats on site assessed. The fauna protected by the Wildlife and Countryside Act 1981 and species listed as of principal importance in Section 41 of the Natural Environment and Rural Communities Act 2006 are material considerations for local planning authorities. Subject to conditions to secure ecological enhancement measures, it is considered that the proposed development accords with the relevant statutory provisions, the adopted policy ENV1 and the requirements of the NPPF which seek to minimise impacts on biodiversity and, where possible, to provide net gains in biodiversity.

Transport and Accessibility

- 16.39 CS Policies TA1 to TA4 seeks to improve accessibility and change travel behaviour. Public Realm Policy PR2 requires that the design creates secure attractive, safe and people friendly streets. The Adopted Cycling SPD (January 2012) sets out several measures to enhance and promote cycling. The NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 16.40 The existing vehicular access to the site is currently afforded from the southern side of East Street via a track, the northern part of which is public highway (under the jurisdiction of ECC); the remainder of the track is owned by Colchester Borough Council. The access road is used by cyclists (as part of cycle route NCR51) and pedestrians, as well as serving East Bay House, the electricity substation and the allotments.
- 16.41 It is proposed to retain the access road along its existing alignment and widened this, where possible, to around 6.0 metres. The Transportation Statements explains that the widening of the access road would be undertaken to ensure that two vehicles could generally pass each other

without causing inconvenience to other users of the track. The Transportation Statement also states that the access track would be suitable for emergency vehicles and provides a turning loop within the site to allow for larger servicing and delivery sized vehicles to turn and egress the site in a forward gear safely. The Statement does acknowledge that the access road narrows adjacent to the Granary Barn but opines that due the straightening of the lane in this location, larger vehicles would be able to access the site and drivers would be afforded with suitable forward inter-visibility. In addition to the above, upgrade works are proposed to the junction with East Street to improve this junction.

- 16.42 Representations have been made claiming the access road is inadequate to accommodate additional traffic due to its width and that the intensification of its use will create a conflict with pedestrian and cycle users. The Highway Authority has been consulted on the application and have requested a number of amendments to the scheme. These concerns principally relate to the possibility that residents will pass the southern end of the loop looking for a parking space, not be successful in finding a space and will then be required to reverse back along the road; that some of the car parking spaces are 'tight' and that high quality cycle parking should be within the curtilage of the properties and this should be safe and convenient to access. Revised drawings have been submitted which seek to address the concerns raised. At the time of writing this report, updated comments from the Highway Authority are still awaited.
- 16.43 Comment has been made from a local resident that the width of road between the Granary Barn and the boundary wall of East Bay House is incorrectly stated on the submitted drawings. This comment is the result of misinterpreting a spot height as the width of the access track.
- 16.44 Provided the comments raised by the Highway Authority are satisfactorily addressed, it is considered that the proposed development would accords with relevant development plan policies and national planning policy guidance set out in the Framework.

Parking

- 16.45 CS Policy TA5 refers to parking and states that development proposals should manage parking to accord with the accessibility of the location and to ensure people friendly street environments. DPD Policy DP19 states that the Council will refer developers to the Essex Planning Officers Association (EPOA) Vehicle Parking Standards which was adopted by Colchester Borough Council as a Supplementary Planning Document (SPD) in November 2009. Emerging Policy DM22 states that parking should be provided in accordance with the most up to date parking guidance taking into account the following factors:
- i. Levels of local accessibility;
 - ii. Historic and forecast car ownership levels;

iii. The size, type, tenure and location of the dwellings; and

iv. The appropriate mix of parking types including opportunities for car-sharing (e.g. unallocated, on-street, visitor, car club etc).

16.46 The Council's adopted parking standards state that for new dwellings of two or more bedrooms, two car parking spaces should generally be provided. In addition to this, provision for visitor parking at a ratio of 0.25 spaces per unit is required. The guidance does however state that in accessible location, such as town centres, a reduction in car parking can be considered.

16.47 A selection of parking arrangements are proposed which would provide parking for up to 26 cars; this represents a parking provision of 1.3 spaces per unit. Two sets of tandem parking spaces are proposed, whilst the remaining 22 spaces would be independently accessible spaces.

16.48 Objection has been made to this application on the grounds that insufficient car parking is being provided and that this will exacerbate parking problems in the area.

16.49 The application site is located in an accessible location, due to close proximity to the town centre and public transport facilities. Given this, the site is considered to have good accessibility and sustainability credentials and is therefore a site where a reduced level of parking can be accepted.

16.50 Notwithstanding the above, the Transport Statement also considers car ownership levels in the local area (Castle Ward) and notes that there is an average car ownership of 0.85 cars per household. If this figure is applied to this development this would lead to an anticipated car parking demand of 17 vehicles. Assuming the maximum number of visitors is provided (i.e. 0.25 spaces per unit), an overall parking provision of 22 vehicles would be required.

16.51 The Transport Statement acknowledges that, during the public consultation several residents identified a concern relating to the potential for parking on the access road. The Transport Statement goes on to explain that:

- The widened and private sections of the access road would be the subject to parking enforcement through a management company responsible for the private areas of the site.
- The proposed layout is designed such that private parking is accessed from the access road thereby meaning that drivers would not be able to park in certain locations due to the fact that it would block access to designated parking spaces.
- The width of the looped arrangement is designed to be tight; the reduced width of the loop ensures that it is not practical for a car to park on the loop without obstructing the roadway and therefore would be self-policing.
- The lack of parking including on street parking outside the application site will discourage car ownership. All other parts of the public highway within 250 metres of the site are restricted by double yellow lines where

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no parking can occur. It is typical for residents to park up to a maximum of 200 metres (as per the Lambeth parking stress methodology) from their home if parking on street, hence 250 metres represents a robust assumption.

- 16.52 The potential problems associated with car parking are fully appreciated. The design and layout of the site has been carefully considered to reduce the risk of indiscriminate parking as far as possible. The potential for unauthorised parking will be further managed by the introduction of formal parking control measures across the development (secured by the s106 legal agreement). It is considered that an acceptable balance has been struck between need to accommodate an appropriate level of parking to serve the development and need to ensure that car parking is not so overly dominant so as to detract from the landscape qualities of the site and/or the nearby heritage assets.
- 16.53 In terms of cycle parking, the Council's adopted guidance requires 1 secure covered space per dwelling to be provided. Each dwelling is to be provided with a secure cycle parking stores and it is proposed that a planning condition cover this matter.
- 16.54 The sensitivities surrounding parking are fully appreciated however in this instance, given the site's sustainable location and the unique constraints of the site, the proposed parking provision is considered to be acceptable.

Drainage and Flood Risk

- 16.55 CS Policy ENV1 sets out the strategic policy approach to safeguard people and property from the risk of flooding. ENV1 seeks to direct new development towards sites with the lowest risk from flooding and promotes the use of flood mitigation measures (SUDS) to help manage risk. CS Policy ER1 relates to Energy, Resources, Waste, Water and Recycling in Colchester. DPD Policy DP20 supports development proposals that include flood mitigation/ attenuation measures as well as flood resilience measures.
- 16.56 Most of the site is classified as Flood Zone 3 with the remainder classified as Flood Zone 2. The Flood Risk Assessment (FRA) states that the site is shown to benefit from the presence of established flood defences; these comprise high ground along the edge of the site and also the Colne Barrier (located approximately 5.9km downstream at Wivenhoe). The FRA goes on to state that, as the site benefits from defences which protect it from tidal flooding, the fluvial risk represents the more significant threat to the site.
- 16.57 The NPPF requires a Sequential Test to be applied at all stages of the planning process. This approach is designed to steer new development away from high risk areas towards those areas at lower risk of flooding. In this instance, the FRA has established that while a proportion of the site lies within Flood Zone 2 (and is therefore suitable for residential development) the remainder of the site is classified as Flood Zone 3a and therefore subject to the Exception Test. The FRA explains that there are three elements to the Exception Test, all of which must be satisfied. These are:

- Sustainability – it must be proven that the development confers wider benefits to community at large that outweigh the potential flood risk;
- Brownfield land – the site should be previously developed land; and
- Safe – a site specific FRA must demonstrate that the development will be safe, without increasing flood risk elsewhere and where possible will reduce flood risk overall

The FRA concludes that:

- the proposal will provide much needed family homes while also supporting the regeneration in this part of Colchester.
- The site is currently vacant and classified as brownfield having been formerly occupied by the now derelict East Bay Mill.
- The FRA has demonstrated that the site is safe from flooding originating from the River Colne, being protected by defences for all fluvial events up to and including the 1% AEP. Finished floor levels can be set above the design flood level, including an allowance for climate change. There is no significant risk of groundwater, pluvial, artificial or sewer flooding.

16.58 Given the above the FRA concludes that the redevelopment of this site is acceptable from a flood risk (fluvial and/or tidal) perspective. It is important to note that the Environment Agency has not raised an objection to this application. In their letter, the Environment Agency has drawn to the Council's attention a number of flooding related matters, including that consideration should be given to the preparation of a Flood Warning and Evacuation Plan and the incorporation of Flood Resilient Measures and that Council's Emergency Planning Officer should be consulted on these. Conditions are proposed in respect of Flood Warning and Evacuation Plan and Flood Resilient Measures and the Emergency Planning Officer can be consulted prior to approving these details.

16.59 Regarding surface water drainage, it is standard practice for new developments to limit surface water discharges to Greenfield rates of runoff, via the use of sustainable drainage techniques. The FRA however, comments that as the adjacent watercourse is tidally influenced, the impact of the total runoff from the site is insignificant compared to the overall capacity of the river and, as such, it is typically accepted by the Environment Agency that there is no need to restrict the rate of runoff. In this instance, the site already includes a significant proportion of building footprints and hardstanding, any change in the impermeable surfacing, has the potential to have a significant impact on the surface water regime and therefore the use of a sustainable drainage system will be crucial in preventing future flooding, both on and off-site. The FRA therefore recommends that tanked permeable paving is used on the circulation road and parking bays. This will allow all surface water runoff from the areas of hardstanding to be captured within the sub base and released gradually. It is proposed that roof runoff will also be discharged into the sub-base prior to undergoing an unattenuated discharge into the River Colne. Neither the Lead Local Flood Authority nor the Environment Agency have raised an objection to this

approach. The former has however recommended a suite of planning conditions.

- 16.60 Anglian Water has a number of assets in the area and they have therefore been consulted on this application. Anglian Water has confirmed that the sewerage system at present has available capacity for the flows associated with this development. Anglian Water also note that the preferred method of surface water disposal would be to a sustainable drainage system (SuDS). Anglian Water has advised that, from the details submitted, the proposed method of surface water management does not relate to Anglian Water operated assets and that the Lead Local Flood Authority should be consulted. The Lead Local Flood Authority have confirmed that they do not have an objection to this application subject to condition.
- 16.61 For the reasons given above, the proposed development is not considered to generate an unacceptable flood risk and, as such, is considered to accord with local and national policy guidance in respect of this matter.

Contamination

- 16.62 Development Plan Policy DP1 requires all development to avoid unacceptable environmental impacts; part (vi) requires the appropriate remediation of contaminated land.
- 16.63 A desk top based contamination report accompanies this application. The Council's Contamination Land Officer agrees with the conclusions of the submitted reports and has recommended conditions to provide a framework for further assessment, and remediation works (as appropriate).

Air Quality

- 16.64 The Core Strategy contains policies for the delivery of development, infrastructure, facilities and services in Colchester to 2021. Whilst the Council does not have a specific policy on air quality within the Core Strategy; Policy TA4 does however state that "The demand for car travel will be managed to prevent adverse impacts on sustainable transportation, air quality, local amenity and built character." The adopted Colchester Borough Council - Air Quality Guidance Note is a material consideration. In the emerging plan, Policy ENV5 states that proposals will be supported that will not result in an unacceptable risk to public health or safety or the environment. This policy goes on to state that proposals for developments within designated Air Quality Management Areas (AQMAs) will only be granted where the Council is satisfied that after selection of appropriate mitigation the development will not have an unacceptable significant impact on air quality, health and well - being. Emerging Policy EC3, furthermore, requires "*An air quality assessment and mitigation against any harmful effects to the AQMA likely to be caused by proposals.*"
- 16.65 The site is located approximately 50m east of Colchester's 'Central Corridors' Air Quality Management Area (AQMA) and 50m west of the 'East Street and adjoining end of Ipswich Road' AQMA. Both AQMA's have been

declared due to measured exceedances of the long-term air quality objective for nitrogen dioxide (NO₂). The primary source of emissions of this pollutant in the area is road traffic.

- 16.66 An Air Quality Assessment has been submitted in support of this application. During the construction phase, the site has the potential to generate dust nuisance beyond the application boundary. The assessment however states that through the implementation of appropriate air quality dust management measures as part of the Construction Management Plan, the impacts will be effectively minimised and are unlikely to be significant. The assessment notes that construction traffic will contribute to existing traffic levels on the surrounding road network. The increase in traffic will however be temporary and is unlikely to be significant in terms of total flow or construction duration. Given this, the impact of vehicular emissions of NO₂ and PM₁₀ from construction traffic and on-site machinery on local air quality is therefore considered to be negligible.
- 16.67 With regard to operational traffic the Air Quality Assessment notes that the proposed development will include parking and it is anticipated that this will not normally generate more than 56 additional vehicle movements on East Street per day. Given this, the assessment opines that the impact on local air quality of emissions from operational traffic will be negligible. Dispersion modelling of emissions from traffic on East Street and Brook Street has also been undertaken to predict pollutant concentrations at the proposed development to determine whether on-site mitigation will be required to protect future occupants from poor air quality. The assessment indicates that concentrations will be well within the relevant long- and short-term air quality objectives. In view of the above, the Air Quality Assessment states that air quality would not pose a constraint to the redevelopment of the site as proposed. The Council's Environmental Protection Team have not raised an objection to this application on the ground of air quality impacts.
- 16.68 With regards to air quality, therefore, the proposals are considered to be acceptable and in accordance with policy.

Development Obligations

- 16.69 Policy SD2 of Colchester's Core Strategy provides that new development will be required to provide the necessary community facilities, open space, transport infrastructure and other requirements to meet the community needs arising from the proposal. This policy goes on to state that the Council will seek to employ standard charges where appropriate to ensure that new development makes a reasonable contribution to the provision of related facilities and infrastructure. The viability of developments will also be considered when determining the extent and priority of development contributions. Further policies on specific topic areas are provided within the

Core Strategy and the Development Plan Policies (for example on affordable housing, health, community facilities and open space etc).

16.70 The NPPF provides guidance on when planning obligations should be used. Planning obligations must only be sought where they meet all of the following tests:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

The NPPF goes on to state that where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage.

16.71 The Council's Development Team considers all major planning applications submitted to this Council and makes recommendations in respect of priorities for s106 obligations. The Development Team requested that the following obligations were required to mitigate the impact of this development proposal:

- Archaeology - £14,627.5+VAT
- Parks and Recreation - £136,632.25
- Communities - £33,000.
- Affordable Housing – Standard 20% Policy
- Highways – Upgrading of the bus stop on East Street, (level entry kerbing, new post and flag (approx. £5000)
- Education - £30,000.00 for early years, £90,000 towards St James Primary School
- Transportation - £6,000 to car club and £23,000 to Wivenhoe Trail Improvements.

- 16.72 The Development Team noted that the applicant had stated that the proposed scheme was not viable and therefore it could not fund all s106 obligations. The Development Team recommended that an independent viability assessment was undertaken to verify the applicant's claim in respect of this matter.
- 16.73 BPS has audited the developer's viability appraisal, which currently shows a profit 5.83% of Gross Development Value (GDV), against the proposed target of 20% or £1,434,000. BPS has advised that the site has no existing value in planning viability terms (which effectively constitutes a write down in the suggested land value of £211,200). BPS has also recommended that a developer's profit of 17.5% is used (rather than 20% as suggested by the applicant). BPS has advised that the submitted cost plan is considered reasonable by reference to BCIS elemental analysis but that the abnormal costs appear very high. The total abnormal costs included in the construction cost estimate is £1,385,000 comprising: facilitating works £98,000, abnormal costs £337,000 (secant piled wall to river, upgrade access route, extra renovation to mill building), site works drainage and external services £610,000 and risk items £340,000 (asbestos, ground remediation, ground obstructions, substation, flood attenuation). Included in the abnormal costs are allowances for asbestos removal and scaffolding (£48,000 and £50,000 respectively) which are not considered to be justified as abnormal costs. BPS has also advised that insufficient information / justification has been provided on the other abnormal costs to demonstrate whether these are reasonable.
- 16.74 In addition to the above, BPS has noted that the appraisal uses the planning obligations provided at the preliminary enquiry stage £263,197. The updated contributions (£338,260) include requests from the Highway Authority and Education Authority neither of whom comment on preliminary enquiry applications. The appraisal does not include the provision of affordable housing. BPS also note that the NPPF (Paragraph 64) requires all major developments involving the provision of housing to provide at least 10% affordable housing (unless it falls within an exemption category, which the current development does not).
- 16.75 In order to gain a greater understanding of the viability of the development, the developer has been asked to re-run their assessment to include nil value for the land and to exclude the abnormal costs. This shows a developer's profit of about 11.17%. If the updated s106 contributions are included (excluding the affordable housing) the profit level falls to 10%.
- 16.76 Given the above, it is concluded that the current proposal does not deliver a market return for the developer and officers accept the current proposal cannot viably support all the requested planning obligations. Notwithstanding the viability position of the development, the applicant has offered £165,000 to cover the transport, archaeology and education contributions and agreed to a viability review.
- 16.77 The reduced level of s106 contribution means that the development will fail to mitigate its full impact. Given this, Members may wish to take the view that

the failure to provide the requested s106 obligations and to deliver a minimum of 10% affordable housing means that the proposal does not constitute sustainable development and should be refused on this basis. Officers would however caution against such an approach. The application site, due to its poor condition, has attracted anti-social behaviour for many years. Officers believe that the current scheme offers a pragmatic solution to the redevelopment of this derelict site and that would secure the repair of an 'At Risk' listed building and the enhancement of this part of the conservation area. (These benefits are in addition to the more generic ones such as maintaining the supply of housing, potential employment creation etc). For this reason, it is recommended that the s106 contributions offer is accepted and that the development is the subject of a viability review.

- 16.78 In addition to the planning obligations requested by the Development Team, it is also recommended that there are obligations requiring RAMS payment, a trigger point for refurbishment of the listed building, undertaking a Viability Review and the introduction of a Parking zone Control

17.0 Conclusion

- 17.1 The current application will deliver 20 residential units in a sustainable and accessible location. The development will contribute positively towards the Borough's supply of housing. There would be economic benefits as a result of construction activity, the regeneration of the East Bay Mill area and the possible creation of additional jobs. There is sufficient evidence to be confident that overall the development would not cause significant harm to the amenity of local residents, ecology, flood risk, air quality or would not have a severe impact upon the highway network in terms of capacity.
- 17.2 The NPPF has at its heart the promotion of sustainable development. The proposal has significant sustainability credentials. A core planning principle of the NPPF is to conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations. The proposal would secure the repair and reuse of Granary Barn, a grade II listed building and will serve to enhance the character and appearance of this part of Colchester Conservation Area No.1. It is considered that the scheme would acceptably fulfil the environmental dimension of sustainable development by preserving and enhancing the identified heritage assets and by promoting new development of a high quality design. The failure to fully mitigate its impact by through the provision of s106 obligations weighs against this scheme; however, on balance, the benefits of this scheme are considered to outweigh this shortcoming.

- 17.3 In conclusion, it is considered that the benefits of the scheme significantly outweigh any adverse impacts and, as such, Members are asked to endorse the officer recommendation that planning approval should be granted subject to the suggested conditions heads and the signing of the s106 agreement.

18.0 Recommendation

- 18.1 It is recommended that Members resolve to grant planning permission, subject to:

- (1) The receipt of a favourable consultation response from the Highway Authority and the incorporation of conditions recommended by them or conditions to address any concerns that they may raise;

- 18.2 Following the submission of the above, the Assistant Director for Policy and Corporate is authorised to enter into and complete a legal agreement under Section 106 of the Town and Country Planning Act 1990 within six months from the date of the Committee meeting to provide the following:

- Archaeology - £14,627.5+VAT
- Highways – Upgrading of the Bus stop (eastbound) immediately opposite the site on East Street; works to comprise level entry kerbing, new post and flag
- Education - £30,000.00 for early years, £90,000 towards St James Primary School
- £6,000 to car club and £23,000 to Wivenhoe Trail Improvements.
- All sums to be index linked
- RAMS payment
- Management of open space and public access to this
- Trigger points for refurbishment of the listed building
- Viability Review
- The introduction of a Parking zone Control

- 18.3 In the event that the legal agreement is not signed within six months from the date of the Planning Committee, the Assistant Director is authorised at their discretion to refuse the application.

Conditions

3. ZAA - Time Limit

The development hereby permitted shall be begun before the expiration of one 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.

4. ZAM - Development to accord with Approved Plans

The development hereby permitted shall be implemented in accordance with the submitted plans and documents listed below.

0502 PL_1100 REV C Proposed Ground Floor Plan
0502 PL_1300 REV C Proposed House Type 1 - Listed Building
0502 PL_1301 REV B Proposed House Type 2
0502 PL_1302 REV C 1302 Proposed House Type 3
0502 PL_1303 REV B Proposed House Type 3A
0502 PL_1304 REV C Proposed House Type 3B (received on 14 May 2019)
0502 PL_1305 REV B Proposed House Type 3C
0502 PL_1306 REV C Proposed House Type 4 (received on 14 May 2019)
0502 PL_1307 REV C Proposed House Type 5 (received on 14 May 2019)
2018 4413 019 Rev 1 Surface Materials Plan

No variation from the approved plans should be made without the prior approval of the Local Planning Authority. Amendments may require the submission of a further application

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

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

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

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

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

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

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

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

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

5 ZGZ - Contaminated Land Part 3 of 4 (Implementation of Approved Remediation Scheme)

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

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

6. ZG0 - Contaminated Land Part 4 of 4 (Reporting of Unexpected Contamination)

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 3, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 4, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 5.

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

7. ZG3 - *Validation Certificate*

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

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

8. Non Standard Condition - Construction Method Statement

No works, including works of demolition and/or enabling works shall take place 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. The Statement shall provide for:

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

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

9. Non Standard Condition - Recording and Protection of Heritage Assets

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

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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.

10. Non Standard Condition – Programme of building recording

Prior to the commencement of any works, a programme of building recording and analysis shall have been undertaken and a detailed record of the building shall have been made by a person or body approved by the Local Planning Authority and in accordance with a written scheme which first shall have been submitted to and approved, in writing, by the Local Planning Authority.

Reason: To secure provision for recording and analysis of matters of historical importance associated with the site, which may be lost in the course of works.

11. Non Standard Condition - Materials and detailing

No development shall take place (except for underground enabling works) until full details of the materials (including brick bond and mortar type) to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: In order to ensure that suitable materials are used on the development and to safeguard the character and appearance of the heritage assets and their setting.

12. Non Standard Condition – Additional drawings

Notwithstanding the details submitted, no works shall start (except for underground enabling works) until additional drawings that show details of any proposed new windows (including the depth of reveals), doors, eaves, verges, cills, arches, plinths, porches, balconies and screens, brickwork / stonework detailing, roof features and rainwater goods to be used, by section and elevation, at scales between 1:20 and 1:1, as appropriate, are submitted to and approved, in writing, by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved additional drawings.

Reason: In order to ensure that the architectural detailing of the development is appropriate and to safeguard the character and appearance of the heritage assets and their setting.

13. ZFQ - Tree and Natural Feature Protection: Protected Areas

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

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

14. ZFS - Tree and Hedgerow Protection: General

All existing trees and hedgerows shall be retained throughout the development construction phases, unless shown to be removed on the approved drawing 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 existing trees, shrubs and other natural features within and adjoining the site in the interest of amenity.

15. Non Standard Condition – Tree Pruning Details

Notwithstanding the submitted tree pruning details, a revised package of tree pruning works (including a timeframe for implementation) shall be submitted to and approved in writing prior to the commencement of any works on site. The development shall be implemented in accordance with the agreed details.

Reason The proposed pruning works are too high and will distort the shape of the trees crown.

16. ZFB - *Full Landscape Proposals TBA*

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

- proposed finished levels or contours;
- means of enclosure;
- car parking layouts;
- other vehicle and pedestrian access and circulation areas;
- hard surfacing materials;
- minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.);

- proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.);
- Works to the river embankment;
- proposals for restoration;
- planting plans;
- written specifications (including cultivation and other operations associated with plant and grass establishment);
- schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and
- implementation timetables and monitoring programs.

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

17. 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.

18. Non Standard Condition – Boundary walls

All boundary walls that front onto a public or semi public space shall be enclosed by a brick wall unless otherwise agreed in writing by the Local Planning Authority. Brick walls shall be finished with a brick on edge coping and terminated at each end by either a pier or return. Where changes in the height of walls occur, the higher wall shall be raked smoothly downwards to the level of the lower wall.

Reason: To ensure a satisfactory form of development and in the interests of visual amenity.

19 – Non Standard Condition – Bat Survey

No works shall take place until a Bat Survey has been undertaken and a scheme of mitigation and enhancement (which shall include as a minimum the provision of bat boxes, an implementation timetable and responsibilities for maintenance) have been submitted to and agreed in writing by the Local Planning Authority. The development shall subsequently be carried out in accordance with the agreed details unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the protection of bats during the course of this development and to ensure that there is appropriate and enhancement.

20. Non Standard Condition – Reptile Survey

No works shall take place until a Reptile Survey has been undertaken and a scheme of mitigation and enhancement strategy (including an implementation

timetable and responsibilities) have been submitted to and agreed in writing by the Local Planning Authority. The development shall subsequently be carried out in accordance with the agreed details unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the protection of reptiles during the course of this development and to ensure that there is appropriate enhancement

21. Non Standard Condition – Provision of bird boxes

Prior to the occupation of the dwellings hereby permitted, a scheme for the provision of bird boxes shall be submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be implemented prior to the occupation of any the dwellings.

Reason: To ensure that appropriate provision is made for birds as a part of the development.

22. ZCF - Refuse and Recycling As Shown

The refuse and recycling storage facilities shall be implemented in accordance with the details shown on the approved plans and made available prior to the occupation of each building they are intended to serve. Such facilities shall thereafter be retained unless otherwise agreed in writing by the Local Planning Authority

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

23. Non Standard Condition – Parking Provision

No unit shall be occupied until the car parking space(s) intended to serve that unit and any associated unallocated visitor car parking space(s) intended to serve that part of the development have been hard surfaced, sealed, marked out and made available for use to the satisfaction of the Local Planning Authority. The respective spaces shall thereafter be retained at all times for their designated purpose.

Reason: To ensure that each unit is provided with an appropriate parking space and that the unallocated parking space available for use by all residents and their visitors and in the interest of highway safety.

24. Non Standard Condition – Cycle Parking space

Each residential unit shall be provided with at least one secure covered cycle parking space that is convenient to access / use. No unit shall be occupied until cycle parking for that unit has been provided in accordance with details that shall previously have been submitted to and approved in writing by the Local Planning Authority. The cycle parking shall thereafter be retained in accordance with the agreed details.

Reason: To ensure that adequate provision is made for cycle parking in order to encourage and facilitate cycling as an alternative mode of transport and in the interests of both the environment and highway safety

25. Non Standard Condition - Travel Pack

On the first occupation of each dwelling, the residents shall be provided with Travel and Information Packs, the contents of which shall previously have been agreed in writing by the Local Planning Authority, in consultation with Essex County Council. Reason: To promote modal shift towards more sustainable forms of transports.

26. Non Standard Condition - Drainage

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

- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the CIRIA SuDS Manual C753
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.
- A Management and Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system, the maintenance activities/frequencies and the retentions of maintenance of logs.

The scheme shall subsequently be implemented prior to occupation

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

27. Non Standard Condition – Offsite flooding

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

Reason: The National Planning Policy Framework paragraph 163 and paragraph 170 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution. Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development. The construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

28. Non Standard Condition - Drainage

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

Reason: To ensure that drainage system implemented at the site will adequately function and dispose of surface water from the site. The failure to carry out the required maintenance before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

29. Non Standard Condition - Flood Resilient Measures

Prior to the commencement of the development hereby permitted details of the Flood Resilient Measures to be incorporated within the scheme shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

Reason: To minimise flood risk of damage to property.

30. Non Standard Condition - Flood Warning and Evacuation Plan

Prior to the occupation of the units hereby permitted a Flood Warning and Evacuation Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved Flood Warning and Evacuation Plan shall be adhered to at all times

Reason: To minimise flood risk to residents.

Permitted Development Rights

31. ZDC - Removal of PD for All Residential Extensions & Outbuildings

Notwithstanding the provisions of Classes A, B, C, D and E of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or the equivalent provisions of any order revoking and re-enacting that Order), no extensions, ancillary buildings or structures shall be erected unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: In the interest of visual amenity and to ensure the development avoids an overdeveloped or cluttered appearance and to safeguard the character and appearance of heritage assets and their setting

32. ZDI - *Removal of PD for Windows Above Ground Floor Level*

Notwithstanding the provisions of Classes A, B and C of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or the equivalent provisions of any order revoking and re-enacting that Order), no windows, rooflights or other openings shall be installed above ground floor level unless otherwise approved, in writing, by the Local Planning Authority.

Reason: To protect the privacy of adjacent dwellings.

33. Non Standard Condition - Permitted Development Rights

Notwithstanding the provisions of Part 40 of the Town and Country Planning (General Permitted Development) Order 1995 (or the equivalent provisions of any order revoking and re-enacting that Order), no micro-generation equipment shall be installed unless otherwise approved, in writing, by the Local Planning Authority.

Reason: In the interest of visual amenity and to safeguard the character and appearance of heritage assets and their setting.

19.0 Informatives

The following informatives are also recommended:

1. ZT0 – Advisory Note on Construction & Demolition

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

2 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.

3 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.

4 Informative on Archaeology:

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

5 Informative on Anglian Water

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.

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

Notification of intention to connect to the public sewer under S106 of the Water Industry Act

Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.

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

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

The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact our Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption

should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements.

6 Informative – Works on River Bank

The applicant may need an environmental permit for flood risk activities if they want to do work in, under, over or within 8 metres (m) from a fluvial main river and from any flood defence structure or culvert or 16m from a tidal main river and from any flood defence structure or culvert. The River Colne, is designated a 'main river'.

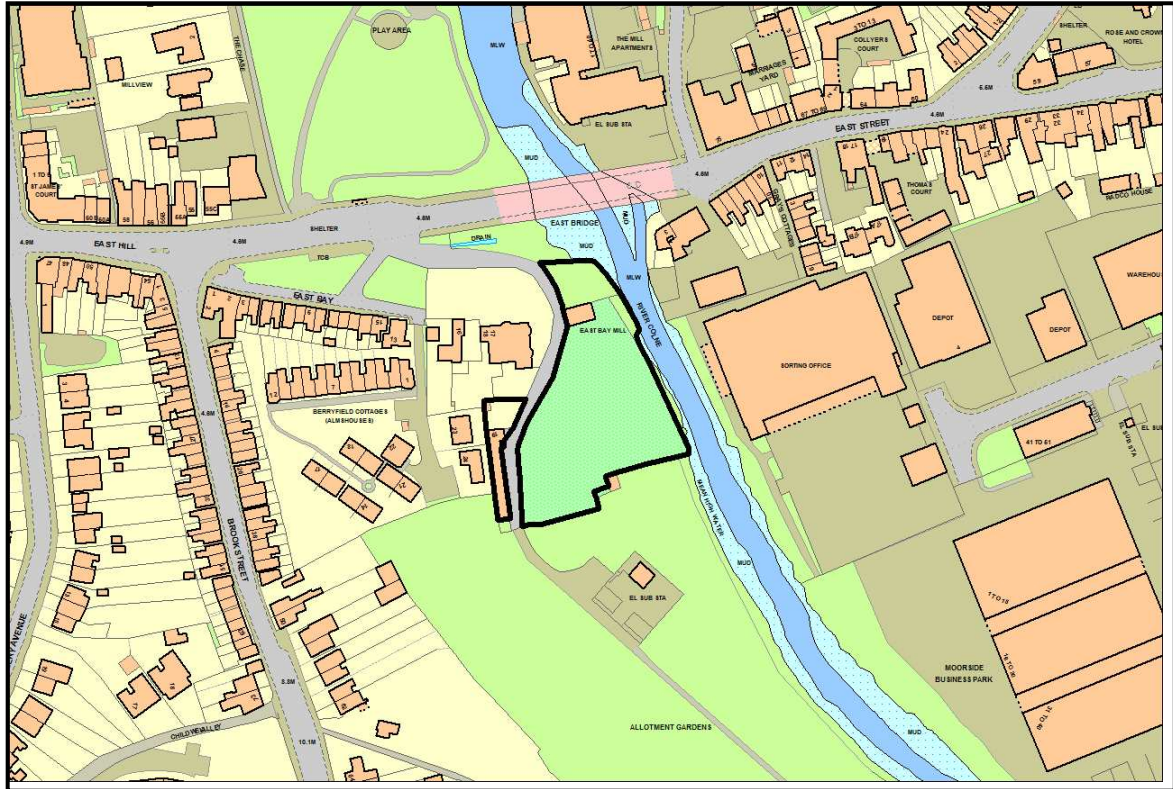
7 Informative Refuse Collection

Please Note: The Council is under no obligation to collect refuse from properties on private streets and/or private drives that are located more than 25m from the adopted highway. Prior to the Council agreeing to the collection of refuse and recycling from properties located on private roads, the applicant will need to provide evidence that each relevant residential property is party to a covenant that stipulates that Colchester Borough Council (or any future third party provider) has:

- rights of access the road at all times (including the ability to turn collection vehicles around free from obstruction);
- no-one at any time can refuse the collection provider access;
- the Council has no maintenance liability; and

If the above is not provided, the Council will not collect refuse and/or recycling from the said properties and alternative collection arrangements will need to be made. It should also be noted that should the Council encounter a problem with the collection of waste from the private roads within this development, it reserves the right to withdraw its waste collection service.

The applicant is asked to draw to the attention and fully explain the implications of the above requirements to all purchasers of these properties.



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Item No:

Application:	190425
Applicant:	Regent Land & Developments
Agent:	Avison Young
Proposal:	Erection of 20 residential units together with parking, landscaping and associated work including the refurbishment of the redundant Granary Barn
Location:	Land At, East Bay Mill, 19 East Bay, Colchester, CO1 2UD
Ward:	Castle
Officer:	Alistair Day
Recommendation:	Approval

1.0 Reason for Referral to the Planning Committee

1.1 This application (along with application 190424) is referred to the Planning Committee because it has been called in by Cllr Crowe on the following grounds:

- Design - the proposed houses make no concessions to nearby architecture, they are simply designed in a modern style that could be found in any recent development in any town or city and therefore would look completely out of place in this setting.
- Parking - providing 26 parking spaces for 20 three bedroom family homes will be unmanageable and add to the existing problems in the area.
- Access – this is unsuitable for large vehicles and due to the narrow nature of the track, there is concern for potential collisions between cars, and cars and cyclists, and cars and pedestrians.

2.0 Synopsis

2.1 The key issues for consideration are impact that the proposed alteration works would have on the special interest of this grade II listed building, the setting of nearby listed buildings and the character and appearance of Colchester Conservation Area No.1.

2.2 The application is recommended for conditional approval.

3.0 Site Description and Context

3.1 The Granary Barn is a modest timber framed building that dates from the eighteenth century. It has a rectangular footprint with its western gable end adjacent to the lane. The building is listed grade II for its special architectural or historic interest. The List Description is as follows:

Granary, subsequently mill for animal feed, store at time of inspection [November 2002]. Mid/late-C18 with C20 additions. Timber-framed and weatherboarded, on rebuilt brick plinth. Corrugated asbestos roof covering. Brick stack. Aligned E-W on west bank of river. EXTERIOR: 2 storeys with loft. Loft door opening to West gable. C20 additions to East and South not of interest.

INTERIOR: Timber frame of Baltic pine, retaining primary bracing. Massive E-W chamfered spine beam supporting first floor with large oak hanging knees, both ends with finely worked stops. Incised assembly marks visible on spine beam (east end, north face) and on east gable construction in roof. Possible Baltic pine merchant's identification mark visible on tie-beam at first floor level. Roof with single purlins to each side, carried by brackets on the rafters, which are pegged at the apex. Collars have been cut-away. Rudimentary bolted scarf joint in wall plate. Re-used oak timbers throughout, especially in roof. East gable re-built in brick for C20 extension, and

considerable interventions to south wall where C20 shed extends, but principle framing remains.

HISTORY: The building is identified on a watercolour of East Bridge dated c.1775 (Colchester Museum Collections) where it appears to be thatched, and is depicted as part of a 'Farm Yard' on Sparrow's Map of Colchester 1767. Interior formerly weatherboarded but removed mid-C20 when framing in-filled with brick and blockwork.

A small urban riverside agricultural building with much of its mid/late-C18 frame, including a massive stopped and chamfered spine beam of Baltic pine, and both group value and townscape value

- 3.2 The Granary Barn is located on the south side of East Hill and to the east of the River Colne. East Bay House, a large late Georgian building which is listed grade II for its special architectural and historic interest, is located to the west of the barn. To the south of the barn is the main East Bay Mill site which is composed of areas of hard standing and rough grass. Access to the site is from East Hill via a unadopted lane. The lane forms part of National Cycle Route 1 and the Wivenhoe Trail. The Granary Barn is located within Colchester Conservation Area No.1.
- 3.3 The character of the surrounding area is varied. To the north and west, the character is predominantly residential with two and three storey terraced properties. Large footprint industrial development are situated to the east of the site across the River Colne and there is an area of open space and playing fields to the north. To the south is an area of allotments and The Moors.

4.0 Description of the Proposal

- 4.1 The application seeks consent for the alteration and conversion of the barn to a single dwelling house. It is proposed that these works will be undertaken in conjunction with proposed redevelopment of the land to the south of the Granary Barn.

5.0 Land Use Allocation

- 5.1 Open space
Green Link
Conservation Area (northern part of the site)

6.0 Relevant Planning History

6.1 The relevant planning historic for this site includes:

- O/COL/02/1697 Outline consent for demolition of existing agricultural outbuildings and the retention, refurbishment and change of use of existing Grade II granary building to lounge and the erection of 49 retirement apartments (including 9 affordable units) with access, parking and associated works)
- RM/COL/04/0884 - Application for Reserved Matters concerning Siting, Design and Access for demolition of existing buildings shown on plans and erection of 55 no. retirement apartments with access road, parking and associated works
- 072117 Application for Reserved Matters concerning Landscaping for demolition of existing buildings and erection of 55 retirement apartments
- LB/COL/03/0459 and CA/COL/02/1782 – conversion and alteration of listed building (the Granary Barn) and the demolition of ancillary buildings
- In addition to the above, an appeal against an enforcement notice (ref. 200-000-090) was dismissed on 6th March 2013. This confirmed that the consented retirement apartment scheme had not been lawfully implemented and this permission has now lapsed.

6.2 More specific to the current application are the following preliminary enquires:

- 180838 - Restore former mill building for flexible A1/A3 use and to develop apartment buildings to provide 48 new homes.
- 182522 Preliminary Enquiry – Erection of 20 residential units together with parking, landscaping and associated works. This Preliminary Enquiry was also subject of an early Member Engagement Meeting.

7.0 Principal Policies

7.1 S66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess. Section 72(1) of the same Act requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of conservation areas.

7.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. Colchester's adopted Development Plan comprises the following documents:

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:

- ENV1 - Environment
- ENV2 - Rural Communities

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

7.5 Emerging Local Plan

In addition to the above, consideration also needs to be given to the Submission Colchester Borough Local Plan 2017-2033 (the emerging local plan). The following emerging policies are considered to be relevant:

- DM15 Design and Amenity
- DM16 Historic Environment

Paragraph 216 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.

As to the first limb, the Local Plan was submitted to the Planning Inspectorate in October 2017 and the formal examination commenced in January 2018. The Plan is at an advanced stage and may therefore be taken into consideration in the determination of planning applications. Many of the Development Management Policies follow similar principles to those of the current Local Plan.

7.6 The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy.

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.

Historic Building and Areas Officer

- 8.2 The comments from the HBAO can be summarised as follows:

- The former granary barn has been vacant since 2002/3 and is currently in a very poor state of repair after having suffered extensive damage from fire. Unless a viable use is secured for the building, its condition is expected to keep deteriorating, resulting thus in further loss of its evidential and historical value. The scheme to convert the building into a residential unit is welcomed in compliance with NPPF's Par. 192(a) which states that the determination of applications should take into account the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. The Heritage Addendum provides an analysis of the structure's present condition and this has informed a new set of proposals for its conversion. There is some margin for further improvements, e.g. by a more limited use of the proposed rooflights whose number, size and distribution on both sides of the roof results in a strong visual impression that detracts from the building's character, the benefit from the development of the redundant heritage asset to secure its viability, outweighs the concerns regarding specific details which can be addressed at a later stage.
- The redundant East Bay Mill is seen in conjunction with East Bay House and its present condition reflects poorly on the setting of the listed house. Any harm caused to the setting of listed buildings will need to be weighed against the public benefits. The public benefit of securing a viable use for the barn which is currently at risk is considered to outweigh any harm caused.
- The site falls partly within the limits of the Conservation Area. The damaged structure is very visible when crossing East Bridge and its dilapidated condition leaves an impression of neglect that detracts from the quality of the Conservation Area. The redevelopment of this derelict site is expected to benefit the Conservation Area by addressing this situation.
- Taking the above into consideration the above comments of the development's impact on heritage, there are no objections on heritage grounds to the support of the proposals.

Archaeological Advisor

- 8.3 The development affects a designated heritage asset (Grade II Listed building, The Old Mill, NHLE no. 1350373) and the site of East Bay Mill, which was located to the south of the Listed Building (granary). The Heritage Statement Addendum, by the Heritage Collective, provides adequate information relating to the Mill. A condition should be attached require the historic building recording of the building.
- 8.4 In terms of below-ground archaeology, an adequate pre-determination field evaluation has been undertaken by the applicant and the archaeological implications of the development have now been established. Based on the findings of the evaluation, there are now no grounds to consider refusal of permission in order to achieve preservation in situ of any important heritage assets. A planning condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed is required.

Council for British Archaeology

- 8.5 The summary from the Council for British Archaeology (CBA) is set out below:
- The CBA are supportive of a degree of development at this site, if it is deemed necessary to ensure the conservation-led restoration of East Bay Mill.
 - To meet the requirements of the National Planning Policy Framework, your Authority should be satisfied that the harm to the Conservation Area and the setting of East Bay Mill is outweighed by public benefit.
 - The CBA strongly advise that the conservation-led restoration of the mill should be secured by a section 106 agreement, or similar, should your Authority be minded to permit development at this site.

Historic England

- 8.6 On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation adviser.

9.0 Parish Council Response

- 9.1 The site is not parish

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 the representations received is available to view on the Council's website. The representations made in respect of this application highlight general planning matters (rather than those specific to listed building considerations) and can be summarised as follows:

- The development is of inappropriate density - the proposed number of dwellings and scale of properties is disproportionate to the scale and nature of the site (which is a conservation area).
- The design of the [new] buildings is inappropriate. The style and layout of the dwellings is inconsistent with the listed buildings in the immediate vicinity
- The proposal to build 3-storey houses will be unacceptably intrusive and detrimental to the amenity of adjacent residents
- Insufficient parking is proposed for the development.
- The access is inappropriate.
- There will be a conflict between vehicle users and users of the National cycle path.
- The bus services are not as frequent as claimed.
- The site is in a flood zone.
- The development will have an adverse impact on the private amenity of existing residents.
- Listed building needs to be developed and evolve to aid their protection.

10.2 The following comments have been made by Cllr Crowe:

- Design - The surrounding area of East Street and East Bay contains many unique buildings including the renovated Charlie Brown's, the historic Siege House, the former Marriages Mill and numerous houses and cottages of varying ages. Recent new builds in the area at Grosvenor Place and Riverside Place have borrowed and replicated architectural features from the Mill, and the new build cottages in Marriages Yard mimic a Tudor style with render and an overhanging first floor. By contrast the proposed houses make no such concessions to nearby architecture, they are simply designed in a modern style that could be found in any recent development in any town or city and therefore would look completely out of place in this setting.
- Parking - If there were one or two bedroom flats then it might work, but providing only 26 parking spaces for 20 three bedroom family homes is completely unrealistic. With the best will in the world people's needs change, someone in the household may get a new job requiring the household to need an additional car, a child passes their driving test and wants a car, and visitors need somewhere to park. This will be unmanageable and add to problems in existing problems in East Bay, Grosvenor Place and nearby Rouse Way as people search for places to park.

- Access - Essex County Fire and Rescue service have informed that the site does not comply with the guidance in ADB B5 with regard necessary dimensions for an appliance turning point. Additionally, residents are concerned that access to the site for fire engines can only be made via a gap of less than 4 metres between the barn and a listed boundary wall. I am told that the dustbin lorries do not attempt to enter the site due to this restriction, and with such a narrow opening there is also great concern for potential collisions between cars, and cars and cyclists, and cars and pedestrians.

10.3 The Civic Society comments on the amended plans can be summarised as follows:

- We have studied the amended scheme and do appreciate the changes made to address some of the issues attending the original design.
- It is our belief that is the large additional costs that have led to the need for an over development of the modest size of the site.
- We note the efforts to improve the visual appearance of the housing by the use now of more sympathetic materials in keeping with the historic nature of the conservation area and the considerable work to reuse the Mill building itself as a modern house.
- The problem remains of the continuing use of the three storey houses which are not a reflection of the local character of the area. The result is a large massing of repeated forms of heights and blocks. There has been no change to produce a mix of building heights that would be more in keeping with the landscape and the historic setting.
- We remain concerned by the dominant nature of the parked cars adjacent to the National Cycle route and the pedestrian pathway. This parking has a detrimental effect on the tranquility of the lane and the strategic nature of the routes. These will include not merely the residents but all the many types of service traffic that housing brings: fire service, delivery vans, refuse service etc. We are quite unconvinced that some surface detail to the road surface can provide the necessary safety that this route deserves.
- We have concerns for the under provision of parking places for the development and unconvinced by the data and arguments in favour of this.
- In conclusion it is our belief that this development would not bring an improvement to the adjacent conservation area and the gain of the restoration of the Mill building will be largely lost in the massing of the site.

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 N/A.

15.0 Report

The Proposal

15.1 Listed building consent is sought for the alteration and conversion of the Granary Barn to a single dwelling house. A concurrent planning application has been submitted for the erection 20 residential units (including the conversion of the barn) together with parking, landscaping & associated works.

Principle of the Development and the Planning Background

15.2 The site was last used for sale of agricultural feed with a linked residential property. These activities ceased in about 2003 with the sale of the land for redevelopment.

15.3 In 2004, outline planning permission was granted for the erection of 49 two-bedroom retirement apartments with access, parking and associated works. Listed building consent was also granted for the alteration and conversion of the former Granary Barn to a lounge for the retirement apartments and for the demolition of other curtilage buildings. The planning permission and the listed building consent was never implemented and has now lapsed.

15.4 Today, with the exception of the listed Granary Barn, all of the ancillary buildings have been cleared from the site due repeated problems of vandalism, anti-social behaviour and arson. The listed building has also suffered from vandalism and arson and is currently in a very poor condition.

Heritage and Design Considerations

- 15.5 The Planning (Listed Building and Conservation Areas) Act 1990 requires that special regard is paid to the desirability of preserving listed buildings and their setting and that special attention is paid to the desirability of preserving or enhancing the character or appearance of a conservation area. CS Policy ENV1 and DPD Policy DP14 seek to conserve and enhance Colchester's historic environment. With regard to design, CS Policy UR2 and DPD Policy DP1 seek to secure high quality and inclusive design in all developments, respecting and enhancing the characteristics of the site, its context and surroundings. The emerging plan policies (DM16 in particular) reflects the requirements of currently adopted policies in terms of design, place shaping principles and the protection of the heritage.
- 15.6 The NPPF sets out the desirability of sustaining and enhancing the significance of heritage assets (paragraph 192). It establishes that great weight should be given to an asset's conservation and the more important that asset, the greater that weight should be (paragraph 193). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Any harm to, or loss of significance of a designated heritage asset (from its alteration or destruction, or from development within its setting) should require clear and convincing justification, (paragraph 194). Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, that harm should be weighed against the public benefits of the proposal, including securing its optimum viable use (paragraph 196). The NPPF also promotes good design advising that permission should be refused for development of poor design.
- 15.7 The Granary Barn is extensively fire damaged and consists of timber framed construction with brick infill panels. A brick extension formerly abutted the eastern gable and a portal framed building (wagon shed) formerly stood adjacent to the south elevation. The barn comprises four bays defined by substantial posts on each long side, with central ridge posts in each gable end and straight diagonal braces. Access is by way of a single width door in the southern elevation, there is evidence of other openings in the south elevation and a single door into the eastern gable. The west gable features two crittall type windows at ground floor. At first floor level there is evidence of fewer openings, a single loading door in each gable and two openings in the southern wall. The northern elevation appears to have been without any openings at any level. Running east to west through the ground floor is a substantial timber spine beam supported on curved braces. The western end of the ground floor is divided into two rooms by brick walls; the southern room has been adapted to form an entry office. In the northern half of the building at ground floor level there are two pieces of machinery equipment. At first floor level there are two cylindrical storage tanks (grain bins?) and one cast iron set of wheels/gears.
- 15.8 The Granary Barn is an important building in terms of the historic development of Colchester. It originally formed part of a wider complex of mill buildings (located to the south). The barn itself was converted by the

Doe family into a feed mill in about 1923. The barn has been vacant since about 2003 and is currently in a very poor condition due to extensive fire damage. The fire damage is most severe at first floor and roof level, the southern side wall and roof framing is substantially gone. At ground floor level, the fabric of the building is less damaged though there is evidence of graffiti, vandalism and unauthorised occupation. Due to the condition of the building, the applicant has stated that it has not been possible to undertake a full detailed survey of the building.

- 15.9 The Heritage Statement explains that the proposals seek to restore the primary historic timber frame, with timber replacements wherever the fire damage has resulted in elements being structurally unstable or insufficient to form a useable structure. Such replacements will maintain historic timber frame joinery techniques and be in a suitable material. The Heritage Statement goes on to state that any additional structural requirements will be provided by a new structure (steel) located outside the timber frame and concealed by the external cladding. It is stated that this double layer construction will enable the addition of insulation to provide a warm dwelling while leaving historic wall fabric expressed internally. The windows have been retained in their original locations on the western gable and the majority of openings are focused on the southern elevation where architectural evidence suggests they were located originally and through later adaptations of the building. Additional windows at first floor are proposed in the eastern gable. The blank northern wall will be retained. The re-use of existing openings is welcomed however the use of Crittal-style windows and the form of some of the openings does however give cause for concern. This has been raised with the applicant and amended drawings are expected before the committee meeting. Roof lights are proposed to provide light to the interior of the building. Whilst it is accepted that these will not affect historic fabric, the number and size of roof lights is not considered appropriate for a former barn. Again, this issue has been raised with the applicant and amended drawings are expected prior to the committee.
- 15.10 Regarding internal works, the ground floor is currently subdivided into three spaces by brick walls. The Heritage Statement explains that walls with their early brickwork are to be retained and left exposed to preserve a sense of the building's fabric and simple nature. The large spine beam and its angled braces will remain legible and exposed becoming features within the new spaces. The Heritage Statement goes on to explain that the proposed new subdivisions take their positional clues from the existing structure. The proposal also involves the creation of a first floor and a mezzanine floor. The Heritage Statement opines that the creation of a single open plan living space to the west and full height living room area to the east with mezzanine at the current loft level to the west, will preserve a single open space at this level and a mimicking of the current open platform. It is considered that whilst the first floor and mezzanine will change the character at this level, the proposals will both restore fabric and preserve a generally open plan arrangement in keeping with the historic spaces.

- 15.11 The Heritage Statement notes that the proposal would remove the extant equipment which provide evidence of the Doe Company's time; this is considered to cause some harm to historic values. The proposed insertion of a stair and revised front door position will affect an area which has already been altered; this area formed the early 20th century entrance and the timber framing here has been replaced by modern brick. The original position for first floor access is not clearly legible within the building, it could simply have been by way of a hatch and ladder. The Heritage Statement opines that the works at ground floor level are considered to erode the historic and architectural values of the building to a small degree. This is primarily due to the loss of the extant machinery which directly illustrate the former function of the building.
- 15.12 In its present condition, the Granary Barn is of diminished 'evidential' value, with upper parts interior substantially destroyed and with it, limited ability to understand or interpret the way in which the building was constructed and/or used. Even before the fire, the alterations to the barn and the wider site made it difficult to appreciate how the building once functioned and/or its relationship with river transport. The overall significance of the Granary Barn in its present state remains high, but the ability to appreciate it as low.
- 15.13 Given the condition of the Granary Barn, the barn remains at extreme risk. The current application proposes its full repair and conversion to a long-term viable use. The comments originally made by the Archaeological Officer regarding the need for further historic context analysis and building recording are noted. A further Heritage Statement has been submitted to address these concerns. With regard to building recording, a condition is proposed, and the result of this analysis will be used to inform the repair of the listed building. The comments made by the Council for British Archaeology regarding a conservation-led restoration of the mill and that this is secured by a section 106 agreement, or similar, are noted and endorsed.
- 15.14 The proposed alteration works to the Granary barn are considered to be consistent with relevant adopted and emerging policies and the guidance set out in the NPPF in so far as they promote the conservation of heritage assets. Viewed from the north (from within the conservation area), the refurbished Granary Barn will reassume a positive role as part of a group of 18th and 19th century buildings. The identified harm to the heritage asset by the proposed alteration works will be less than substantial and, as such, the public benefits need to be weighed against the harm caused. In this instance, the public benefits (which include the redevelopment of a derelict site, which detracts from the appearance of the conservation area, and the repair and reuse of an 'At Risk' listed building) weigh heavily in favour of the scheme. Given this, the proposed development is considered to be consistent with the aforementioned adopted local plan policies and national planning policy guidance in relation to the historic environment.

16.0 Conclusion

- 16.1 Taking account of the advice in the Framework and evidence submitted, it is considered that the level of harm caused by the submitted application is 'less than substantial' as set out in the Framework. Considerable importance and weight is attached to harm. The public benefits that flow from the proposed alteration works, namely securing the repair and long-term reuse of an 'At Risk' listed building and the resultant enhancement to this part of the town centre conservation area are considered to outweigh the harm caused. Given this, the proposed development is considered to be consistent with the adopted local plan policies and national planning policy guidance in relation to the historic environment.

17.0 Recommendation to the Committee

- 17.1 The Officer recommendation to the Committee is for APPROVAL of listed building consent subject to the following condition:

1. ZAB - Time Limit for LBCs

The works hereby permitted shall begin before the expiration of 3 years from the date of this consent.

Reason: To comply with the requirements of Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. ZLA - Only Works Shown Within Application

This approval is limited to the works shown on the approved drawings and does not indicate approval for associated or enabling works that may be necessary to carry out the scheme. Any further works must be submitted to and approved, in writing, by the Local Planning Authority prior to any works commencing.

Reason: For the avoidance of doubt as to the scope of the permission and to ensure that the historic building is preserved from any other potentially harmful works.

3. Non Standard Condition - Building Recording

Prior to the commencement of any works, a programme of building recording and analysis shall have been undertaken and a detailed record of the building shall have been made by a person or body approved by the Local Planning Authority and in accordance with a written scheme which first shall have been submitted to and approved, in writing, by the Local Planning Authority.

Reason: To secure provision for recording and analysis of matters of historical importance associated with the site and to inform the proposed alterations works.

4. ZLP - Hitherto unknown

If hitherto unknown evidence of historic character that would be affected by the works hereby permitted is discovered, an appropriate record together with recommendations for dealing with it in context of the approved scheme shall be submitted for written approval by the Local Planning Authority

Reason: To secure the proper recording of the listed building.

5. Non Standard Condition - Schedule of Repair

Prior to the commencement of works, a schedule of repair works supplemented by detailed drawings where appropriate shall be submitted to and approved in writing by the Local Planning Authority. The repair works shall be implemented in strict accordance with the approved details.

Reason: To ensure that the approved works are carried out without detriment to the architectural character and historic detail of the listed building.

6. Non Standard Condition - Details of floors and walls

Notwithstanding the details submitted and prior to their installation, full details of the proposed new internal walls and the first floor and mezzanine floor (including their precise relationship with the fabric of the building and method of structural support) by section and elevation at a scale of 1:20 and 1:1 as appropriate shall be submitted to and approved in writing by the Local Planning Authority. The position of the new internal walls and floors shall be informed by the results of the building record report. The agreed works shall be implemented in strict accordance with the approved details.

Reason: In the interests of preserving the character and appearance of the listed building

7. Non Standard Condition - Architectural Details

Prior to the commencement of any works, additional drawings that show details of any proposed new windows, doors, eaves, verges and rooflights to be used, by section and elevation, at scales between 1:20 and 1:1, as appropriate, shall be submitted to and approved, in writing, by the Local Planning Authority. The works shall thereafter be implemented in accordance with the approved additional drawings.

Reason: There is insufficient detail with regard to this to protect the special character and architectural interest and integrity of the building.

8. Non Standard Condition - Architectural Details

Prior to the commencement of any works, details of the methods of fire protection, sound proofing, insulation and damp proofing for the walls, floors and ceilings at an appropriate scale shall be submitted to and approved in writing by the Local Planning Authority. The works of fire protection, sound proofing, insulation and damp proofing shall be carried out in accordance with the approved details.

Reason: In the interests of preserving the character and appearance of the listed building and its setting.

9. Non Standard Condition - Materials

Notwithstanding the details submitted, no external facing or roofing materials shall be used in the construction of the development hereby permitted until precise details of the manufacturer, types and colours of these have been submitted to and approved, in writing, by the Local Planning Authority. Such materials as may be approved shall be those used in the development.

Reason: To ensure that suitable materials are used on the development.

10. Non Standard Condition - Rainwater Goods

All rainwater goods (gutters, downpipes, hopperheads and soil pipes) shall be finished in metal and painted black and shall be of the round / half round profile.

Reason: To ensure that the approved works are carried out without detriment to the architectural character and appearance of the building where there is insufficient information within the submitted application.

11. ZLR - Making Good

Within one of the month of the works being carried out to, all adjoining surfaces which have been disturbed by the works shall be made good with materials and finishes to match those of existing undisturbed areas surrounding the new opening.

Reason: In order to preserve the historic character of the listed building.

19.0 Informatives

19.1 The following informatives are also recommended:

1. ZT0 – Advisory Note on Construction & Demolition

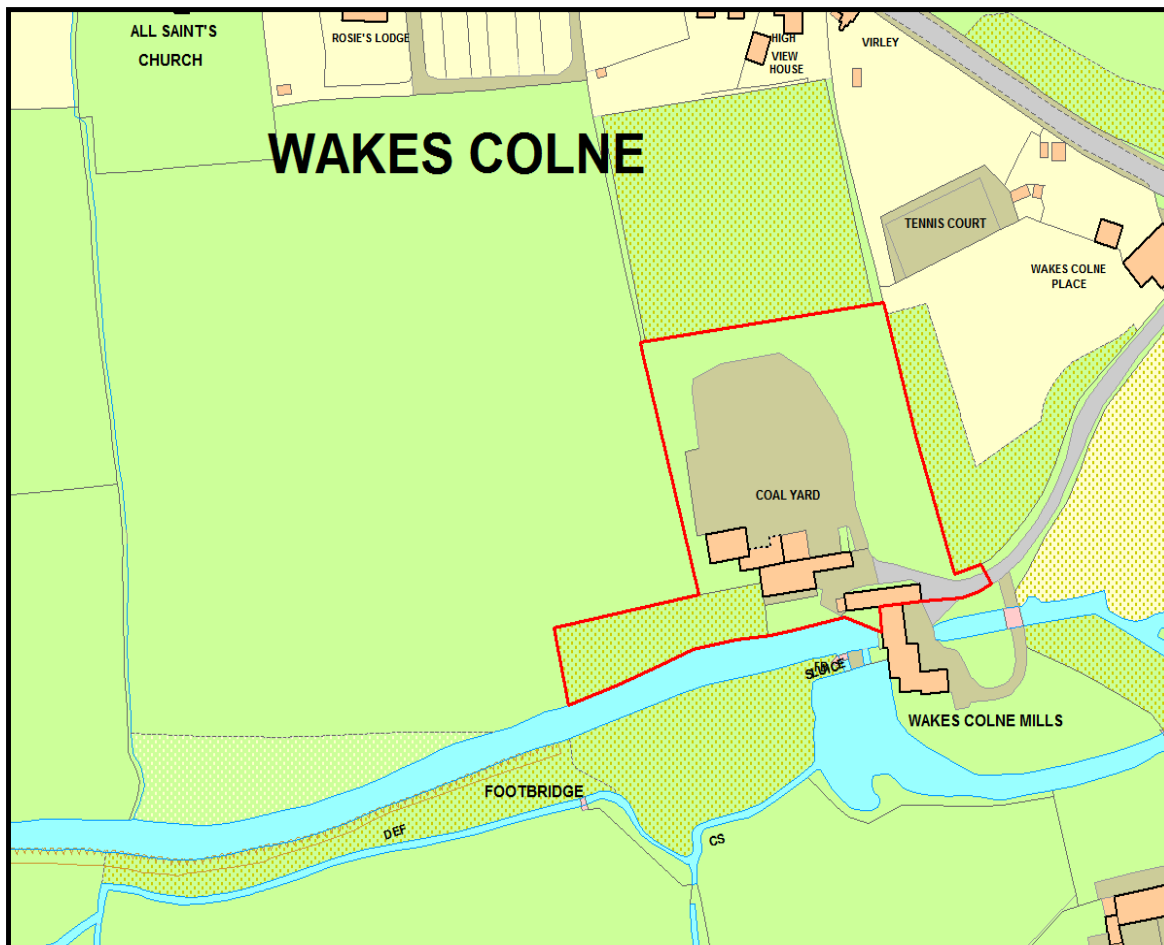
The developer is referred to the attached advisory note *Advisory Notes for the Control of Pollution during Construction & Demolition Works* for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental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

2. 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.

3. 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.



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Item No: 7.4

Application: 183046 and 183047
Applicant: Ingleton 7 Limited
Agent: Mr Russell Forde
Proposal: 183046

Demolition of solid fuel processing buildings; removal of built up hard surfaces against north wall of coach house with associated regrading of land; removal of wider coal yard hard surfaces; conversion of coach house to dwelling with single storey extension; erection of a pair of attached dwellings on coal yard; reorientation of yard access road; erection of detached four bay garage; associated hard and soft landscaping including improvements to public footpath corridor and biodiversity; implicit change of use from coal yard to two residential properties (Class C3) with private meadow.

183047

Demolition of solid fuel processing buildings; Conversion of coach house to dwelling with single-storey extension.

Location: Land to the North of Mill Buildings, Wakes Colne Mills,
Colchester Road, Wakes Colne, Colchester, CO6 2BY
Ward: Rural North
Officer: Lucy Mondon
Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 The planning application is referred to the Planning Committee because the erection of dwellings in this location constitute a departure from the Local Plan. Both the planning application and Listed Building Consent application have been referred to planning committee by Cllr Chillingworth on the grounds of: effect on listed buildings; unsuitable design for the location; and dangerous highway access.

2.0 Synopsis

- 2.1 The committee report will cover both the planning application and listed building consent application.
- 2.2 The key issues for consideration are the principle of development; landscape impact; heritage; design and layout; contamination; ecology; highway matters; flood risk and drainage; and amenity. These matters are assessed in the report, taking into account the representations of statutory consultees, professional advisers, and local residents. The application is subsequently recommended for approval subject to conditions.

3.0 Site Description and Context

- 3.1 The site comprises of the driveway and coach house associated with Mill House (itself part of a complex of listed mill buildings now divided into three dwellings) and a former coal yard (located to the north of the mill buildings). The site is located outside the settlement boundary of Chappel and Wakes Colne (approximately 175m away) and is immediately adjacent to (with the frontage of the coach house and the driveway being within) a Conservation Area.
- 3.2 The coach house is directly ancillary to Mill House which forms part of the Wakes Colne Mills complex and is considered to be a curtilage listed building. Wakes Colne Mill was first designated as a grade II listed building on 27 January 1982 and the listing description reads as follows:
- 3.3 *Watermill circa 1840, brick walls in Flemish bond, 3 storeys and range of 4 windows, doors centrally on first and second floors with jettied sack-hoist over. Roof hipped and gambrelled, slate clad with lead flashings. Windows all 6-pane fixed. Half doors central to ground storey. Inside 3 pairs of millstones underdriven mounted on a hearse. Two storey ranges to south and east. Two storey gault brick office or house on north-east corner circa 1820, two window range of marginally glazed sashes at first floor, angled bay window below.*

- 3.4 The frontage of the coach house, part of the garden to Mill House, and the driveway is within Flood Zones 2 and 3, being alongside the River Colne. The coal yard part of the site is located in a Flood Zone 1. The site is recorded as being a Site of Special Scientific Interest (SSSI) and a nitrate vulnerable zone.
- 3.5 Public Right of Way 152_27 runs along the eastern and northern boundaries of the coal yard part of the site.
- 3.6 The site is recorded as being Grade 3 agricultural land, although the site is clearly previously developed, with the coach house building and the later structures and hardstanding covering the adjacent coal yard site. The boundaries of the site have been built up with earth bunds and there is a great deal of detritus associated with the use of the site as a coal yard scattered on and alongside the bunds. The majority of the site is concrete hardstanding and a considerable amount of coal can still be seen scattered around the site.
- 3.7 The coach house is a single-storey brick-built structure that has undergone some modifications with later garage doors and internal works. The coach house faces south and has a low brick wall immediately to its frontage providing some separation from the garden beyond. Abutting the northern elevation of the coach house are later structures associated with the coal yard use of the adjacent site and the site levels have also been built up against the building. As a consequence, the northern elevation of the coach house is obscured. During site visits to the building it was noted that the coach house was being used sporadically in association with Mill House, at various times it was noted as being used as a makeshift home gym and storage area. The coach house is currently vacant and empty.
- 3.8 Whilst the site is outside the settlement boundary, there are a number of facilities and services in close proximity, such as a village hall, Post Office Store, Public House, Primary School, and business park. The Chappel and Wakes Colne train station is approximately 850m from the application site.

4.0 Description of the Proposal

- 4.1 This report covers two applications: a full planning application and an application for listed building consent.
- 4.2 The planning application seeks planning permission for the demolition of the coal yard buildings; removal of built up hard surfaces against north wall of coach house with associated regrading of land; removal of wider coal yard hard surfaces; the conversion of coach house to dwelling with single storey extension; and erection of a pair of attached dwellings on coal yard. The proposal also includes the reorientation of the yard access road; erection of detached four bay garage; associated hard and soft landscaping including improvements to public footpath corridor.
- 4.3 The listed building consent application seeks consent for the demolition of coal yard buildings and internal and external works associated with the conversion of the coach house.

4.4 The application is supported by the following documents:

- Application forms
- Site location plan
- Existing and proposed site plan, plan and elevation drawings
- Site sections
- Indicative images
- Arboricultural Method Statement
- Arboricultural Implication Assessment
- Tree Survey and Constraints Plan
- Tree Protection Plan
- Design and Access Statement
- Preliminary Ecological Appraisal
- Bat and Reptile Survey Report
- Geoenvironmental Desk Study
- Flood Risk Assessment
- Heritage Statement
- Understanding and Design statement
- Landscape and Visual Appraisal
- Nigel Cowlin letter in response to landscape issues raised in local resident objections

5.0 Land Use Allocation

5.1 Previously developed land having previously been a coal yard and part of a working mill complex (in the case of the coach house).

6.0 Relevant Planning History

6.1 Recent relevant planning history as follows:

- 152352: Planning Application for the erection of 6 No. dwellings with associated garages and parking with new shared access and associated works (WITHDRAWN);
- 162414: Application for an existing lawful development certificate for use of land for storage and distribution of solid fuels (Class B8) with ancillary buildings (REFUSED).

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
- H1 - Housing Delivery
- H2 - Housing Density
- H3 - Housing Diversity
- UR2 - Built Design and Character
- PR2 - People-friendly Streets
- TA1 - Accessibility and Changing Travel Behaviour
- TA2 - Walking and Cycling
- 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
- DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses
- 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 The Neighbourhood Plan for Boxted/Myland & Braiswick is also relevant. This forms part of the Development Plan in this area of the Borough.

7.5 Submission Colchester Borough Local Plan 2017-2033:

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

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

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

3. The degree of consistency of relevant policies to the policies in the Framework.

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

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

- Backland and Infill
- Vehicle Parking Standards
- Sustainable Design and Construction
- The Essex Design Guide

8.0 Consultations

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

Anglian Water:

No comments received.

Arboricultural Officer:

In agreement with the information provided. The proposal requires the removal of vegetation within the internal part of the site. These removals would have limited impact on the wider landscape due to the vegetation on the periphery of the site. The proposals included in the submitted Arboricultural Method Statement, Arboricultural Impact Assessment, and Tree Protection Plan should be secured by condition.

Archaeological Adviser:

The proposed application concerns the conversion of the Coach House, a curtilage Grade II Listed Building, dating from the early 19th century (Wakes Colne Mill and House, NHLE no. 1224981). In terms of below-ground archaeology, the proposed development is situated within the area of archaeological interest recorded in the Colchester Historic Environment Record. The site is located immediately above the floodplain of the River Colne, a location that is topographically favourable for early occupation of all periods. Groundworks relating to the application would cause ground disturbance that has potential to damage any archaeological deposits that exist. 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. Additional condition recommended to require a historic building survey in order to record and analyse matters of historical importance associated with the site.

Contaminated Land Officer:

The submitted Goldfinch Environmental Ltd, 'Geo-environmental Desk Study', Ref. 0561a/1, dated October 2018 is substantially the same as the Desk Study report submitted in support of a smaller application site (152352). This report is acceptable for Environmental Protection purposes. It is noted that some potential sources of unacceptable contamination have been identified and that a Phase 2 intrusive investigation is recommended to better characterise the risks. Recommended conditions for site characterisation; remediation, reporting of unexpected contamination; and validation of remediation.

Environment Agency:

No comments received.

Environmental Protection:

Recommended conditions to secure construction method statement.

Essex Bridleways Association:

No comments received.

Highway Authority:

The proposal is acceptable to the Highway Authority from a highway and transportation perspective subject to conditions for a construction method statement; for temporary signs along and before Public Footpath 17 alerting users of the footpath of construction works; to ensure that off-street parking is provided and maintained as such; and to secure bicycle storage.

Further consultation with the Essex County Council Public Rights of Way and Records Analyst who has confirmed that, subject to the above conditions, there would not be any negative impact to the Public Right of Way as a result of this application.

Historic Buildings and Areas Officer:

Following receipt of the original proposal, the Historic Buildings and Areas Officer raised certain issues that required clarification before a recommendation could be made. The main concerns were identified as being:

- The treatment of the Coach House's North elevation (including the deepening of the arches to convert them into windows and the opening of a door on the gable section)
- The articulation of the 'sun room', which should leave the added volume legible and distinct from the Coach House
- The form of the proposed garage to the east of the Coach House and mainly the treatment of the asymmetric roof.

Amendments were submitted to address the issues raised by the Historic Buildings and Areas Officer, whose comments are summarised as follows:

The revised proposals (drawings 2818-A-0311 REV P04, 2818-A-0312 REV P03 and 2818 - A-0313 REV P03) have addressed the concerns in regard to the conversion of the Coach House. The relevant comments covered:

- the treatment of the north elevation (including the proposal to deepen the arched openings and convert one of them into a door)
- the articulation of the proposed 'Sun room' to the existing building
- the roof of the proposed garage

The amended proposals provide satisfactory solutions to the above issues according to the Council's recommendations. Therefore and on the basis of these drawings, there are no objections to the proposals on heritage grounds.

Landscape Officer:

The Landscape Officer has referred to the site being outside the settlement boundary and being subject to Core Policy ENV1. ENV1 requires that *'unallocated green-field land outside of settlement boundaries (to be defined/reviewed in the Site Allocations DPD) will be protected and where possible enhanced, in accordance with the Landscape Character Assessment. Within such areas development will be strictly controlled to conserve the environmental assets and open character of the Borough'*.

The site lies within Colchester Borough Landscape Character Assessment Area A4 (Colne River Valley Floor), this describes the character of the landscape in detail and sets a landscape strategy objective to *'conserve and restore'* the landscape character of the Area. Within the overall character description for the Area it is identified that *'several bridges, mills and weirs scattered along the river corridor are evidence of the importance of the Colne as an area of settlement and industry'* and specially that *'an interesting weather-boarded – late Georgian example of a three-storey mill is located adjacent to a small church with a little spire at Chappel'*. This would intimate therefore that the visual dominance of the Mill within the landscape needs to be clearly illustrated within the proposal as being maintained in order to ensure the character of the area is conserved.

The viewpoint analysis within the Landscape & Visual Appraisal (LVA) dated 04/10/18 (ref NC18.481-lva01) is key in identifying if dominance of the Mill has been maintained as part of the current proposal and, if not, needs to be used as a tool to help redesign the development to ensure that dominance is maintained.

With regards to the original submission, the Landscape Officer made the following specific points:

1. The LVA needs to be augmented to include winter views from key viewpoints, including VP6 on (Fig 7) and VP1, VP8 & VP9 (Fig 8). It is also recommended the accurate outline of the proposed development (simple red line), showing building width and ridge-height, be included to principal viewpoints 10 & 11 (Fig 7) and 1 & 8 (Fig 8). This in order to help fully explore the impact of the proposed development on these principal views.
2. In order to help address concerns raised, the LVA needs to clarify that viewpoint 1 (Fig 8) is the principal point from which the site can be seen from the access track to Old Hall Farm, this as a note against viewpoint photo 1, photo-sheet 1. Likewise it needs to confirm that viewpoint 8 (Fig 8) is the principal point from which the site can be seen from the vantage points along Oak Road & PRow 126_7 as a note against viewpoint photo 8, photo-sheet 4 and that viewpoint 11 (Fig 7) is the principal point from which the site can be seen from the vantage points along PRow 152_27.
3. Development should propose the removal and re-landscaping of the earth banking to the perimeter of the site (subject to agreement by the ecologists), this to help revive the underlying character of the site, open views from the PRow and offer a deeper landscape setting to it.
4. Where rear gardens abut/back onto the Ecology Zone or Meadow a dark stain 1.8m dark stain hit-&-miss privacy fence needs to be proposed to these unit boundaries, with a native hedge planted along this fence-line on the outer (PRow) side. This in

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order to protect the privacy of those gardens, the viability of the Ecology Zone and the amenity value/character of the PRow.

Following the submission of further information in respect of the LVA, the Landscape Officer commented as follows:

The professional viewpoint analysis (VA) within the Landscape & Visual Appraisal (LVA) dated 04/10/18 & 15/03/19 (ref NC18.481-lva01) is key in identifying if dominance of the Mill has been maintained as part of the current proposal and, if not, used as a tool to help redesign the development to ensure that dominance is maintained. With this in mind, the VA might be developed further to include an accurate outline of the proposed development (simple red line), showing building width and ridge-height for principal viewpoints 10 & 11 (Fig 7) and 1 & 8 (Fig 8). This in order to help further explore the impact of the proposed development on these principal views.

Further information was subsequently submitted and the Landscape Officer has concluded that the information is satisfactory and that there are no objections to the application on landscape grounds, subject to conditions to secure a detailed landscape scheme and a landscape management plan.

Natural England:

Natural England have identified that the development falls within the 'Zone of Influence' (Zoi) for one or more of the European designated sites into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). It is anticipated that, without mitigation, new residential development in this area and of this scale is likely to have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure when considered 'in combination' with other plans and projects. The Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Colchester Borough Council, working together to mitigate the effects arising from new residential development. Once adopted, the RAMS will comprise a package of strategic measures to address such effects, which will be costed and funded through developer contributions. This proposal falls below the scale at which Natural England would offer bespoke advice on this issue. It is advised that a Habitats Regulations Assessment (HRA) is undertaken to secure any necessary mitigation and record this decision within the planning documentation, consulting with Natural England where necessary. Planning permission should not be granted until the HRA has been undertaken and the conclusions confirmed.

The Ramblers Association:

The Ramblers look forward to the enhanced walking environment along and adjacent to Wakes Colne footpath 27.

SUDs:

As the application does not constitute major development, Essex County Council SUDs (as Lead Local Flood Authority) do not have any comments to make in respect of the application. Suggested conditions and informatives have been provided should they be considered relevant.

9.0 Parish Council Response

- 9.1 Wakes Colne Parish Council objects to the proposal on the following grounds:
- The site is outside the settlement boundary and does not conform to the Local Plan for residential development;
 - Major access concerns and increase in traffic movements along a narrow lane leading to the development site. Safety issues at the junction of the lane with Colchester Road (A1124) and to the entrance of the proposed development which is on a blind bend with a public footpath crossing the lane;
 - Lack of utilities servicing existing buildings leading to a lack of capacity to accommodate development in this area;
 - Inadequate information regarding what types of materials would be used; not in keeping with the rural surroundings of the area;
 - Impact of site on the off-site flood risk for the immediate area.
- 9.2 Chappel Parish Council object to the proposal on the following grounds:
- The access to the site from the A1124 is on an unlit, blind bend which has had numerous accidents over the years and an increase in vehicles is, therefore, of great concern;
 - The access road to the site crosses a public footpath;
 - The development would be outside the settlement boundary for Wakes Colne;
 - The site has not been allocated for development in the emerging Local Plan; and
 - The site is within a flood risk area.

9.0 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 **Six objections** have been received, the content of which has been summarised below. The summary is provided in topics (in no particular order) for ease of reference.

- **Procedural Matters:**
 - It is incorrect to describe the site as a former coal yard; it has not recently gone out of use and has been determined as being 'abandoned' by the Council. The industrial use of the site cannot, therefore, be reinstated.
 - No 'blue lined' plan has been submitted with the application.
 - It is not clear whether Chappel Parish Council have been consulted. The site is visible from the public realm of Chappel and impacts on nearby Chappel residents. It is appropriate that Chappel Parish Council are consulted.
 - The photographs submitted with the application have been selectively taken and the points chosen are not the only points where the mill can be appreciated from (from the public realm).
 - The drawings and information included in the heritage statement and Design and Access Statement are insufficient with which to make an informed decision on the preservation or enhancement of the listed buildings/conservation area.

- None of the drawings include specific reference to materials or the approach to landscaping.
- The heritage statement does not adequately describe the setting or significance of the Grade II listed mill/Old Granary and Mill House, or the Chappel Conservation Area.
- The Design and Access Statement does not meet the legal requirements for information on access.
- No Transport Assessment/Statement has been submitted. Consequently, there is no information on the level of traffic that is expected to be generated by the proposed development or the accident data relating to the junction with the A1124.
- General Queries:
 - Who would own the meadow and maintain it; how could overflow parking be prevented?
 - Would the concrete and other pieces of material along the site bund be removed?
 - How would Mill House be redeveloped?
- Principle of Development:
 - The site is outside the village envelope and is not recommended for development in the new Local Plan. It does not meet the criteria for ENV1 or ENV2.
 - The proposal would be contrary to policy SD1.
 - The proposal is contrary to policy UR2 as it would be discordant with its context and fails to enhance the quality and function of the area.
 - The site should remain undeveloped as this would be better in keeping with the character of the locale than the proposed development.
 - An appeal for residential development at Virley Cottage, outside the settlement boundary of Wakes Colne, was dismissed (APP/A1530/W/17/3178618) with the reasons holding true for this site.
 - The Council refused outline permission for 2 No. houses on a relatively new B2 industrial development (ref: 172053) outside the settlement boundary less than 1km from the application site, the reason being that it would have an unnecessary urbanising impact on the countryside. This site is superior to the application site from a sustainability/accessibility aspect and would have less of an urbanizing impact than the current proposal.
 - There is no presumption that previously developed land should be re-developed.
 - The emerging Local Plan has identified a suitable site for the provision of additional housing (30 units) within Chappel and Wakes Colne.
 - Policy ENV1 states that development will be directed away from land at risk of fluvial flooding.
 - There is little evidence of any substantial economic, social, and environmental benefits which would outweigh other material planning considerations.
 - Paragraph 79 of the NPPF states that decisions should avoid the development of isolated homes in the countryside unless certain circumstances apply: optimum use of a heritage asset; the redevelopment of redundant or disused buildings and enhance its immediate setting; and the design being of exceptional quality. The application does not demonstrate how the scheme meets these criteria.

- Highway Matters:
 - Three new dwellings would result in at least six cars which would double traffic movements along the lane and have safety implications for users of the public footpath and access to/from the A1124.
 - The site access is limited, being a single track lane that is unlit and without passing places or a footpath. It is not suitable for additional traffic.
 - The access lane joins Colchester Road on a sharp bend. Although being a 30mph limit there have been accidents on this road and traffic surveys have recorded average speeds to be in excess of 30mph. the junction is not suitable for additional traffic without improvements.
 - 10 no. parking spaces is considered to be excessive for two new houses, the coach house, and Mill House.
 - It would be dangerous for pedestrians to reach the bus stop and train station. There is a footpath on the north side of the road which requires pedestrians to cross the main road on a blind corner.
 - The application form states that no new or altered vehicular access proposed to or from the public highway is being proposed, but it would appear from the extent of the recent resurfacing work along the access lane that there would be an altered/new access onto maintainable public highway.
 - It is not evident that due regard has been given to appropriate visibility splays.
- Services:
 - Neither the site nor the mill buildings have mains sewerage.
 - Mains water is supplied by an old lead pipe that serves all buildings and water pressure is low. There is no information provided to explain how this service would be protected for existing residents or for the new development.
 - The application form proposed that the development will be connected to an existing drainage system/mains sewer. It is not clear how this will be effected as it is understood that there is no main sewer in the vicinity.
- Layout and Design:
 - Current building and population density in the area is low; any increase in densities would be wholly inconsistent with the character of the locale and would be 'urban sprawl'.
 - Lack of information provided regarding construction materials.
 - Whilst the works to the coach house appear sympathetic, the two new dwellings are out of character with the style of the listed buildings present and the general nature of building throughout Colne Valley.
 - The proportions of the proposed new dwellings are 'all wrong' and the developer is trying to cram in too much. The development, as well as proposed landscaping, would obscure parts of the mill from the north, including from Public Right of Way 152_27.
 - The extension to the coach house, and its fenestration, is incongruous and not harmonious with the character of the existing building. There is no justification for lowering the window sills of the curved windows in the southern elevation. The roofline of the sun room extension would interfere with the visual proportions of the heritage asset. The sun room extension would be a dominant addition to the building as there is no visual break

between old and new. Such extensive use of glass would detract from the rural character of the coach house.

- There is nothing within the application to suggest that the proposed design is of a high standard, contrary to policy DP1.
- Paragraph 70 of the NPPF states plans should consider the case for setting out policies to resist inappropriate development of residential gardens. The Mill House currently has an area of lawned garden that will be destroyed by the creation of a new site access. Given that the Mill House is listed this is considered inappropriate development of a residential garden harming an integral part of the heritage asset.
- The new access to the proposed dwellings would result in loss of garden to the Mill House, leaving just an overlooked courtyard area and a detached parcel of land to the south of the river that can only be accessed by crossing the narrow flood gates.
- Concern regarding the scale of the proposal and how it will sit in the landscape and the context of the mill complex; a substantial portion of the building roof would be visible between the coach house and Mill house. The silhouette of the coach house against the landscape would be lost.
- The new dwellings would be overly long and monolithic.
- Landscape Impact and Trees:
 - The proposal is contrary to policy ENV1. It is not appropriate in terms of its 'scale, siting and design' and does not 'protect, conserve or enhance landscape character, including maintaining settlement separation. The proposal does not 'protect, conserve or enhance the interests of natural and historic assets'.
 - A two-storey 'incongruous development' does not maintain the important cross-valley views identified in the Colchester Borough Landscape Assessment, nor does it conserve the open character of the floodplain.
 - The former coal yard is not considered to be an eyesore and the proposal is not considered to be a better alternative. The former coal yard is a rather pleasing green space from a landscape and amenity perspective.
 - No site levels provided so the skyline and views of the development from a distance cannot be accurately verified.
 - The submitted LVIA wrongly concludes that the visual influence of the proposed development is limited to the footpath around the perimeter of the site and to the footpath immediately south of the mill complex.
 - The Colne Valley is an important rural amenity asset and any development should be carefully considered due to the risk of degrading it. The proposed development would set an unfortunate precedent.
 - Would the trees listed as B1 value be protected by tree preservation orders? And would trees on the river bank be protected?
- Heritage:
 - In 2014, a ruling by the Court of Appeal (Barnwell Manor Wind Energy Ltd v East Northants District Council, English Heritage and the National Trust) made it clear decision makers must give considerable importance and weight to the desirability of preserving the setting of listed buildings (and by implication other heritage assets) when carrying out the balancing exercise of judging harm against other planning considerations, as required under the National Planning Policy Framework.
 - The proposals for the coach house are ugly and unsympathetic to its heritage.

- The Mill House (owned by the applicant) has deteriorated and no new development should be allowed until works to repair and maintain Mill House have been carried out.
- The proposed development would have an impact on the Conservation Area. The application does not consider the impact of the development on views from the conservation area to the east, along the lane, and from footpath 152_27.
- The proposal will impact on the setting of a listed building. Mills traditionally are relatively isolated and, by building two-storey buildings closer to the river is introducing buildings that interfere with the isolated mill context and would 'crowd' the existing listed buildings. As Public Right of Way 126_7 commands an elevated position, it is evident that the view of the relatively isolated mill complex would be seriously prejudiced by the introduction of an 'alien, elongated two storey semi as a backdrop'. The proposed buildings would be visible above existing rooflines, blotting out views of the separating vegetation beyond, creating the appearance that the mill is part of a much larger urban complex which destroys the ability to read its historical setting.
- The conversion of the coach house displaces existing vehicle garaging/parking provision and should not be seen as a justification for constructing further garaging on site. The proposed 4-bay shared garage looks to be orientated the wrong way round and would be impractical with the entrances facing north rather than south. The garaging is incongruous and the design appears more suited to a modern housing estate than the setting of a listed building.
- The coach house already has a viable use and therefore its conversion cannot be justified on the basis of circumstances listed in paragraph 79 of the NPPF. The proposal is not considered to be the optimal use of the building; the coach house has been used as a utility/boiler room, storage and garaging to the Mill House and there is no reason why this could not continue.
- The enclosures created by fencing off different areas are inappropriate. The coach house should not be seen as a separate entity to the remainder of the existing buildings. There is not considered to be any justification for the loss of the Mill House garden.
- The applicant has not adequately addressed the potential archaeological interest of the site given that there may have been a mill on site since 1066.
- There are not considered to be any public benefits arising from the proposal in order to justify the harm of altering the proportions, fenestration, and sub-division of space of the coach house.
- The application suggests that the redundant modern storage buildings to the north of the coach house and the raised ground level is causing harm to the fabric and setting of the building, but there is no technical/structural survey to support this. There is no evidence to suggest that the future of the building would be at risk if the proposal does go ahead.
- Ecology:
 - The proposal is contrary to policy ENV1 as it does not 'protect habitats and species and conserve and enhance the biodiversity of the Borough'.
- Flood Matters:

- There is insufficient information on SUDs. The former coal yard now provides a semi-permeable surface (as former hard surfaces have weathered and broken down). It is not known what materials would be used to create driveways etc.
- The Mill and the lane regularly flood (most recent serious flooding being in 2013/2014).

10.3 During the course of the application both revised and additional information was submitted in order to address specific heritage and landscape matters. It was not considered necessary to carry out further public consultation as the proposed changes were not significant given that they covered views already expressed in the objections previously received. Nonetheless, further comments were received from two local residents. One resident commented that the further information did not address their original comments around the impact on views, listed buildings, or materials. The other representation received was more extensive and is summarised as follows:

- No extension of time has been agreed.
- A new public consultation period should be undertaken as new applicant material has been received.
- There is a claim that the site is outside a Conservation Area, but part of the site is within the Conservation Area.
- The landscape information does not include a view from Observatory Cottage and Public Right of Way 126_7. The photos and views submitted are highly selective and do not show the impact of the proposal.
- The approximate ridgeline of the proposal in the supporting information submitted does not look correct.
- The picture viewpoints submitted do not show the bulk of the new dwellings or the impact of hard surfacing.
- Inadequate information regarding proposed materials.
- New documentation makes reference to the untidy site; development of the site is not necessary for it to be tidy.

10.4 The matters raised in the local representations will be addressed in the main body of this report.

10.0 Parking Provision

11.1 A total of 14 no. car parking spaces are proposed. There is ample space at each plot for cycle parking.

11.2 The EPOA Vehicle Parking Standards set requirements for parking for residential dwellings as follows:

	Car Parking (minimum)	Cycle Parking (minimum)	PTW (minimum)	Disabled (minimum)
2+ bedroom	2 spaces per dwelling	1 secure covered space per dwelling (none if garage or	N/A	N/A if parking is in curtilage of dwelling.

		secure area is provided within curtilage of dwelling)		
Visitor/unallocated	0.25 spaces per dwelling (rounded up to whole number).	If no garage or secure area is provided within curtilage of dwelling then 1 covered and secure space per dwelling in a communal area for residents plus 1 space per 8 dwellings for visitors.	1 space + 1 per 20 car spaces (for 1 st 100 car spaces), then 1 space per 30 car spaces (over 100 car spaces).	3 bays or 6% of total capacity, whichever is greater.

11.0 Accessibility

12.1 An explanation of access is set out in the submitted Design and Access Statement.

12.2 In terms of accessibility and the Equality Act, the proposal is not considered discriminate against disability, either directly or indirectly. The proposals are designed so as to provide both living areas and bedroom space at ground floor level (the Coach House) or have flexibility for adaptation (Plot 1 and Plot 2).

13.0 Open Space Provisions

13.1 The proposed development provides garden space in excess of the 100sqm space required for 4-bed dwellings in the Local Plan (Policy DP16).

13.2 The meadow area on the eastern side of the site, at just under 900sqm, equates to 10% of the site area and therefore public open space is provided in accordance with DP16.

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

- 16.1 The main issues in this case are: principle of development; landscape impact; heritage matters, design, and layout; contamination; ecology; highway matters; drainage and flood risk; and amenity.

16.2 Principle of development

In terms of the principle of development, Core Strategy Policy SD1 seeks to locate growth at the most accessible and sustainable locations in accordance with the settlement hierarchy (Colchester Town and Stanway being at the top of that hierarchy, extending down to District Settlements of Tiptree, West Mersea, and Wivenhoe; with other villages in the Borough being identified as ‘Rural Communities’) and a sequential approach that gives priority to accessible locations and previously developed land (PDL). The requirements of TA1 are relevant such that development needs to be focused on highly accessible locations to reduce the need to travel.

- 16.3 Core Strategy Policy ENV2 expands upon the requirements for development within rural communities, confirming that the Borough Council will enhance the vitality of rural communities by supporting appropriate development of infill sites and PDL within the settlement development boundaries of villages.

- 16.4 It is relevant to consider that Government guidance acknowledges that rural housing is essential to ensuring the viable use of local facilities such as schools, local shops, cultural venues, public houses, and places of worship. Paragraph 78 of the NPPF states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Indeed, where there are groups of smaller settlements, development in one village may support services in a village nearby. Paragraph 84 states that the use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist, although Paragraph 79 makes it clear that Planning policies and decisions should avoid the development of isolated homes in the countryside unless specified circumstances apply.

- 16.5 The application site is not located within a village settlement boundary so falls outside the settlement hierarchy of policy SD1 and the provisions of policy ENV2. It is noted however that both policy SD1 and the NPPF seek to focus development to Previously Developed Land (PDL) and the site, having formally been a coal yard, falls within this category.

- 16.6 The development of PDL is encouraged so this weighs in favour of the development. In terms of sustainability and accessibility, Chappel and Wakes Colne have a number of facilities and services that are in reasonable proximity to the site. To the north and east of the site is the village hall, Post Office Store, Public House, and Primary school, all of which are within desirable walking distance of

500m (as per guidance in The Institute of Highways and Transportation Guidelines for Providing Journeys on Foot). There is also a bus stop at the Post Office Store which provides public transport further afield to Halstead and Colchester. The Chappel and Wakes Colne Train Station is approximately 850m to the north of the site, and the Wakes Hall Business Park is approximately 970m to the north-west, which is again an acceptable walking distance for commuting should residents choose to walk. It is accepted that the safest walking route to these facilities would be along the PROW and that, at times of inclement weather this would be less appealing to pedestrians, although it is considered that in poor weather people would generally choose to drive to facilities rather than walk in any case. Given the proximity of the site to a number of services and facilities (without the need to travel by private car), the proposal is not considered to be 'isolated' and is sustainable. The proposed development would support these local services and facilities and help to maintain their vitality in accordance with the NPPF.

16.7 The accessibility to services and facilities without the need for private car is also considered to meet the principles of policy TA1, bearing in mind paragraph 84 of the NPPF which states that it should be recognised that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport).

16.8 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. The policies go on to state that new developments must enhance local character and optimise the capacity of accessible locations. The proposed development is for dwellings served by large plots with off-road parking. This is considered to be contextually appropriate given the similar nature of surrounding development.

16.9 It is important to note that Core Strategy Policy ENV1 does not apply to the principle of development in this case. This policy states that unallocated greenfield land outside of settlement boundaries will be protected; whilst the site is unallocated it is previously developed land so is not greenfield land that is protected by the policy.

16.10 In conclusion, the proposal would result in the redevelopment of previously developed land which is encouraged in both national and local planning policy; it is not considered to be 'isolated' in NPPF terms; would be in a reasonable accessible location in terms of having access to facilities and services without the need to travel by private car; and the proposal is considered to be of a suitable density given its location. Further material planning considerations are necessary, and the planning balance will need to be considered in order to make a final conclusion on the acceptability of the proposal.

16.11 Landscape Impact (including trees)

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

16.12 As identified by the Council's Landscape Officer, the site lies within Colchester Borough Landscape Character Assessment Area A4 (Colne River Valley Floor), which describes the character of the landscape in detail and sets a landscape strategy objective to '*conserve and restore*' the landscape character of the Area. Within the overall charter description for the Area it is identified that '*several bridges, mills and weirs scattered along the river corridor are evidence of the importance of the Colne as an area of settlement and industry*' and specially that '*an interesting weather-boarded – late Georgian example of a three-storey mill is located adjacent to a small church with a little spire at Chappel*'. It is therefore considered that the visual dominance of the mill complex is maintained in the interests of the landscape character of the area.

16.13 Further information was submitted in respect of the Landscape and Visual Appraisal to include winter views of the site, additional viewpoints, as well as more accurate outlines of the proposed development in the landscape context. Whilst local objection has referred to the appraisal omitting view from footpath 152_27, this is not the case as viewpoints 8 and 9 are both from this footpath. Local objection has also queried the accuracy of the viewpoint photographs, but there are no concerns in this regard given that the viewpoints have been gathered by a professional Landscape Consultant in accordance with industry standards; viewpoints have been established by establishing zones of theoretical visibility (ZTV) and these viewpoints have been verified by the Council Landscape Officer. In contrast, the photographs provided by some of the objectors are 'zoomed' in photographs from locations away from public rights of way (where the general public do not have a legal right of access) so could not be used as evidence in an assessment of landscape impact. For clarity, the viewpoints used in the Landscape and Visual Appraisal are shown in the following figures:

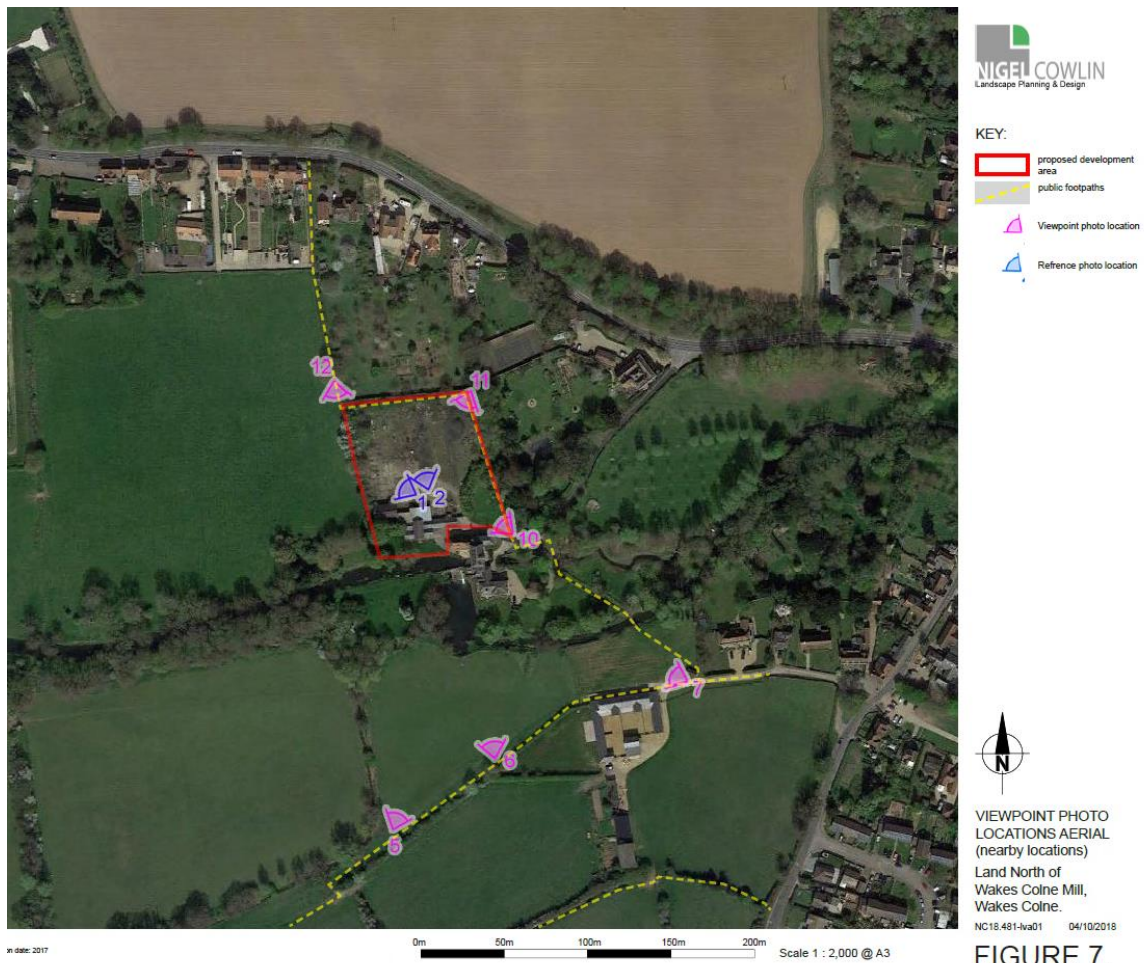
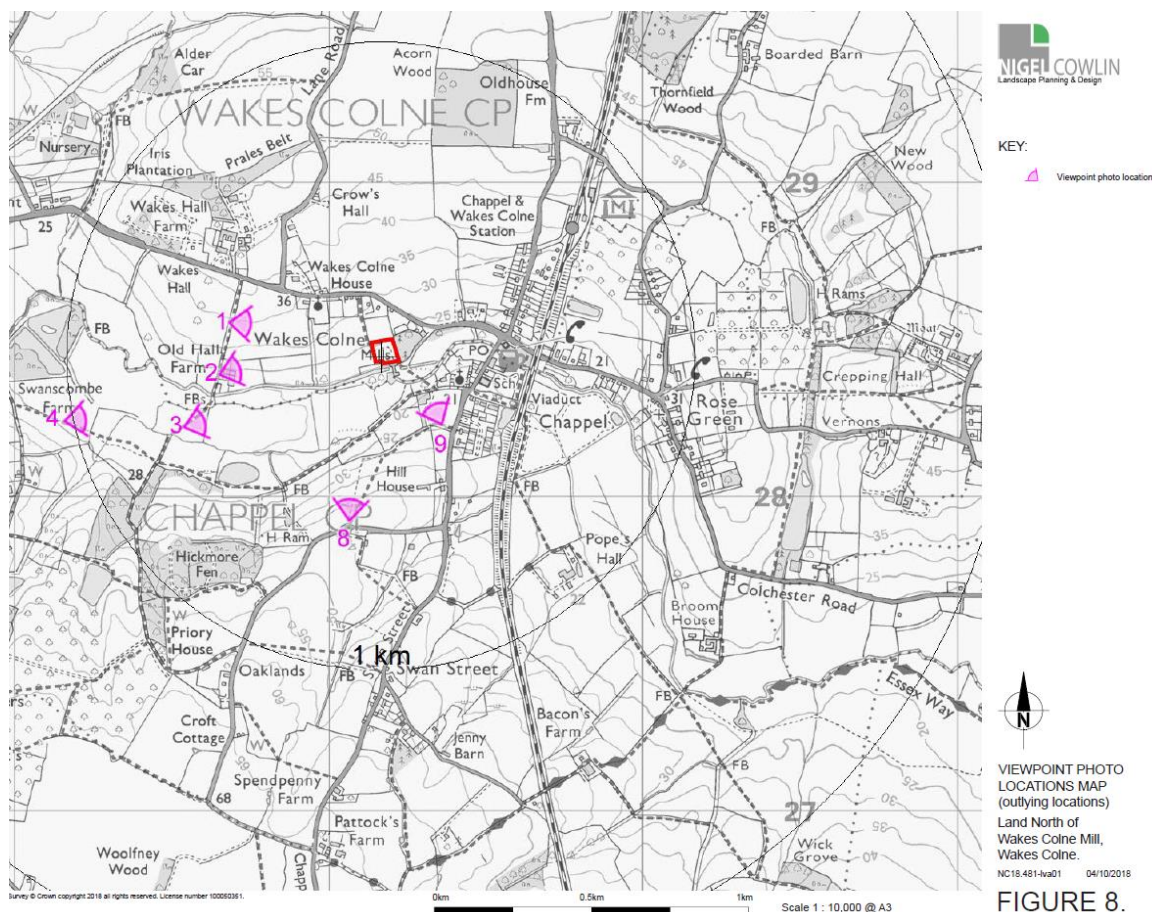


FIGURE 7.



16.14 Following receipt of the additional information in respect of viewpoints, the Council's Landscape Officer has concluded that the level of information is satisfactory. It is considered that the information demonstrates that the mill complex would remain entirely legible in the landscape and would not be dominated or diminished by the new build proposed.

16.15 The landscaping of the site can be achieved in an acceptable manner. Landscaping to the boundaries of the site would, as shown on the proposed site layout drawing (2818-0106 Rev P04), be informal with hedge planting. There is some more formal planting within the shared drive between the coach house and proposed new build. Detailed landscape proposals can be approved and secured via condition. Local representations have criticised the proposal by stating that there is insufficient information with which to assess landscape proposals. This is not considered to be the case as the proposed layout submitted with the application indicates a landscape concept to a similar level of detail that would be seen in any number of planning applications for residential development. It is entirely acceptable for detailed proposals to be secured via condition once the general landscape concept has been agreed.

16.16 In terms of trees, the B category trees along the boundaries of the site would be retained and protected during the course of the development. There are some trees in the centre of the site that would be removed in order to make way for the development, but their loss is not considered to be significant given their category (C Class or unclassified) and the retention of more prominent trees along the boundary. The Council Arboricultural Officer is satisfied with the information

provided with the application, subject to its content being secured by condition; the condition will ensure adequate tree protection and appropriate construction techniques.

- 16.17 On the basis of the above, the proposal is considered to accord with both policy ENV1 and DP1 in respect of landscape impact.

16.18 Heritage

The relevant legislation for the review of the application is the Planning (Listed Buildings and Conservation Areas) Act (1990), where Section 16(2) states that in considering the granting listed building consent special regard should be given to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 66 (1) requires that the decision to grant planning permission for development which affects a listed building or its setting shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 72(1) of the same document stresses that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas.

- 16.19 The National Planning Policy Framework (2019) is an additional consideration. Section 16, Paragraph 192(a) states that the determination of applications should take into account the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. Paragraph 192 (c) states that in determining applications, the desirability of new development making a positive contribution to the local character and distinctiveness should be taken into account. Paragraph 193 determines that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation and paragraph 194 determines that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Whereas paragraph 195 deals with substantial harm to a designated heritage asset, Paragraph 196 states that where a development proposal will lead to less than substantial harm to the asset's significance, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

- 16.20 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. This policy is not entirely consistent with the NPPF that requires that less than substantial harm be weighed against the public benefits at paragraph 196.

- 16.21 The planning application involves the construction of 2 No. dwellings on the coal yard site, as well as the conversion of the Coach house into a dwelling. The proposals include lowering the ground level of the coal yard, the removal of the buildings to the north of the Coach House, the addition of a four bay garage to its east, and an one-storey extension to its west side.

- 16.22 In terms of built heritage, The Mill and the adjacent House are listed at Grade II (UID 1224981), with the following description *“Watermill circa 1840, brick walls in Flemish bond, 3 storeys and range of 4 windows, doors centrally on first and second floors with jettied sack-hoist over. Roof hipped and gambrelled, slate clad with lead flashings. Windows all 6-pane fixed. Half doors central to ground storey. Inside 3 pairs of millstones underdriven mounted on a hearse. Two storey ranges to south and east. Two storey gault brick office or house on north-east corner circa 1820, two window range of marginally glazed sashes at first floor, angled bay window below.”* The Mill complex was converted into dwellings in the 1970s when the industrial use of the site ceased.
- 16.23 The site also includes the 19th c. Coach House, to the north of the Mill. The Coach House appears in the Tithe Maps from 1841 and the consequent OS maps.
- 16.24 Since the 1940s, the land north to the Coach House was used as a coal yard. The ground level of the yard has been filled in, while a group of outbuildings were added to the north side of the Coach House in the 1980s, to serve the coal business. After this business ceased, the buildings that abut its north elevation, and the former coal yard became redundant. The coal yard site part of the wider setting of the mill complex. It does not make a particular contribution to the significance of the listed building beyond the fact that it is vacant.
- 16.25 Part of the application site is also situated within the designated Chappel Conservation Area (its boundaries include the Coach House, but not the coal yard to the north).
- 16.26 The site’s interest from a heritage perspective is therefore considerable, since the proposals involves the conversion of the Coach House which has listed status as curtilage building of the Mill Complex. Additionally, the proposed development will impact the setting of the designated heritage asset, while the scheme will also affect the character and appearance of the Conservation Area.
- 16.27 The review of the proposals from a heritage perspective involves two issues: firstly, the conversion of the Coach House and the direct impact of the proposed works on the historic asset itself and secondly, the proposed development on the coal yard and its effect on the setting of the designated Mill complex and the Chappel Conservation Area.
- 16.28 The Council Historic Buildings and Areas Officer has commented that the proposal to convert the redundant Coach House into a dwelling is in principle welcome, as the NPPF encourages the introduction of new viable uses to heritage assets, as long as it is consistent with their conservation. The Coach House is preserved in a fairly good state and would lend itself well to the conversion. Although its southern elevation is in a good condition, the northern one shows the signs of the adjacent use of the coal yard and its subsequent redundancy: the 1980s structures obscure its north elevation, while the fenestration has been altered and the wall suffers from rising damp due to the built up of the coal yard to its exterior. At the site visit, significant cracks were evident along the northern wall of the coach house as well as signs of pressure from the raised ground levels externally.

- 16.29 The removal of the modern structures and the restoration of the ground level are expected to have a positive impact on the historic building, as they will reveal its north elevation and improve the condition of the north wall.
- 16.30 Other considerations regarding the impact of the conversion on the character of the building include the addition of the sun room: its addition is not in principle an issue, as it is understood that the extension seeks to counterbalance the lack of views to the river from the Coach Houses' main space due to the existing height of the south windows, which are preserved in their original form.
- 16.31 The revised proposals (drawings 2818-A-0311 REV P04, 2818-A-0312 REV P03 and 2818 - A-0313 REV P03) have addressed the concerns in regard to the conversion of the Coach House. The relevant comments covered:
- the treatment of the north elevation (including the proposal to deepen the arched openings and convert one of them into a door)
 - the articulation of the proposed 'Sun room' to the existing building
 - the roof of the proposed garage
- 16.32 The amended proposals provide satisfactory solutions to the above issues according the Council's recommendations. Therefore and on the basis of these drawings, there are no objections to the proposals on heritage grounds.
- 16.33 The addition of the new dwellings on the Coal Yard will alter the setting of the listed Mill complex and will affect the views from and towards the historic asset in so far as it would add built form. The proposal would also result in changes that affect the Conservation Area. The treatment of the boundaries and the landscaping of the open spaces are important factors in order to protect the public amenity (public pathway) and ensure further mitigation of the impact on the setting of the historic complex.
- 16.34 The form and layout of the new dwellings references rural utilitarian and agricultural buildings and the choice of materials attributes an industrial character that suits the setting of the Coal Yard. Moreover, according to the Site Sections, the ridge of the new dwellings sits lower than the Mill's roof line and almost at the same height with the Coach House's ridge. As assessment of the landscape impact has concluded that the proposal would retain the dominance of the mill complex from public views.
- 16.35 The decision to include the conversion of the Coach House and remove the redundant buildings from its north elevation represents an important improvement regarding the scheme's heritage impact. The conversion of the curtilage building, in a manner that is consistent to its conservation, complies with NPPF's Paragraph 192 (a). It remains to ensure that the proposed works will cause less-than substantial harm to the building's significance, according to the NPPF's definition, which will be counterbalanced by the expected public benefit of putting the historic building back to viable use, according to NPPF's paragraph 196. Conditions will be necessary to ensure appropriate materials and detailing. A historic building survey could be conditioned to provide a detailed record of the coach house in

order to allow further recording of the curtilage listed structure in the interests of historical understanding.

16.36 In terms of below ground archaeology, the Council's Archaeological Adviser has confirmed that ground works associated with the proposed development would cause ground disturbance that has the potential to damage archaeological deposits, should there be any. The professional advice of the Archaeological Adviser is that there are no grounds to consider refusal on this basis as suitable conditions will secure archaeological investigation that would record and advance the understanding of the significance of archaeological deposits, which should be preserved in situ. The proposal is therefore considered to be in accordance with policies ENV1 and DP14 subject to these conditions.

16.37 Layout and Design

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

16.38 Development Plan Policy DP12 requires high standards for design, construction, and layout. In considering proposals for new residential development, the following needs to be taken into consideration:

- i. The avoidance of adverse overshadowing between buildings or over neighbouring land uses, and of other adverse microclimatic effects resulting from medium and high rise buildings at a high density;
- ii. Acceptable levels of daylight to all habitable rooms and no single aspect north-facing homes;
- iii. Acceptable levels of privacy for rear-facing habitable rooms and sitting-out areas;
- iv. A management and maintenance plan to be prepared for multioccupancy buildings and implemented via planning conditions to ensure the future maintenance of the building and external spaces;
- v. Flexibility in the internal layout of dwellings to allow adaptability to different lifestyles;
- vi. Vehicle parking (including secure cycle and motorcycle parking) to an appropriate standard, as set by Essex County Council and policy DP19, and provided in a visually acceptable manner. In the case of flats, secure cycle storage should be incorporated into flat blocks and readily located at the building entrances, and;
- vii. An accessible bin and recycling storage area, and external drying areas.

16.39 As set out above, the design and layout of the proposal is considered to be appropriate in terms of landscape and heritage impact. The conversion of the coach house has been found to be acceptable in listed building terms. The design of the new build is such that it reflects the more industrial nature of the former coal yard and this is considered to be an appropriate design response given this context. The proposals are considered to meet the relevant requirements of Policy DP12 as there would be no adverse overshadowing, adequate daylight to habitable rooms, acceptable levels of privacy. Matters of parking and flexibility of internal layouts have been addressed within the main body of this report. The requirements relating to multi-occupancy buildings is not relevant in this case.

- 16.40 Local representations have stated that there is insufficient information with regards to the design and materials proposed, but this is not considered to be the case. Details have been provided to show indicative sketches of the proposals, as well as more detailed drawings and examples of the detailing proposed. These details accord with the design approach being put forward and are considered to be acceptable. Precise details can reasonably be secured by condition.
- 16.41 Given the current state of the site, with the former coal yard buildings visibly deteriorating and the site being overgrown with a great deal of coal waste and various items associated with the former use being strewn across the site and imbedded in the bunds on the boundaries, the proposal is considered to enhance the site. This is not limited to clearing and tidying the site, but with enhanced landscaping.
- 16.42 Local representation has expressed concern with the garden of Mill House being compromised as a result of the development. Although the garden to Mill House (which currently consists of a grass area to the front of the building and two areas of land either side of the river) would be altered, the proposals still allow for ample garden space; the Mill House would still have the garden space to the south of the river which it currently enjoys. Further consideration of amenity and garden space is considered in the Amenity heading below.
- 16.43 The proposal is therefore considered to be acceptable in design terms, subject to conditions, in accordance with the aforementioned policies.
- 16.44 Contamination
Development Plan policy DP1 requires new development to undertake appropriate remediation of contaminated land.
- 16.45 Given the history of the site as a coal yard and the proposed vulnerable use (residential), it was necessary for the application to be supported by a contaminated land assessment. The submitted assessment identified some potential sources of unacceptable contamination which require further investigation in order to characterize the risks. The Council Contaminated Land Officer considers this to be acceptable subject to conditions for site characterisation; remediation, reporting of unexpected contamination; and validation of remediation. The proposal is therefore considered to comply with policy DP1 in respect of contamination.
- 16.46 Ecology
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.

- 16.47 The application was supported by a Preliminary Ecology Appraisal. The appraisal concluded that the site is of moderate ecological value, based upon the presence of low numbers of roosting bats and reptiles and the location of the site being adjacent to the River Colne. Mitigation measures would enable the proposed development to proceed with negligible risk of harm to protected species and without any significant negative impact upon habitats or any local wildlife population. The appraisal identified that additional bat surveys (for roosting bats) and reptile surveys would be required. Recommendations were made in respect of reducing any risk of harm or disturbance to Water Voles, nesting birds, and Hedgehogs and Common Toads, along with general precautions in respect of badgers. Biodiversity enhancements, such as bat and bird boxes, native tree and shrub planting, and habitat piles are also recommended.
- 16.48 The additional Bat and Reptile Survey concluded that there were very low numbers of bats found to be using the site and, as such, mitigation measures were appropriate. The recommended mitigation measures include the timing of demolition/construction (not between sunset and sunrise between April and September), as well as sensitive lighting. In terms of reptiles, the appraisal found that, without mitigation, the proposed development would result in direct loss of suitable reptile habitat and potentially kill and/or injure Common Lizards, Slow Worms and/or Grass Snakes. The provision of an area of habitat of approximately 0.12ha was considered by the appraisal to be sufficient to support the small population of Common Lizard, Slow Worms, and Grass Snakes recorded on site. Translocation of reptiles would be necessary, with reptile fencing being erected around the development area in order to prevent animals returning following translocation; full details of the mitigation measures are detailed in the appraisal.
- 16.49 The proposal includes a meadow and an ecology zone on site. The ecology zone in particular would provide the habitat required for mitigation as identified in the appraisal. Subject to conditions to ensure that the mitigation measures are carried out and maintained, the proposal is considered to comply with relevant policy.
- 16.50 Consultation has also been undertaken to assess whether the proposal would have an impact on an SSSI Impact Risk Zone. Details provided by Defra confirm that there is no requirement to consult Natural England as development is under 100 dwellings.
- 16.51 Natural England have, however, confirmed that the development falls within the 'Zone of Influence' (Zoi) for one or more of the European designated sites into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Colchester Borough Council, working together to mitigate the effects arising from new residential development. It is anticipated that, without mitigation, new residential development in this area and of this scale is likely to have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure when considered 'in combination' with other plans and projects. A Habitats Regulations Assessment (HRA) has been undertaken and this concludes (in accordance with Natural England standing advice) that a contribution towards the RAMS is required in order to mitigate the impacts of the

development upon designated sites. The payment is required before the planning application is determined.

16.52 Highway Matters

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

16.53 The Highway Authority has considered the proposals from a highway and transportation perspective and do not object to the proposal subject to conditions. Local representations have expressed concern regarding additional vehicular traffic using the existing lane and the potential impact on pedestrians using the Public Right of Way that crosses the lane and this matter has been explored further with the Highway Authority. Further consultation with the Public Rights of Way team confirms that there is no objection to the proposal in terms of how it may impact upon the public right of way.

16.54 Paragraph 109 of the NPPF makes it clear that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. The considerations of the Highway Authority confirm that there would be no such impact, subject to conditions.

16.55 Local representations have made several comments regarding highway and traffic impacts and further comment can be provided in response to these below:

- No Transport Assessment or Transport Statement has been submitted with the application. The requirement for the provision of a Transport Assessment (TA) is 50 dwellings and for a Transport Statement (TS) 25 dwellings. The proposal is for 3 No. dwellings falls far below the threshold for when these studies are required.
- In terms of the increase in traffic movements and the safety implications for users of the public footpath and access to/from the A1124, the PROW Officer has confirmed that there are no conflicts that would be considered 'severe' and additional signage has been recommended via condition to alert those using the footpath and construction workers of each others presence. Increase in traffic from the development of 3 dwellings is considered to be minimal, especially as vehicle speeds would be slow along the access track. The Highway Authority has considered this aspect.
- The access track adjoins Colchester Road and local residents have expressed concerns regarding safety. This part of Colchester Road is a 30mph limit and as such drivers should be travelling at this speed; the planning system cannot control drivers who choose to exceed the speed limit. In any case, accident data on this part of the road has been explored. The accident data shows 10 recorded incidents between December 2013 to November 2018. None of the

incidents were attributed to those joining Colchester Road or turning into the access road. The majority of incidents were due to weather conditions or reckless driving.

- Parking spaces are considered to be excessive in the local representations. The parking proposed meets policy requirements. At least 2 car parking spaces are provided per dwelling, with the remainder allowing provision for visitor spaces in accordance with policy (which would require 1 car parking space, 2 motorbike spaces, and 3 disabled spaces for visitors to this development).
- The safety of pedestrians looking to access the bus stop and train station has been considered. As set out in the previous sections of this report, there is a walking route along the PROW. The Highway Authority has confirmed that the proposal is not of a scale to reasonably require additional footways. The accessibility of the site to other services and facilities is considered to be acceptable.
- Although the application form does not refer to new or altered vehicular access being proposed, the description of development, along with the submitted drawings clearly show these proposals so there is not considered to be any ambiguity.
- With regards to visibility splays, the purpose of a visibility splay is to ensure that there is adequate **intervisibility** between those using the access and those already within the highway particularly between motorised traffic. Advice from the Highway Authority is that the location of the proposed access does not indicate the need for a greater visibility splay is required. Even if it could be provided, due to the low traffic movements and expected traffic speed it would be unnecessary. It is noted that the visibility at the connection to Colchester Road is not impeded.

16.56 Ultimately, given the above considerations, the proposal is considered to be acceptable in terms of highway implications subject to conditions.

16.57 Flood Risk and Drainage

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.

16.58 A Flood Risk Assessment (FRA) was submitted with the application given the site location within a flood risk 2 and 3. The FRA confirms that the southern edge of the site (essentially the coach house and access lane) lies within a Flood Zone 2 (defined as 'medium risk') and Flood Zone 3 (defined as 'high risk'); this is a risk of fluvial flooding associated with the River Colne. The remainder of the site lies within a Flood Zone 1 which is of low risk.

16.59 The FRA considers the NPPF exception test in respect of development and flood risk.

- **4.5.3 Part a) Wider Sustainability to the Community**

The redevelopment is considered sustainable in that it provides use of a higher density and variety than its present (Pre-development) usage. The land is

currently unoccupied and 'redundant' and therefore not considered to be in 'sustainable' use. Therefore the development in terms of its sustainability to the community is considered to pass this part of the Exception Test.

- **4.5.3 Part b) Redevelopment of Previously Developed Land**

The area will benefit from sustainable new residential development with an element of 'green spaces' to create an attractive environment where people aspire to live compared to its current status in this respect. The proposed development is proposed to be located on previously/already developed redundant land and is anticipated to comprise removal of the existing structures. Therefore this part of the Exception Test is considered to have been passed.

- **4.5.3 Part c) Safe from Flood Risk**

The site is already under partial residential development and there is no readily available alternative in the surrounding area for the proposed development. As can be seen from the proposed layout compared to the current layout of the site there is a significant reduction in hard cover in the post-development state of the site. In accordance with NPPF Technical Guidance and the SFRA and mitigation of potential impacts of flooding through design and employment of flood resilient construction techniques the proposed development is not considered to increase flood risk either on or off site. On that basis, the Exception Test is considered to be satisfied.

16.60 Flood defence measures have previously been implemented following a flooding event in 1947. The maximum flood depths with respect to the site are experienced in close proximity to the River Colne where between 0.8m and 1.1m depth is present to the southern fringe of the site in some localised areas during the 1 in 100 year climate change scenario and 1:1000 year event respectively. The majority of the site would not be impacted by flood waters at this depth and topographic levels on land to the south of the site continue to reduce and therefore they would escape to the south of the site across the wider valley before impacting the site.

16.61 The primary risk of flooding to this site is considered to be from fluvial flooding. The current risk level while considered 'Low-medium' will be mitigated to a 'safer' (i.e. 'Low') level by the stated extent incorporation of soft landscaping and mitigation measures in the new development, such as ensuring that finished floor levels are above flood water level, and surface water management techniques (providing green space on site, parking areas to be semi-permeable material). This will be mitigated further by the incorporation of soft landscaping as indicated by the proposed scheme layout. The local drainage network is managed to the 1 in 20 year standard.

16.62 The content of the FRA is considered appropriate and the proposal is therefore considered to be acceptable with regards to flood risk subject to conditions that ensure that the flood mitigation measures are fully implemented.

16.63 In terms of surface water flooding, the proposal increases the permeable areas within the site which is currently predominantly concrete. This is an identifiable benefit of the proposed development. The FRA states that the increase in

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permeable area, along with surface water management will reduce the risk of the site flooding, as well as reduce the run off risk and of off-site flooding elsewhere. Such measures can be conditioned; whilst the Essex County Council SUDs team are not a statutory consultee in this case, they have recommended conditions, some of which can be used in order to secure the flood mitigation measures.

16.64 With regards to drainage, Anglian Water have not issued any comments of concern. It is important to note that any matters pertaining to other legislation such as Building Regulations do not constitute a material planning consideration and cannot be taken into account. On this basis the proposal is considered to be acceptable.

16.65 Amenity

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

16.66 The new build elements of the proposal would not be in close proximity to existing dwellings and, as such, there are no concerns regarding loss of daylight or sunlight to existing residents.

16.67 The main consideration with regards to amenity is privacy. The mill has previously been subdivided to create 3 No. dwellings which overlook one another in varying degrees. Most notably is the Mill which has a number of rear window that look into and over the garden currently serving Mill House; similarly, the proximity of the Mill House garden to the Mill could result in some overlooking to the rear windows of this property. The proposal to convert the coach house would include the use of part of the existing Mill House garden as a garden for the coach house and there would be mutual overlooking between the two. This arrangement is slightly unconventional, but is no different to the mutual levels of overlooking currently experienced within the mill complex. Given the context, the overlooking between the gardens of the coach house and Mill House (as well as from the Mill and the Old Granary) is considered to be acceptable.

16.68 There are not considered to be any issues of overlooking from the proposed new dwellings within the coal yard part of the site given the degree of separation from existing dwellings.

16.69 Other Matters:

Local representations have been taken into account as part of the assessment of the application. The majority of comments have been addressed in the above assessment, but there are some points that require additional clarification.

16.70 With regards to procedural matters, some of the local representations have objected to the description of the site as a 'former coal yard' as it has been out of use for some time. The use of the site as a coal yard may have ceased some time ago, but that does not change the fact that the site was indeed a 'former coal yard';

it is considered to be appropriate to describe the site in this way and the description does not suggest that there is any acceptance that the site can revert back to its former use.

16.71 A comment has been made to state that no extension of time has been agreed for the application (as the original target date for determination has expired). Section 34 of the Town and Country Planning (Development Management Procedure) Order 2015 sets out time periods for decisions and provides that extended periods may be agreed in writing between the applicant and the local planning authority; there is no mandatory requirement to do so. It is likely however that an extension of time will be agreed between parties to allow for the time taken to negotiate on the application and for it to be referred to the Planning Committee.

16.72 Comment has been made that no blue line site plan has been submitted as part of the application. There is no requirement under the Town and Country Planning (Development Management Procedure Order) 2015 for the applicant to submit a blue lined site plan (which identifies any land in the applicant's ownership that does not form part of the application).

16.73 The level of information provided with the application(s) has been criticised. It is considered, however, that the level of information submitted is acceptable and that the application(s) can be assessed on the basis of this information along with additional research and site visits undertaken by the Case Officer. It is not necessary for the drawing to include specific reference to the materials being used or the landscaping proposed, sufficient information has been provided with which to assess the impacts of the proposal, with precise details being approved via condition. Concerns from local residents that the heritage statement does not adequately describe the setting or significance of the Grade II listed mill complex or the conservation area are not considered valid; the Council's heritage adviser's (Historic Buildings and Areas Officer, and Archaeological Adviser) have not expressed any concerns with this regard.

16.74 Certain appeal decisions from Wakes Colne and the surrounding area have been raised in local representations. Whilst these are interesting background, the current planning application must be considered on its own merits. Similarly, should planning permission and listed building consent be granted in this case, it would not necessarily create a precedent for development elsewhere; each site will have its own characteristics, constraints and opportunities that would need to be considered should any proposals be put forward as part of a formal planning process.

17.0 Conclusion

17.1 To summarise,

National policy requires planning to be genuinely plan-led. The proposal does represent a departure from the adopted Local Plan in terms of its location outside of a settlement boundary, but it would involve the development of previously developed land and would not constitute an isolated dwelling.

In considering the planning balance, the NPPF makes it plain that the purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF identifies three dimensions to sustainable development – economic, social and environmental. In respect of the first of these, the current proposal would provide economic benefits, for example in respect of employment during the construction phase and in future residents supporting local facilities and services in accordance with paragraph 78 of the NPPF. The social role of sustainable development is described as supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high-quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being. The proposal is considered to meet these objectives. In respect of the third dimension (environmental), the proposal will secure the long-term future of a curtilage listed building and would result in the remediation of a contaminated site, enhanced landscaping, and enhanced biodiversity. 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 the highway network. Overall it is considered the positive economic, social, and environmental effects of the proposal would weigh in favour of this scheme.

In conclusion, it is considered that the benefits of the scheme outweigh any adverse impacts and, as such, Members are recommended to resolve to grant planning permission and listed building consent subject to the conditions set out below.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

183046

- Delegated authority to discuss and agree the pre-commencement conditions with the Applicant in accordance with the Town and Country Planning (Pre-commencement Conditions) Regulations 2018 and make any necessary changes to these conditions as a result; and
- APPROVAL of planning permission subject to receipt of the necessary RAMS payment and the following conditions:

183047

- Approval of listed building consent subject to the following conditions:

183046 Planning Permission

1. Time Limit for Full Permissions

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

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

2. Development to Accord with Approved Plans

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

Existing Site Plan	15.3297/E101
Site Layout as Proposed	2818-0106 Rev P04
Plot 1 and 2 Floor Plans as Proposed	2818-0301 Rev P07
Plots 1 and 2 Elevations as Proposed	2818-0401 Rev P07
Elevations as Proposed (Coach House)	2818-A-0311 Rev P04
Plans as Proposed (Coach House)	2818-A-0313 P03
Site Sections as Proposed	2818-A-0410 Rev P02

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

3. Removal of PD for All Residential Extensions & Outbuildings

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

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

4. Removal of PD for Open Plan Fences/Walls

Notwithstanding the provisions of Class A of Part 2 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no fences, walls, gates or other means of enclosure, other than any shown on the approved drawings, shall be erected unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: In the interests of visual amenity with regard to the context of the surrounding area.

5. Tree Protection

The development hereby approved shall be undertaken in complete accordance with the following:

- Arboricultural Method Statement and Tree Protection Plan ref 180826-1116;
- Tree Survey and Tree Constraints Plan ref 180826-1116; and
- Arboricultural Implication Assessment ref 180826-1116 Rev A.

Reason: In order to satisfactorily safeguard and protect trees in the interests of amenity.

6. Ecological Mitigation

The development hereby approved shall be carried out in accordance with the Adonis Ecology Ltd Updated Preliminary Ecological Appraisal (project ref: 1065) and Adonis Ecology Ltd Report for Bat and Reptile Surveys (project ref: 9732).

Reason: In the interests of protecting and enhancing biodiversity.

7. Flood Risk Assessment

The measures contained in the Goldfinch Environmental Ltd Flood Risk Assessment (ref: 0561b/1) shall be fully implemented and in place prior to the first occupation of the development and retained as such thereafter.

Reason: In the interests of mitigating flooding and protecting future residents from flood risk.

8. Car Parking

All off street car parking shall be constructed in semi-permeable materials and be provided prior to occupation of the development hereby approved and shall be maintained free from obstruction and retained as parking thereafter.

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

9. Materials To Be Agreed

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

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

10. Programme of Archaeological Work

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).

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

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

(i) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos;

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

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

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

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

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

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

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

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

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

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 11, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 12, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 13.

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

15. 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;
- Measures to control the emission of dust and dirt during construction; and
- A scheme for recycling/disposing of waste resulting from demolition and construction works.

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

16. Signs of Public Footpath

No development shall take place, including any ground works or works of demolition, until temporary signs have been erected both sides of the carriageway 10m along and before the Public Footpath No 17 (Wakes Colne) crosses the carriageway (highway access) to the site alerting users of the footpath of construction works, plant and machinery ahead additionally “slow” and “pedestrians in the carriageway” temporary signs 15m either side of where footpath 17 (Wakes Colne) crosses the carriageway which shall remain in situ until all plant and machinery has vacated the development site and all construction and fitting out phases are complete.

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

17. Historic Building Survey

Prior to the commencement of any works, a programme of building recording and analysis shall have been undertaken and a detailed record of the building shall have been made by a person or body approved by the Local Planning Authority and in accordance with a written scheme which first shall have been submitted to and approved, in writing, by the Local Planning Authority.

Reason: To secure provision for recording and analysis of matters of historical importance associated with the site, which may be lost in the course of works.

18. Architectural Detailing

Notwithstanding the details submitted, no works shall commence (above ground floor slab level) until additional drawings (at scales between 1:20 and 1:1) that show details of the architectural detailing of the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. Details shall include window detailing (including details of the lintel and cill, the depth of reveal and dormer features); rooflights to be used; cladding; and any eaves, verge, ridge, and guttering details. The development shall then be implemented in accordance with the approved drawings.

Reason: To ensure that the proposed works are of high quality design for the rural location.

19. Landscape Works

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

- Proposed finished levels or contours.
- Means of enclosure.
- Hard surfacing materials.
- Minor artefacts and structures (e.g. lighting).
- Planting plans.
- Written specifications.
- Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.

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.

20. 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.

21. Validation Certificate*

Prior to the first OCCUPATION/USE of the development, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 13.

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

22. Bicycle Storage

Prior to the occupation of the proposed development, details of the provision for the storage of bicycles sufficient for all occupants of that development, of a design this 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.

19.1 Informatives

19.1 The following informatives are also recommended:

Advisory Note on Construction & Demolition

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

Informative on Conditions Stating Prior to Commencement/Occupation

PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either **before you commence**

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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.

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.

Informative on Archaeology:

Pre-determination archaeological evaluation is not required for this proposal. It is recommended however that the applicant undertakes the trial-trenching at the earliest opportunity to assess the archaeological potential at this location, in order to quantify the risk in terms of cost and time for any further archaeological investigation that might be required.

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

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

Landscape Informative:

'Detailed landscape proposals, if/when submitted in order to discharge landscape conditions should first be cross-checked against the Council's Landscape Guidance Note LIS/B (this available on this CBC landscape [webpage](#) under Landscape Consultancy by clicking the 'read our guidance' link).'

Informative1: The shared access to the proposed 4 bay cartlodge should extend to at least 6.0m but ideally 8.0m in width between the front elevation and soft landscaping, to ensure convenient and efficient access manoeuvres can be achieved.

Informative2: The public's rights and ease of passage over Public Footpath No.17 (Wakes Colne) shall be maintained free and unobstructed at all times.

Informative3: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

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

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

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.

183047 Listed Building Consent

1. Time Limit for LBCs

The works hereby permitted shall begin before the expiration of 3 years from the date of this consent.

Reason: To comply with the requirements of Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. Materials To Be Agreed

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

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

3. Additional Detail on Windows & Doors etc

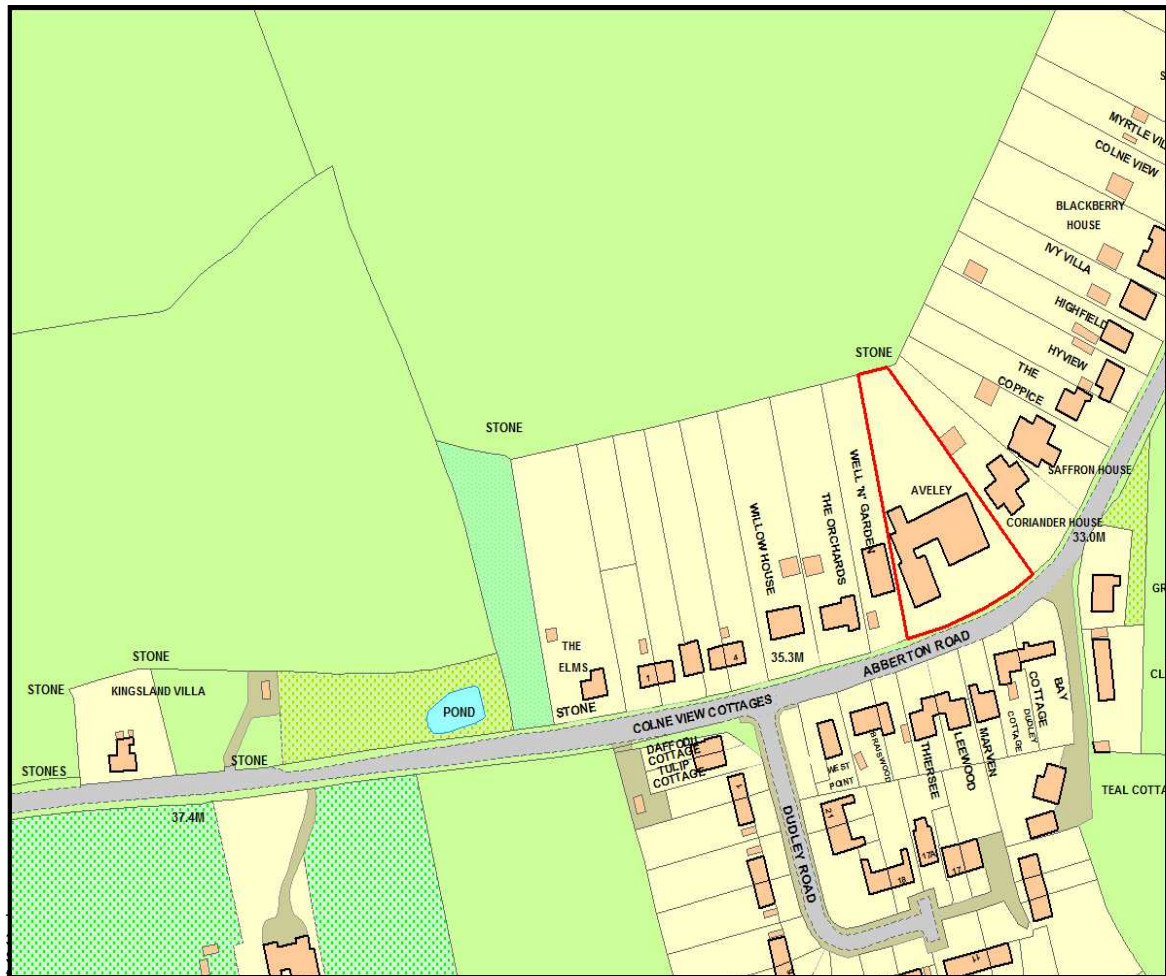
No works shall take place until additional drawings that show details of any proposed new windows, doors, eaves, verges, cills and arches to be used, by section and elevation, at scales between 1:20 and 1:1, as appropriate, have been submitted to and approved, in writing, by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved additional drawings.

Reason: There is insufficient detail with regard to this to protect the special character and architectural interest and integrity of the building in accordance with the requirements of Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Informatives

For the avoidance of doubt, the drawings that form the basis of this consent are as follows:

Removal Plans and Elevations	2818-A-0312 Rev P03
Plans as Proposed	2818-A-0313 Rev P03
Elevations as Proposed	2818-A-0311 Rev P04



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Item No: 7.5

Application: 182206

Applicant: C/O Agent

Agent: Mr Mark Potter

Proposal: Part removal of existing pitched roof and addition of upper floor extension to provide 9 new residents rooms and ancillary accommodation.(REVISED PLANS AND DOCUMENTS RECEIVED)

Location: Aveley Lodge, Abberton Road, Fingringhoe, Colchester, CO5 7AS

Ward: Mersea & Pyefleet

Officer: Eleanor Moss

Recommendation: Approval with conditions

1.0 Reason for Referral to the Planning Committee

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

Excessive overdevelopment of the site. Insufficient parking for staff, service vehicles & visitors. Increased impact of traffic, lighting & noise from extra care residents on nearby residential properties. No parking for contractors while building. On road parking creates a hazard when overtaking stationary vehicles next to a blind corner.

2.0 Synopsis

- 2.1 The key issues for consideration are the living conditions of the occupiers of neighbouring properties, highway safety and parking, the character and appearance of the area, trees and landscaping, flood risk and ecology. On balance, these are considered to be in conformity with local and national planning policy.
- 2.2 The application is subsequently recommended for approval subject to conditions.

3.0 Site Description and Context

- 3.1 The application site relates at a well established care home. Aveley Lodge, a single storey building, is located within an established ribbon of development on the northern side of Abberton Road, Fingringhoe. The site has a wide frontage on to the road – in comparison with the other properties in the vicinity – but tapers markedly towards the rear. The area to the front of the building is currently used for parking and servicing space for the care home. The site is relatively level and established trees and hedging are located on the boundaries, in particular those shared with the dwellings immediately to the east and west of the site.

4.0 Description of the Proposal

- 4.1 A first-floor extension and alterations to Aveley Lodge Residential Care Home are proposed. The proposal seeks to increase the number of rooms by three on the ground floor. The number of bedrooms will increase from 25 to 28. This is achieved by:
- relocating the entrance into the centre of the building and converting the original entrance area into new residents' rooms,
 - relocating the existing rear laundry room into a small single storey side extension on the right hand side of the building, and converting the existing laundry into a new resident's room; and,
 - adding a small single storey side extension on the right hand side of the building to create one new room.
- 4.2 The proposal seeks to increase the parking provision on site from 13 car parking spaces to 17 car parking spaces.

- 4.3 The first floor extension seeks to provide offices, a staff room and an IT room on the first floor.

5.0 Land Use Allocation

- 5.1 C2 use (care home)

6.0 Relevant Planning History

- 6.1 This site has an established use for an elderly persons' care home – the initial permission having been granted in 1988 for a change of use. A subsequent enlargement of the building was allowed in 1993 – in order to provide an additional six bedrooms, staff room, bathroom, lounge and dining room. The site has been expanded over time, in 1995, 2001 and 2014, to provide a total of 25 beds. This proposal seeks to increase the bed provision to 28.

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

H3 - Housing Diversity

UR2 - Built Design and Character

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

DP17 Accessibility and Access

DP19 Parking Standards

DP20 Flood Risk and Management of Surface Water Drainage

DP21 Nature Conservation and Protected Lanes

DP25 Renewable Energy

- 7.4 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:

SA CE1 Mixed Use Sites

SA H1 Housing Allocations

- 7.5 Submission Colchester Borough Local Plan 2017-2033:

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

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

1. The stage of preparation of the emerging plan;
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 some weight in the consideration of the application, but as it is yet to undergo a full and final examination, it is not considered to outweigh the material considerations assessed above in accordance with up-to-date planning policies and the NPPF.

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

The Essex Design Guide

External Materials in New Developments

EPOA Vehicle Parking Standards

Community Facilities

Sustainable Construction

Cycling Delivery Strategy

Planning for Broadband 2016

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.

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

Environmental Protection – No objections

Contaminated Land Officer – No objections

Archaeological Advisor – No objections

Arboricultural Officer – No objections

9.0 Parish Council Response

9.1 The Parish Council have stated the following objection:

The application was considered at the Parish Council meeting on 16th October 2018 and the proposals were objected to on the following grounds:

- * The proposed extension represents overdevelopment of the site
- * The car park is already full and visitors park along the road on a corner and on the Dudley Road estate opposite. There will be insufficient parking available for the additional rooms proposed. The site is on a corner and vehicles parked on the road are likely to result in an accident.
- * Visual splay from the entrance/exit is insufficient in either direction
- * The size of building resulting from the development will adversely impact on the street scene and is not suitable for a village location.

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.

- Impact upon highway safety
- Lack of parking
- Impact upon amenity
- Overdevelopment of site
- Impact upon street scene

11.0 Parking Provision

11.1 The scheme complies with the adopted car parking standards. This will be discussed in full in the main body of the report.

12.0 Accessibility

12.1 Given the site is already a care home, the site already contains a number of accessible provisions. The amendment proposed will enable continued wheelchair accessibility for the residents to all parts of the ground floor that they are allowed to access.

13.0 Open Space Provisions#

13.1 N/A

14.0 Air Quality

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

15.0 Planning Obligations

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

16.0 Report

Principle

16.1 Core Strategy Policy H3 supports developments such as these that provide support and care for vulnerable people in society and increase the range of healthcare facilities in the Borough.

16.2 In accordance with Core Strategy policies SD1, H1 and ENV1 development within the Borough is directed to sites within existing settlement development boundaries. The application site is identified within the defined settlement boundary of Fingringhoe. Given this, the proposal is considered to be acceptable in principle.

16.3 On balance, the site is a suitable location for the development having regard to the development plan and the NPPF.

Impact upon amenity

16.4 Development Policy DP1 states that all development must be designed to a high standard and avoid unacceptable impacts on amenity. This includes protecting existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, pollution (including light and odour pollution), daylight and sunlight. The adopted Supplementary Planning Document (SPD) the Essex Design Guide also provides guidance on the safeguarding of residential private amenity.

16.5 In this instance, the revised scheme provides first floor side facing windows that serve the staff room and an office. Given these are not considered to be habitable accommodation, it would be acceptable to ensure these windows are obscure glazed and limited opening in order to preserve the amenity of the neighbouring occupiers. Two first floor windows are proposed at the rear of the proposed first floor addition (facing towards the open fields to the north west). It is not considered these windows would harmfully overlook the neighbouring properties. Furthermore, taking into consideration the orientation, it is not considered that the proposal would result in significant overshadowing of the neighbouring properties.

16.6 Concerns have been raised by neighbouring residents about noise and smell issues from the current site. However, the Environmental Protection team has not objected to this scheme. It is not considered that the development would create noise and smell that a refusal on this basis could be sustained on appeal.

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Design

- 16.7 Core Strategy policy ENV1 seeks to conserve and enhance Colchester's natural and historic environment. Core Strategy policy UR2 seeks to promote and secure high quality design. Development Policies DP1 and DP12 set out design criteria that new development must meet. These require new development to be of a high quality and respect the character of the site and its context.
- 16.8 The local area comprises of predominantly two storey residential dwellings of traditional form and design along with some single storey bungalows in a ribbon of development. The scheme has been amended significantly since the original submission in order to reduce the amount of first floor built form. A small portion of the proposal seeks permission for a first floor addition, with the rest of the scheme being provided by amending the ground floor layout. The overall height of the proposal is two storeys high which is considered to be in keeping with the other two storey buildings in the vicinity. The additional height of the proposal will not be overly dominant because of the deep level of recession from the front elevation and ground levels of the site. The set back of the first floor element helps to create subservient component which reduces the impact upon the street scene. Furthermore, the architectural style of the proposed first floor is in keeping with the character and appearance of the host building.
- 16.9 Overall, it is considered that the proposed design and material finishes are compatible to their surroundings and will not result in an adverse impact upon the character or appearance of the area.

Highway Safety and Parking Provision

- 16.10 Core Strategy policy TA1 seeks to improve accessibility and change travel behaviour and encourages development within highly accessible locations to reduce the need to travel. Core Strategy Policy TA2 promotes walking and cycling as an integral part of sustainable means of transport. Policy TA4 seeks to manage the demand for car use. Development Policy DP17 states that all developments should seek to enhance accessibility for sustainable modes of transport by giving priority to pedestrians, cycling and public transport access. Relevant paragraphs of the NPPF provide guidance on transportation matters, including that application should only be refused on highway grounds if the impact (on safety or capacity) is severe.
- 16.11 It is noted that many of the objections that have been received in relation to the proposed development have identified the perceived inadequacy of the local highway network and the problems experienced by the application site being located on a bend. The concern is that the proposed development would exacerbate current problems and also create highway safety issues. These views are fully acknowledged and appreciated.
- 16.12 The application has been supported by a Transport Statement which confirms the staff work a variety of hours. Monday to Friday there are 14 full time equivalent staff, and weekends 13 full time equivalent. However, only 8 staff are on site at any one time. This has been evidenced with a supporting staffing

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rota/spreadsheet. The staff work strict shift patterns, consequently there are not more than 8 staff on the premises at any one time. In addition, this maximum number are only on site Mon-Thursdays 08:00 to 16:00, this number reduces to 4, between 17:00 and 22:00, and is as low as 3, during the night shift. At the staff changeover in shifts some staff may arrive before other staff leave but this is a very short period of time and the staff parking has been arranged at each end of the car park to allow staff to park without restricting access to visitors parking. The submitted Transport Statement also confirms the visitor parking is also underused, which provides spare capacity if necessary for these very short periods.

- 16.13 The Care Home have surveyed the number of visitors to the home. These numbers are based on average attendance which has been applied during December. December is the Christmas period and consequently results in higher visitor numbers than any other month in the year. The survey shows there haven't been any more than 3 visitors at any one time during a 1 week period. The addition of 3 residents' rooms, when calculated by proportion, should only increase the number of visitors by 12%, or 1 extra visitor during the busiest periods.
- 16.14 Given the submitted information confirms that 8 members of staff are on site at any one time, along with 4 visitors during busy periods, the proposed 17 car parking spaces are considered to be in compliance with the adopted Car Parking Standards SPD.
- 16.15 Additional cycle parking facilities have also been added to the development, 6 spaces have been shown in the existing courtyard. Further to this, a number of electric charging points have also been included in the submission.
- 16.16 It is noted a number of concerns were raised by the locality in relation to lack of parking on site and the impact upon the highway network. Notwithstanding these concerns the Highway Authority has advised in its latest consultation response (available to view on file) that the impact of the proposal is acceptable to the Highway Authority. As such, the proposal is considered to be acceptable in this regard.

Landscaping and Trees

- 16.17 Core Strategy policy ENV1 states that the Borough Council will conserve and enhance Colchester's natural and historic environment, countryside and coastline, and this is also echoed within section 15 of the NPPF. Development Policy DP1 provides that all development must demonstrate environmental sustainability and respect its landscape setting and contribute to the surrounding area.
- 16.18 In this instance, the application was accompanied by an Arboricultural Impact Assessment (AIA). The AIA confirms all trees can be replaced like for like with amenity restored within 2- 3 years following planting. T1, T2 and H1 are to be removed to facilitate development, the loss of these trees will not have negative impact upon visual tree amenity, the amenity can be restored with suitable replacement planting. The Arboricultural Officer does not raise concerns in relation to the scheme, and recommend planning conditions in order to ensure tree

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protection are secured. In this regard, the proposal is considered to be acceptable and recommended conditions are suggested.

Ecology

- 16.19 Core Strategy policy ENV1 and Development Policy DP21 seek to conserve or enhance biodiversity of the Borough. The NPPF states that the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity.
- 16.20 The proposal has been assessed in line with the NPPF and Natural England Standing Advice. The site is not considered to encompass suitable habitat for protected species, nor is the proposal considered likely to have an impact upon protected species. The proposal is therefore acceptable in regards to biodiversity.

Flooding

- 16.21 Core Strategy policy ENV1 seeks to direct development away from areas of flood risk (both fluvial and coastal), towards sites with the lowest risk from flooding. Development Policy DP20 seeks to promote flood mitigation and defence measures as well as the use of appropriate sustainable drainage. The NPPF requires a detailed flood risk assessment (FRA) to be produced for all development located within a flood zone and/or sites that are greater than 1 hectare. The application site is outside an identified flood zone and measures 0.24 hectares and as such a FRA is not required to support the application. Given that the proposal is outside of any flood zone, the proposal is not considered to have a harmful impact upon surface water drainage within the locality.

Comments on objections received

- 16.22 A significant number of representations also included concerns in relation to the perceived inadequacy of the local highway network around the application site to deal with the impacts of the proposed development. These concerns are fully acknowledged by the Council. However, it is the case that Essex County Council, as highway authority, did not raise an objection to the proposals, subject to the imposition of conditions on a grant of planning permission.

17.0 Conclusion

17.1 To summarise, it is not considered that this scheme is objectionable in terms of land use or impact upon the area and neighbouring amenity. It offers adequate car parking facilities and will provide needed enhancement to an established care home facility. On balance, recommended for approval.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

DC0901MWeV9.3

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 AV20 10 C, AV10 15 D, AV10 16 C and AV10 18 C.

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

3. ZBA – Matching Materials

The external facing and roofing materials to be used shall match in colour, texture and form those used on the existing building.

Reason: This is a publicly visible building where matching materials are a visually essential requirement.

4. Z00 – Use

The proposed first floor hereby approved shall be used as offices, staff room and IT store ancillary to the use of Aveley Lodge and for no other purpose.

Reason: For the avoidance of doubt as to the scope of the permission as this is the basis on which the application has been considered and any other use would need to be given further consideration at such a time as it were to be proposed.

5. Z00 – Obscure glazing

Prior to first occupation of the development hereby approved the first floor side facing windows shall be glazed in obscure glass to a minimum of level four on the Pilkington scale and shall be restricted in opening to no more than 200mm. The windows shall not thereafter be altered in any way without the prior written approval of the Local Planning Authority.

Reason: To protect residential amenity.

6. Z00 – Equality Act Compliant

Notwithstanding the details shown on the approved drawings, the proposal shall be compliant with the Equality Act.

Reason: For the avoidance of doubt and to ensure that the development is compliant with the requirements of legislation

7. Z00 – Construction Management Plan

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

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials

- iii. storage of plant and materials used in constructing the development
- iv. wheel and under body washing facilities

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

8. Z00 – Parking

The development shall not be occupied until such time as the car parking and turning area, has been provided in accord with the details shown in revised Drawing Numbered AV10 15 D. together with staff and visitor spaces being appropriately and clearly signed. 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

9. Z00 – Parking

The Powered two wheeler/bicycle parking facilities as shown on the revised Drawing Numbered AV10 15 D are to be provided prior to the first occupation of the development. The approved bicycle facilities 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

10. Z00 – Parking

The electric car parking points as shown on the revised Drawing Numbered AV10 15 D are to be provided prior to the first occupation of the development.

Reason: To promote the use of sustainable means of transport

11. Z00 - Arboricultural Impact Assessment

The development shall be carried out in strict accordance with the submitted Arboricultural Impact Assessment provided by TPS dated 3rd August 2018 revised 26th April 2019 (Ref: TPSarb8820718)

Reason: To afford the amenity of the trees.

12. ZGT - No External Light Fixtures

No external lighting fixtures shall be constructed, installed or illuminated at any time.

Reason: To ensure that there are no undesirable 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.

INS – 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 or by post to:

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

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.

20.0 Positivity Statement

20.1 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: 7.6

Application: 191036

Applicant: Colchester Borough Council

Agent: Tree Box Living Walls

Proposal: Living wall created over existing facade on St Peters Street and ivy screen covering ducting at ground level along boundary..

Location: Papa Johns, 2 Middleborough, Colchester, CO1 1QS

Ward: Castle

Officer: Alistair Day

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the Council is the applicant.

2.0 Synopsis

- 2.1 The key issues for consideration are the impact that the proposed development would have on the character and appearance of the area, including the setting of heritage assets (listed buildings, locally listed buildings, the Colchester Conservation Area No.1 and potential archaeological remains).
- 2.2 The application is subsequently recommended for conditional Approval.

3.0 Site Description and Context

- 3.1 The application site is located on the east of Middleborough at the junction with St Peters Street. No.2 Middleborough is a two-storey gable fronted property with rendered walling and a tiled roof. The flank elevation to St Peters Street presents a dead frontage to the streetscene and is dominated by large extraction / ventilation equipment. This was previously screened by an advertisement hoarding.
- 3.2 To the south of the application site is no.1 Middleborough which is a re-fronted seventeenth century building and is listed grade II for its special architectural or historic interest. Sandwiched between No.1 and no.30 North Hill is the town wall. To the north of St Peters Street there are mostly modern buildings, although in nos. 6-9 there are remnants of the old street frontage concealing earlier buildings. The public realm outside these buildings has recently been improved as a part of the Fixing the Link project. Nos 32-34 North Hill (opposite the application site) are late Victorian two storey red brick properties with shop fronts on the ground floor. A drinking fountain is located to the north of these properties on Middleborough and the town wall address this street (running east / west).

4.0 Description of the Proposal

- 4.1 The application seeks planning permission for the erection of a living wall on the north elevation of 2 Middleborough and the installation of timber planters and screen hedging along part of the boundary.

5.0 Land Use Allocation

- 5.1 Central Area - Mixed Use

6.0 Relevant Planning History

- 6.1 C/COL/02/1209 Change of use from Betting Office (A2) to A3 (Food & Drink).
- 6.2 A/COL/05/1889 Retrospective application for display of advertisement banner, externally illuminated with 3 spotlights.
- 6.3 122147 Change of Use from Use Class A3 (Food and Drink) to Use Class A5 (Hot Food Takeaway)
- 6.4 131033 New Shop front in metal frame as per Papa Johns Design and also rear part of the building to be demolished to form more space for car parking.

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:
 - UR2 - Built Design and Character
 - ENV1 - Environment
- 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
 - DP14 Historic Environment Assets
- 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:
 - SA TC1 Appropriate Uses within the Town Centre and North Station Regeneration Area
- 7.5 Submission Colchester Borough Local Plan 2017-2033:

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

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

1. The stage of preparation of the emerging plan;
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 some weight in the consideration of the application, but as it is yet to undergo a full and final examination, it is not considered to outweigh the material considerations assessed above in accordance with up-to-date planning policies and the NPPF.

- 7.6 S.66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess. Section 72(1) of the same Act requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of conservation areas.
- 7.7 The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy.
- 7.8 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):
- Town Centre Public Realm Strategy
 - Air Quality Management Guidance Note, Areas & Order

8.0 Consultations

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

Archaeological Officer

- 8.2 This proposal is located in an area of high archaeological potential, close to the north gate into the walled town. Consequently, details about the extent and level of groundworks (if any) are required as it is currently unclear from the information submitted with this application.

Landscape Officer

- 8.3 There are no objections to this application on landscape grounds.

Environmental Protection

- 8.4 No comment

Highway Authority

- 8.5 From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to a condition requiring the development being located and maintained entirely clear of the highway.

Urban Design Officer

- 8.6 The application is supported as it can only improve this important gateway to the town centre.

9.0 Parish Council Response

- 9.1 Not Parish

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. No representations were received from residents.

11.0 Parking Provision

- 11.1 Not applicable

12.0 Accessibility

- 12.1 Please refer to Design & Access Statement regarding duties under the Equalities Act

13.0 Open Space Provisions

- 13.1 Not applicable

14.0 Air Quality

- 14.1 The site is inside the central Corridors Air Quality Management Area and but 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

- 16.1 The main issue raised by this application is the impact that the proposed development would have on the character and appearance of this part of the

Colchester town centre, including its effect on designated heritage assets (listed buildings and Colchester Conservation Area No.1) and non-designated assets (locally listed buildings and potential archaeological remains).

- 16.2 The Planning (Listed Building and Conservation Areas) Act 1990 requires that special regard is paid to the desirability of preserving listed buildings and their setting and that special attention is paid to the desirability of preserving or enhancing the character or appearance of a conservation area. CS Policy ENV1 and DPD Policy DP14 seek to conserve and enhance Colchester's historic environment. With regard to design, CS Policy UR2 and DPD Policy DP1 seek to secure high quality and inclusive design in all developments, respecting and enhancing the characteristics of the site, its context and surroundings. The emerging plan policies reflects the requirements of the currently adopted policies in terms of design, place shaping principles and heritage matters.
- 16.3 The NPPF sets out the desirability of sustaining and enhancing the significance of heritage assets (paragraph 192). It establishes that great weight should be given to an asset's conservation and the more important that asset, the greater that weight should be (paragraph 193). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Any harm to, or loss of significance of a designated heritage asset (from its alteration or destruction, or from development within its setting) should require clear and convincing justification, (paragraph 194). Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, that harm should be weighed against the public benefits of the proposal, including securing its optimum viable use (paragraph 196). The NPPF also promotes good design advising that permission should be refused for development of poor design.
- 16.4 The application site is situated at the junction of Middleborough and St Peters Street. The front elevation of no.2 Middleborough is gable fronted with a shopfront at ground floor and two sash windows at first floor level. The flank elevation (north side) was exposed when the Middleborough junction was widened and now essentially presents a dead frontage to the street. Between the pavement and the No.2 Middleborough is an area of hardstanding delineated on the roadside by bollards and by a low timber fence and concrete posts on the boundary with the property. With the widening of the junction in the mid / late twentieth century the prominence of no.2 Middleborough has increased substantially, particularly when approaching the town centre from the north.
- 16.5 The application seeks planning permission for the erection of a living wall on upper section of the main part of the north flank of no. 2 Middleborough. The green wall will measure 7m (long) by 3m (high) and will be supported by horizontal uni-strut rails or timber battens using suitable fixings into supporting wall. It is understood the length of the screen has been determined by the need to avoid the enclosure of the existing extract equipment and height has been determined by the need to reduce the likelihood of damage caused by unauthorised tampering with the structure. Planters with an ivy screen (approx. 10m long and 2.7 high) are proposed along the majority of the flank elevation and will provide a partial screen to the extract equipment and the lower part of the building. It is considered that the proposed works will serve to enhance the

appearance of this important approach into the town centre and compliment the work being undertaken as a part of the Fixing the Link project. The comments made by the Archaeological Officer are noted. It is understood that the proposed works do not involve any ground disturbance works. As a precautionary measure, a condition has been recommended to cover the eventuality of ground works being required.

- 16.6 It is considered that the proposed development will not cause harm to identified heritage assets and would indeed to serve to enhance the character and appearance of this part of the town centre conservation area. Given this, the proposed development is considered to accord with the relevant statutory provisions, adopted local plan policy and national planning guidance.

Landscape

- 16.7 Policy ENV1 states that the Borough Council will conserve and enhance Colchester's natural and historic environment. Central Government guidance on conserving the natural environment is set out in the NPPF.
- 16.8 The green wall will comprise over 850 plants of mixed species, including herbaceous grasses, ferns, herbs, ground cover and small shrubs. The majority of the plants (90%) will be evergreen to provide year-round coverage; seasonal varieties interspersed throughout the wall are also proposed to add further interest. The application states that the proposal will be implemented in accordance with the relevant current British Standards: National Planting Specifications Guidelines: Horticultural Trades Association Standards: CPSE Plant Handling Standards and COSHH Regulations.
- 16.9 With regard to maintenance, the supporting information explains that an automated irrigation system is proposed which will be tuned to seasonal requirements and monitored remotely to alert of any issue with water or power supply. In addition to this, health check visits are proposed every 8 weeks to visually monitor the condition and health of the plants with two additional horticultural visits planned at the start and end of the growing season. It is recommended that the monitoring and management regime as set out in the supporting information are conditioned. The Council's Landscape Officer has not raised an objection to this application but has suggested that a hard and soft landscape scheme is conditioned. Details of the proposal are set out in the supporting statement, although it is acknowledged that this does not contain the precise details of the proposed plant species. In this instance, it is not considered necessary for the Local Planning Authority to control the precise make-up of the proposed planting; conditions are however recommended regarding the maintenance and to ensure that the planting does not encroach upon the highway.

Other Issues

- 16.2 Policy DP1 requires all development to take into account the potential users of the site and the amenity of near residents. The proposed development is not considered to have a direct impact on the amenity of nearby residents and will serve to improve the visual appearance of this part of the town centre. No representations have been received from local residents in respect of this

application. The Highway Authority has not raised an objection to this application and has recommended a condition to ensure that the proposal does not encroach on the highway.

17.0 Conclusion

17.1 To summarise, the erection of a green wall and associated screening at 2 Middleborough will serve to improve the visual appearance of this part of the conservation area, at this important gateway location into the town centre. The application is recommended for conditional approval.

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. Non Standard

The development hereby approved shall be undertaken in accordance with the details set out in the document entitled Proposed Façade Greening

For Papa Johns at 2 Middleborough, Colchester dated February 2019 and prepared by Treebox Ltd. Following the installation of the approved landscape features, the living wall and associated screening planting shall be maintained strictly in accordance with management and maintenance regime set out the report.

Reason: For the avoidance of doubt as to the scope of the permission hereby permitted and to ensure the landscape features hereby approved are appropriately maintained.

3. Non Standard

All development shall be located and maintained entirely clear the limits of the highway.

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

4. Non Standard

No works ground disturbance works shall take place, unless otherwise agreed in writing by the Local Planning Authority, until a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation that has been has previously been agreed in by the Local Planning Authority. The scheme of investigation shall include an assessment of significance and research questions; and:

a. The programme and methodology of site investigation and recording.

- b. Provision to be made for analysis of the site investigation and recording.
 - c. Provision to be made for reporting, publication and dissemination of the analysis and records of the site investigation.
 - d. Provision to be made for archive deposition of the analysis and records of the site investigation.
 - e. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
 - f. The scheme of investigation shall be completed as agreed and approved in writing by the Local Planning Authority.
- 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

19.1 Informatives

19.1 The following informatives are also recommended:

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.

ZT0 – Advisory Note on Construction & Demolition

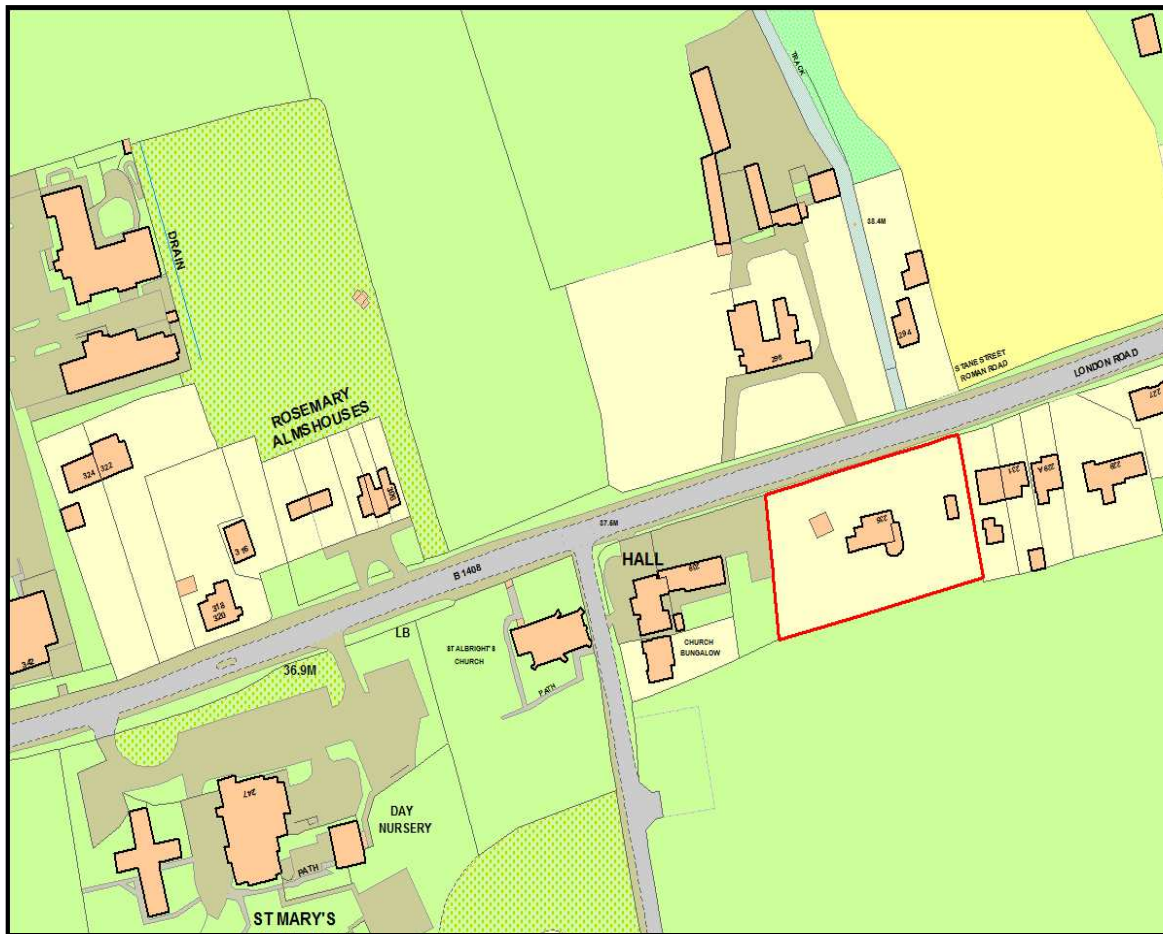
The developer is referred to the attached advisory note *Advisory Notes for the Control of Pollution during Construction & Demolition Works* for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental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



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Item No: 7.7

Application: 190952
Applicant: Mr Craig Huber
Agent: Mr Jonathan Bell
Proposal: Construction of 4no. Detached Dwellings, 2no. Detached Cart Lodges and New Access
Location: 235 London Road, Stanway, Colchester, CO3 8PB
Ward: Marks Tey & Layer
Officer: Chris Harden

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the proposal is a Departure from the Local Plan as the site lies outside the defined settlement limits in the adopted local plan and proposes four new dwellings.

2.0 Synopsis

- 2.1 The key issues for consideration are the principle of the development, including whether a Departure to the Local Plan can be justified, and also whether the scheme is acceptable in terms of layout, design, residential amenity, highway safety and impact on the setting or nearby Listed Buildings. The impact upon trees and vegetation and wildlife also needs to be considered.
- 2.2 The application is subsequently recommended for approval. In terms of principle, whilst the site lies outside the settlement boundary, it is in very close proximity to the adopted settlement boundary. It is also close to a wide range of facilities and services, and highly accessible on foot, cycle and by public transport. The site is not isolated and would have good accessibility and is thus a sustainable location. Accordingly, on balance it is considered that a Departure to the Development Plan is justified as the proposal represents sustainable development. The site is in a highly sustainable location and would conform with the presumption in favour of sustainable development outlined in the NPPF. There is also the public benefit of providing additional housing to be included in the planning balance. It is therefore considered that the principle of the proposal can be accepted and that the application should be considered on its planning merits.
- 2.3 With regard to the planning merits of the proposal it is considered that the layout, design, scale and form of the proposal is acceptable, with the new Edwardian style dwellings relating satisfactorily to the character of the existing host dwelling and street scene. It is also considered there would not be a material impact upon the setting of nearby Listed Buildings, including the Grade II* dwelling opposite, and that any such impact would be minor and less than substantial. Any harm would be outweighed by the public benefits of new homes in a sustainable location.
- 2.4 It is not considered that there would be any significant impact upon neighbouring residential amenity, highway safety or wildlife. The trees and vegetation within the site that is to be removed has been assessed as low quality and there is an opportunity for some replacement planting to mitigate any loss.

3.0 Site Description and Context

- 3.1 The site is located to the South of London Road and incorporates the side garden land set either side of a detached, red bricked Edwardian dwelling number 235. The site is essentially infill development located between established existing residential linear development fronting London Road and a pre-school. Opposite the site is a grade II* listed dwelling known as 'Catchbells'.
- 3.2 There is a frontage boundary hedgerow along the garden to No.235 and some trees and vegetation within the site.

4.0 Description of the Proposal

- 4.1 The proposal is for the construction of 4 detached dwellings in red brick and slate and in an Edwardian style. The dwellings will be set back from the road

with two either side of No.235. It is proposed to use the existing vehicular access to serve the existing dwelling and the proposed two dwellings to the West. A new access is would be provided to serve the new dwellings to the East. Plots 1 and 4 at either end of the site would have a single garage set in front of their respective dwellings.

- 4.2 It is proposed to retain as much existing landscaping and hedgerows as possible, particularly on the boundaries although there will inevitably be some tree and vegetation loss within the site. An arboricultural impact assessment has been submitted with the application.

5.0 Land Use Allocation

- 5.1 Unallocated. Garden land.

6.0 Relevant Planning History

- 6.1 None of recent of relevance.

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
H2 - Housing Density
H3 - Housing Diversity
H4 - Affordable Housing
UR2 - Built Design and Character
- 7.3 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:
DP1 Design and Amenity
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 This is not an allocated site so the Site Allocations policies (adopted 2010) are not relevant to this application.

7.5 The Stanway Joint Design Statement and Parish Plan is applicable.

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

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

1. The stage of preparation of the emerging plan;
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 some weight in the consideration of the application, but as it is yet to undergo a full and final examination, it is not considered to outweigh the material considerations assessed above in accordance with up-to-date planning policies and the NPPF.

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

The Essex Design Guide
External Materials in New Developments
EPOA Vehicle Parking Standards
Backland and Infill
Affordable Housing
Open Space, Sport and Recreation
Sustainable Construction
Cycling Delivery Strategy
Urban Place Supplement
Sustainable Drainage Systems Design Guide
Street Services Delivery Strategy
Managing Archaeology in Development.
Developing a Landscape for the Future
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 Highways Authority state: "From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to the following mitigation and conditions:

1 Prior to the first occupation of the proposed dwellings, both the proposed vehicular access shall be constructed or reconstructed to a width of 5.5m and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

2 Prior to the proposed access being brought into use, minimum vehicular visibility splays of 43m by 2.4m by 43m 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.

3 No unbound materials shall be used in the surface treatment of the proposed vehicular access within 6m of the highway boundary.

4 The development shall not be occupied until such time as the car parking and turning areas, has been provided in accord with the details shown in Drawing Numbered 2018-211-002. 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.

5 No development shall take place, including any ground works or works of demolition, until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

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

6 Prior to the occupation of the proposed development, details of the provision for the storage of bicycles sufficient for all occupants of that development, of a design this 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.

8.3 The Council's Archaeologist states:

This proposed development site is located in an area of archaeological interest, recorded in the Historic Environment Record, close to the line of a Roman road (HER Monument no. MCC8754). Consequently, there is high potential for encountering below-ground archaeological remains at this location. Any groundworks relating to the proposed development have the potential to damage any archaeological deposits that exist.

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.

The following archaeological condition (**Z00**) is recommended:

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....”

8.4 Environmental Protection state:

There does not appear to be any land contamination information included on the planning file. Since the proposed development would be vulnerable to any contamination (if present), but given that Environmental Protection are unaware of any potential sources of unacceptable contamination at this time, should this application be approved, we would recommend inclusion of the following precautionary condition:

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 recommence 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 DEFRA and the Environment Agency’s ‘Model Procedures for the Management of Land Contamination, CLR 11’ and the Essex Contaminated Land Consortium’s ‘Land Affected by Contamination: Technical Guidance for Applicants and Developers’.

Reason – No information on contamination risks was supplied in support of this application and Environmental Protection wish to ensure that development only proceeds if it is safe to do so.

8.5 Tree Officer states:

“Regarding the proposed development and the AIA provided, I am in agreement with the report provided. In conclusion, I am satisfied with the arboricultural content of the proposal. Make the AIA an approved document.”

9.0 Parish Council Response

- 9.1 The Parish Council have stated that Stanway Parish Council OBJECTS to this proposal. The site will be overdeveloped, there is a public footpath / bridle way in the building area which will be compromised, the destruction of natural woodland and the existing road access should be shared.

10.0 Representations from Notified Parties

10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. There have been no objections received.

11.0 Parking Provision

11.1 8 spaces to serve the 4 new dwellings.

12.0 Accessibility

12.1 In accordance with Policy DP17 it is considered that the development has the potential to provide the required accessibility under the Equalities Act.

13.0 Open Space Provisions

13.1 Not applicable.

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.

14.0 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

16.1 In terms of the principle of the application, the proposal has been advertised as a Departure to Local Plan policy as it involves new dwellings beyond the defined settlement limits. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that if regard is to be had to the Development Plan for the purpose of any determination to be made under the Planning Acts, then that determination must be made in accordance with the plan unless material considerations indicate otherwise.

16.2 The updated National Planning Policy Framework (NPPF) contains the Government's planning policies for England and sets out how these are expected to be applied. Planning law continues to require that applications for planning permission are determined in accordance with the Development Plan unless material considerations indicate otherwise. The policies contained within the NPPF are a material consideration and should be taken into account for decision-making purposes.

16.3 The NPPF requires that development be sustainable and that any adverse impacts do not outweigh the public benefits for any proposal to be acceptable in principle. Paragraph 8 of the NPPF sets out three dimensions for sustainable development, economic, social and environmental:

- a) “an economic objective - to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
 - b) a social objective - to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations;
and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
 - c) an environmental objective - to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy”.
- 16.4 The NPPF states, in Paragraph 11 (and which is reiterated under Policy SD1), that planning decisions should apply a presumption in favour of sustainable development. In this regard, the proposal should be considered in accordance with the Development Plan unless the most important policies for determining this proposal are out-of-date, and that would include a situation where the local planning authority could not demonstrate a five-year supply of deliverable housing sites.
- 16.5 The Council is currently able to demonstrate a five-year supply of deliverable housing sites and considers that the development plan is up-to-date. This proposal should, therefore, be considered in accordance with the Development Plan unless material considerations indicate otherwise.
- 16.6 Local Plan Policy SD1 identifies that;
- “Throughout the borough, growth will be located at the most accessible and sustainable locations in accordance with the Settlement Hierarchy below and the Key Diagrams. Development proposals will be expected to make efficient use of land and take a sequential approach that gives priority to accessible locations and previously developed land (PDL). Proposals should seek to promote sustainability by minimising and/or mitigating pressure on the natural, built and historic environment, utilities and infrastructure, and areas at risk of flooding”.*
- 16.7 As outlined earlier, the site lies outside the defined settlement boundary but only by approximately 125 metres. It is in a very accessible location close to a number of facilities and services. It is also in close proximity to other dwellings. Accordingly, the site cannot be considered to be isolated in respect of the provisions of paragraph 79 of the NPPF, which seeks to prevent new housing in isolated locations other than in special circumstances. As the site cannot be considered to be isolated in that way, any application made on this

site would not necessarily need to demonstrate those special circumstances directly.

- 16.8 In principle, therefore, the site is outside the settlement boundary where the proposal would conflict with the aims of policy SD1. Policy ENV 1 also aims to protect unallocated sites outside settlement boundaries. However, in considering the sustainability and accessibility of a site, the NPPF does not advocate an approach that relates solely to whether a site is inside or outside a settlement boundary and takes a more holistic view on such matters. It is considered, therefore, that in this instance, due to the accessibility of the site and the proximity to the settlement boundary, that support can be offered to the principle of this proposal as an exception to the Development Plan. The application site comprises an existing domestic garden and would not extend development into open countryside being within an area of linear development fronting London Road.
- 16.9 To emphasise how sustainable the site and to further justify the Departure from policy it should be noted that there is a footway immediately outside of the site and a bus stop directly opposite on the other side of London Road. The site is within reasonable walking distance of a good range of facilities and services, including (but not limited to) schools, public houses, the business park, supermarkets, fast food establishments and churches.
- 16.10 The site also has good transport links, being on the main road and bus route to Colchester to the East and Marks Tey/Witham/Chelmsford to the West plus links to the A12. Being positioned within very close proximity to a designated bus stop which ensures sustainable travel to both Colchester, Chelmsford and all amenities.
- 16.11 In addition on the opposite side of the road further to the East in quite close proximity to this application site is an allocated housing site that is under development.
- 16.11 Accordingly, overall and on balance it is considered that a Departure to the Development Plan is justified. The site is in a highly sustainable location, only just outside the settlement limits and the presumption in favour of sustainable development outlined in the NPPF would be complied with. There is also the public benefit of providing additional housing. It is therefore considered that the principle of the proposal can be accepted and that the application should be considered on its planning merits.

Layout, Design, Scale and Form

- 16.12 Policies UR2 and DP1 require development to be of a high quality design that respects local distinctiveness, enhancing the character and appearance of the Borough. DP1 states;

“All development must be designed to a high standard, avoid unacceptable impacts on amenity, and demonstrate social, economic and environmental sustainability”.

DP12 states; *“Residential development will be guided by high standards for design, construction and layout”*.

- 16.13 In terms of the layout of the proposal, it is considered that the site is large enough to be able to accommodate the 4 new dwellings without the site appearing cramped or overdeveloped. There would still be some space between the dwellings and the boundaries, including an intervening gap of 4 metres to the West of No.235, before the single storey element of plot 2. There is also considerable space at the front of the site and the existing building line is respected. There is also room to retain boundary vegetation.
- 16.14 In terms of the design, scale and form of the proposal, the Edwardian style of the dwellings respects the character of the street scene, adhering to an architectural style of good design and high quality architecture. The height of the dwellings also relates to the existing host dwelling and the dwellings have been designed to reflect the Edwardian period and character of No.235 with red brickwork, stones window cills and sash windows. The proposed dwellings will also have a stock brick banding pattern to further relate to the character of the site and No.235.
- 16.15 The garaging to the front of the site also gives a sense of enclosure and the garages would be partly screened with views filtered by the retained vegetation, which would reduce their prominence. They would have a relatively traditional appearance, with black weatherboarding.
- 16.16 Whilst there would inevitably be an impact upon the setting of No.235, which is an attractive Edwardian dwelling and potentially a non-designated heritage asset, this impact is considered acceptable on balance owing to the high quality design, scale and form of the proposal. Accordingly, overall it is considered that the layout, design, scale and form of the proposal respects the character of the site and its surroundings in terms of architectural approach and its townscape setting and would therefore comply with Policy DP1. Similarly the proposal would accord with Paragraph 127 of the NPPF which attaches great importance to the design of the built environment, stating that good design is a key aspect of sustainable development.

Impact upon the setting of nearby Listed Buildings

- 16.17 The dwelling opposite the site is a grade II* Listed house known as ‘Catchbells’ and there is also the Grade II Listed St Albright Church, situated further along the London Road to the West of the site and so the impact upon the setting of these Listed Building needs to be carefully considered. A Heritage Assessment has been submitted with the application.
- 16.18 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess. The relevant adopted Local Plan policies are CS ENV1 and DP14. Policy DP14 provides that development will not be permitted that will adversely affect the setting of a Listed building.

16.19 Paragraph 194 of the NPPF (2018) states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Paragraph 195 and 196 deal with substantial harm and less than substantial harm respectively. Where less than substantial harm is caused to the significance of a designated heritage asset, then this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

16.20 It is considered that the works proposed within this application would have a very minor impact upon the wider setting of the listed buildings in terms of the consolidation of the development pattern along the frontage to London Road. This very minor harm would constitute less than substantial harm with regard to the impact upon the setting of Listed Buildings. The Grade II* Listed Catchbells, whilst opposite, is set back over 20 metres from the road frontage and is thus some distance from the site. Catchbells retains a separate setting in its own right by being separated from the application site by London Road and a large amount of frontage screening consisting of mature hedgerows and trees. The application site makes no direct positive contribution to the significance of this listed building otherwise than in terms of the wider semi-rural aspect. Whilst there will be some impact upon its setting owing to the development of a currently spacious, vegetated site opposite, this impact is not considered so significant as to warrant a refusal. It is not considered the setting, character or significance of Catchbells would be materially adversely affected to a significant degree and it is considered there would be less than substantial harm in terms of impact upon setting, character or significance. The NPPF requires that this harm needs to be balanced against the public benefits identified with the development in terms of the provision of 4 additional houses in an accessible location.

16.21 It is considered there would not be any significant or material impact upon the setting of St Albrights Church further down the road to the West owing to its distance and visual separation from the site and the existence of long established intervening buildings.

16.22 Overall, it is therefore considered that the proposal meets the requirements of the NPPF in particular paragraphs 193, 195 and 196 and does not contravene the provisions of adopted Development Policy DP1.

Impact upon neighbouring residential amenity

16.23 The proposed dwellings would be located far enough from neighbouring dwellings either side to avoid having an overbearing impact on the outlook of neighbours. The Council policy sets out that a 45 degree angle of outlook from the mid-point of the nearest neighbouring windows should be preserved and it is considered that this proposal satisfies this requirement.

16.24 Similarly, there are no concerns regarding loss of light. The combined plan and elevation tests are not breached and the proposal therefore satisfies the Council's objective standards for assessing this issue as set out in the Essex Design Guide.

- 16.25 Additionally, subject to the first floor bathroom and landing windows on the side elevations being obscure glazed and non-opening to a height of 1.7 m above floor level, the proposal does not include any new windows at first floor level that could offer an unsatisfactory angle of overlooking that harmed the privacy of the neighbouring properties, including their protected sitting out areas. The rear windows would mainly look towards their own rear gardens and there is some screening from vegetation that helps to avoid any significant overlooking of neighbouring private amenity areas.
- 16.26 Vehicular manoeuvring areas are far enough away from neighbouring dwellings to avoid any significant noise and disturbance issues. Given the proximity to London Road, it is not considered that there would be any loss of tranquillity as a result.
- 16.27 The proposal would thus accord with Policy DP1 which provides that development should protect existing public and residential amenity particularly with regard to privacy, overlooking, noise and disturbance.

Impact Upon Trees and Vegetation

- 16.28 The submitted Arboricultural Impact Assessment (AIA) states that to implement this development the following tree surgery works will be required: Trees to be removed: G1, G3, G4, T4, T8 & T9.
- 16.29 These trees have been assessed as being of low quality and the Council's Tree Officer agrees with the conclusions of the AIA. The trees and vegetation to be removed lie mainly within the body of the site and partly on the side boundary. It is accordingly concluded that there are no objections to the loss of these trees. There is scope for some replacement planting and trees, and vegetation at the front and rear of the site can be retained and enhanced as part of a condition of a planning consent. The trees to be retained will be protected in accordance with the tree protection method statement provided.
- 16.30 Protective fencing will be installed to prevent access into the protected areas, where the Root Protection Area of trees off site slightly encroaches into the site. These trees to be retained can be adequately protected from construction pressures by implementing and adhering to the protection measures installed.
- 16.31 Accordingly, subject to appropriate protection for boundary trees and some replacement planting, it is not considered the loss of some trees would significantly undermine the character or biodiversity of the area and it is concluded that the proposal would protect the landscape subject to conditions.

Highways and Parking issues

- 16.32 It is considered that adequate visibility splays can be provided from both access points, including the existing subject to compliance with the condition suggested by the Highway Authority. Some trimming of frontage vegetation would be

required but fortunately there is a small verge and also a footpath in front of this vegetation which will limit the extent of vegetation required to be removed.

- 16.33 There is adequate space within the site to provide two parking spaces for each property at 2.9 m x 5.5 m each plus a turning area and garaging so the proposal will fully accord with Policy DP19.
- 16.34 No objections have been received from the Highway Authority so the scheme overall is considered acceptable from a highway safety point of view.

Other matters

- 16.35 Adequate private amenity space has been provided for the new dwellings and retained for the existing dwelling. Policy DP16 provides that 60m² should be provided for 3 bedroom dwellings and 100m² for 4 bedroom dwellings and these standards have been met for each dwelling proposed.
- 16.36 It is not considered that an objection could be sustained on the grounds of impact upon wildlife. The site is a domestic garden and not particularly overgrown to any significant degree. It is therefore unlikely there would be a significant impact upon species such as reptiles, bats, newts and birds. The proposal therefore accords with policy DP21 which aims to conserve or enhance biodiversity. The coastal habitat mitigation off site RAMS payment will need to be paid for four extra dwellings and this is £122.30 per dwelling. Permission would not be issued until the requisite payment is received.
- 16.37 With regard to archaeology, a condition will need to be applied stating that “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.” This will ensure adequate recording of any archaeology on site and the proposal will then comply with Policy DP14 which aims to ensure adequate protection/recording of archaeology.
- 16.38 The public footpath opposite is not affected.
- 16.39 Regard has been had to the Stanway Village Design Statement and it is acknowledged that the site is beyond the settlement limits but a Departure is considered to be justified for the reasons set out above.

17.0 Conclusion

- 17.1 To summarise, in terms of principle, whilst the site lies outside the settlement boundary, it is located very close to it and in close proximity to a wide range of facilities and services, and their accessibility on foot, by cycle and by public transport, identifies that this site is not isolated and would have good accessibility. Accordingly, on balance it is considered that a Departure to the Development Plan is justified as the proposal represents sustainable development. The site is in a highly sustainable location and the presumption in favour of sustainable development outlined in the NPPF would be complied

with. There is also the public benefit of providing additional housing. It is therefore considered that the principle of the proposal can be accepted and that the application should be considered on its planning merits.

17.2 With regard to the planning merits of the proposal it is considered that the layout, design, scale and form of the proposal is acceptable, with the new Edwardian style dwellings relating satisfactorily to the character of the existing host dwelling and street scene. It is also considered there would not be a significant adverse impact upon the setting of nearby Listed Buildings, including the Grade II* dwelling opposite, and that any such impact would be less than substantial and outweighed by the public benefits identified..

17.3 It is not considered that there would be any significant impact upon neighbouring residential amenity, highway safety or wildlife. The trees and vegetation within the site that are to be removed have been assessed as low quality and there is an opportunity for some replacement planting.

17.4 With regard to potential contamination of the land Environmental Protection have confirmed that they are unaware of any potential sources of unacceptable contamination at this time. Accordingly a precautionary condition is recommended relating to unexpected contamination.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to prior receipt of the RAMS payment and subject to the following conditions:

1. ZAA - Time Limit for Full Permissions

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

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

2. ZAM – Development To Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers:2018-211-001, 002, 003,010, 011,020, 021,040,041,050, 060, tree protection plan and AIA received 16.4.19.

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

3. ZBC – Materials To Be Agreed

No external facing or roofing materials, or frontage hard surfaces shall be used in the construction of the development hereby permitted until precise details of the manufacturer, types and colours of these have been submitted to and approved, in writing, by the Local Planning Authority. Such materials as may be approved shall be those used in the development.

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

4. Z00 – Vehicular Access

Prior to the first occupation of the proposed dwellings, both the proposed vehicular access shall be constructed or reconstructed to a width of 5.5m and shall be provided with an appropriate 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.

5. Z00- Visibility Splays

Prior to the proposed access being brought into use, minimum vehicular visibility splays of 43m by 2.4m by 43m 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.

6. Z00- No Unbound Material

No unbound materials shall be used in the surface treatment of the proposed vehicular access within 6m of the highway boundary.

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

7. Z00 – Car Parking and Turning

The development shall not be occupied until such time as the car parking (each space a minimum of 2.9 m x 5.5 m) and turning areas, has been provided in accord with the details shown in Drawing Numbered 2018-211-002. 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.

8. Z00 – Construction Method Statement

No development shall take place, including any ground works or works of demolition, until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

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

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

9. Z00 – Archaeological Programme of Work

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).

10.Z00 - 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 recommence 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 DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

Reason – No information on contamination risks was supplied in support of this application and Environmental Protection wish to ensure that development only proceeds if it is safe to do so.

11.Z00 – Tree or Shrub Planting

The development hereby permitted shall not be occupied until details of

tree and/or shrub planting and an implementation timetable (which shall include retention of the rear hedge height to a minimum of 2.5m and infilling of gaps in the frontage hedge) have been submitted to and approved, in writing, by the Local Planning Authority. This planting shall be maintained for at least five years following contractual practical completion of the approved development. In the event that trees and/or plants die, are removed, destroyed, or in the opinion of the Local Planning Authority fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed in writing with the Local Planning Authority.

Reason: To ensure an appropriate visual amenity in the local area.

12.ZFS – Tree and Hedgerow Protection

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

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

13.ZDF - Remove PD - Obscure Glazing

Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), the first floor windows in the side elevations of the dwellings hereby approved shall be non-opening and glazed in obscure glass to a minimum of level 4 obscurity up to a minimum height of 1.7 m above floor level before the development hereby permitted is first occupied and shall thereafter be permanently retained in this approved form.

Reason: To avoid the overlooking of neighbouring properties in the interests of the amenities of the occupants of those properties.

14. ZFK- Small scale Boundary Treatment

The dwelling(s) hereby approved shall not be occupied until details of the provision, siting, design and materials of screen walls and fences have been submitted to and agreed, in writing, by the Local Planning Authority. The approved screen walls and fences shall then be erected prior to the first occupation of the dwelling to which they relate and shall thereafter be retained in the approved form.

Reason: There are insufficient details within the submitted application to ensure that the boundary treatments are satisfactory in relation to amenities and the surrounding context.

15.ZMR – External Joinery Details

No works shall commence on site until details of all new external WINDOW AND DOOR JOINERY have been submitted to and approved, in writing, by the Local Planning Authority. The submitted details shall include depth of reveal, details of heads, sills and lintels, elevations at a scale of not less than 1:10 and horizontal/vertical frame sections (including sections through glazing bars) at not less than 1:2. The works shall thereafter be carried out in accordance with the approved details.

Reason: To ensure that the approved works are carried out without detriment to the character and appearance of the building where there is insufficient information within the submitted application

16. Removal of PD for All Residential Extensions & Outbuildings

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

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

17. Removal of PD for Fences/Walls

Notwithstanding the provisions of Class A of Part 2 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no fences, walls, gates or other means of enclosure, other than any shown on the approved drawings, shall be erected in advance of any wall of the dwelling to which it relates (including a side or rear wall) which faces a highway unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: In the interests of visual amenity with regard to the context of the surrounding area.

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.

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

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

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

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.

WA1 Positivity Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission 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: 7.8

Application: 191141

Applicant: VH (Colchester) Limited

Agent: Madox

Proposal: Redevelopment of the site to deliver student accommodation (sui generis use class) within a four-storey block to provide 104 bedspaces; revision to Block 'A' previously approved under No. 181281.

Location: Former Bus Depot, Magdalen Street, Colchester, CO1 2LD

Ward: New Town & Christ Church

Officer: Sue Jackson

Recommendation: Approval subject to completion of a linking legal agreement

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it is a major application and an objection has been received.

The application also requires a linking agreement to ensure the obligations are secured under the original application are also delivered under this revised submission.

2.0 Synopsis

- 2.1 The key issues for consideration are a comparison of the approved development with the proposed amendments and their potential impact on residential and public amenity.
- 2.2 The application is subsequently recommended for approval subject to a linking agreement.

3.0 Site Description and Context

- 3.1 The former bus depot site is irregular in shape broadly rectangular with a small projection on the south boundary towards Military Road. It has an area of 0.4322 hectares and has twin frontages of 104 metres to Magdalen Street and 13 metres to Military Road. The site backs onto Winnock Road. It was last used as a bus depot.
- 3.2 Buildings on the site, with the exception of a small locally listed building, have recently been demolished following the grant of planning permission. The brick façade of the locally listed building (Tram Shed) on the Military Road frontage is retained in the approved and revised schemes.
- 3.3 There is a significant change in ground level between Magdalen Street and Military Road, with the latter being at a higher level. The grade II listed Kendalls Almshouses located to the rear of the site are approximately 2.5 - 3.5 metres above the ground level of the site.
- 3.4 Magdalen Street is a classified road and described as a Radial Feeder, Military Road also classified is described as a Secondary Distributor. There are double and single yellow parking restriction lines in operation outside the site on Magdalen Street and a single yellow line in operation outside the site on Military Road. Residential streets in the vicinity have residents parking schemes.
- 3.5 The site is 250 metres from the town railway station, and 430 metres from the bus station. There are bus stops on both sides of Magdalen Street and Military Road. Colchester town centre is close to the site with Culver Square and High Street being only a 10 minute walk away.
- 3.6 There are a range of uses and building of various styles and heights along Magdalen Street. On the opposite side of the road are buildings of a traditional design some of which are locally listed, generally 2 and 3 storey in height and include retail, office and residential use. There is also a restaurant and a MOT

garage. The recently erected Emmaus building is of a contemporary style and whilst mainly 3 storey includes a 4-storey element; whilst the YMCA building which is also relatively new is constructed of brick with pitched tiled roof and is 3 storeys in height. To the east of the site is a modern residential building of a traditional style, 3 storey faced in yellow brick with a pitched tiled roof, adjacent is the Aldi store with residential development above constructed of red brick under a pitched tiled roof. On the west side of the site is Robertson's self-drive vehicle hire in a 2-storey building with offices in a converted dwelling; with residential properties adjacent. Magdalen Street is generally an area of a mixed uses; including residential, retail including food retail, office and commercial uses which include restaurants, a car dealership, petrol filling station and MOT garage; there are also sections of undeveloped or underdeveloped frontage.

- 3.7 The rear boundary of the site abuts Kendall Almshouses, no's 1-16 Kendall Terrace are Grade II Listed buildings with other almshouses in this group are locally listed. These Almshouses are located in close proximity to the site's southern boundary with their main amenity area to the front of the buildings. Kendall's Almshouses are within the New Town Conservation Area; the boundary of which is the northern almshouses boundary with the application site. There are also almshouses to the west of the site and 8-22 Military Road also locally listed; these properties have small rear gardens ranging in length from 4-9 metres where they back onto the site. On the opposite side of Military Road is Winnocks Almshouses listed grade I. A former public house, no 25 Military Road on the corner with Golden Noble Hill is also listed and there is a further listed building on the corner of Military Road and Magdalen Street.

4.0 Description of the Proposal

- 4.1 This application proposes an increase in the number of student bed spaces in block A from 102 to 104. It also proposes a minor reduction in the footprint of this block along part of the west boundary.

5.0 Land Use Allocation

- 5.1 East Colchester Special Policy Area
East Colchester Regeneration and Growth Area
Air Quality Management Area

6.0 Relevant Planning History

- 6.1 160103 Demolition of existing buildings and redevelopment of the site to deliver student accommodation (Use Class Sui Generis) across five blocks of one, two, three and four storeys to provide 230 bed spaces (61 cluster flats and 16 studio flats), communal facilities (to include bin stores, cycle stores, site management office, gym and communal amenity areas) as well as undercroft car park (20 car parking spaces), landscaping and a new public pathway through the site. Planning permission was granted on 20 December 2017 and is subject to a legal agreement.

- 6.2 181281 Demolition of existing buildings and redevelopment of the site to deliver student accommodation (Use Class Sui Generis) across three blocks of up to four storeys to provide 250 bed spaces (50 units comprising, 46 cluster flats and four studio flats), communal facilities (to include bin stores, cycle parking, site management suite, quiet study area, common rooms, launderette and communal external amenity areas), two car parking spaces, landscaping and a new public pathway through the site. Approved subject to a legal agreement and conditions.
- 6.3 190631 Application to vary condition 2 of planning permission 181281. Resolution to approve subject to the signing of a linking agreement agreed by Members at the meeting on 13 June 2019.

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
UR2 - Built Design and Character
- 7.3 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:
DP1 Design and Amenity
DP14 Historic Environment Assets
- 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:
SA EC1 Residential development in East Colchester
SA EC2 Development in East Colchester
SA EC5 Area 3: Magdalen Street
- 7.5 Submission Colchester Borough Local Plan 2017-2033:
The Council is developing a new Local Plan that has been submitted to the Planning Inspectorate (October 2017). An Inspector has been appointed and the formal examination commenced in January 2018. The examination is ongoing.

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

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

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

The following policies are relevant;

SP1 - Presumption in Favour of Sustainable Development

EC3: East Colchester

DM16 Historic Environment

DM15: Design and Amenity

- 7.7 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):
- The Essex Design Guide
 - External Materials in New Developments
 - Magdalen Street Development Brief

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. No consultations were necessary.

9.0 Parish Council Response

- 9.1 N/A

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.

Councillor Theresa Higgins has objected as follows "yet again an amendment or variation to the plans for this site means an increase in the number of accommodation units. No extra amenity space is proposed".

11.0 Parking Provision

11.1 The proposals do not generate a requirement for any additional parking.

12.0 Accessibility

12.1 Please refer to Design & Access Statement regarding duties under the Equalities Act

13.0 Open Space Provisions

13.1 There is no policy requirement for the provision of open space for student accommodation. The amendments do not generate a requirement for any additional open space.

14.0 Air Quality

14.1 The site is within the Air Quality Management Area; the amended proposals do not require any air quality mitigation measures other than those secured under application 181281.

15.0 Planning Obligations

15.1 This application proposes amendment to a “Major” application and whilst no new obligations are required for the amended proposals the original obligations, set out below, will be secured via a linking agreement;

- Upgrading of buses with a catalytic reduction system;
- Upgrading to current ECC specification, including real time information, of a bus stop;
- Travel Plan including monitoring;
- CCTV (the applicant will be installing a private CCTV system) but a financial contribution will fund the provision of 2 cameras one on each road frontage linking to the Council's CCTV network;
- Provision of a pedestrian link through the site to connect Military Road to Magdalen Street with public access in perpetuity.

16.0 Report

16.1 The main issues in this case are:

16.2 The Principle of Development

The principle of development is established under application 181281.

16.3 The Proposed Amendments

Application 190631 was considered at the last meeting of the Planning Committee on 13 June. The report to members explained the amendments proposed to the approved development, one of which was the removal of the southern staircase in Block A. the removal of the staircase has allowed the approved bedspaces to be reconfigured and the additional 2 bed spaces are

proposed within the approved footprint. These bed spaces are proposed to the east side of block A towards the middle of the block.

A second amendment also relates to block A and involves a very minor reduction in the footprint along part of the west boundary to allow scaffolding to be erected within the site boundary.

16.4 Design and Layout Scale, Height and Massing

The amendments will have no impact on the design, layout, scale, height or massing of the building.

16.5 Impact on the Surrounding Area Impacts on Neighbouring Properties

The amendments to Block A will have no impact in the street scene and will not be visible to neighbouring properties.

17.0 Conclusion

17.1 To summarise, the revisions proposed are considered minor and will not impact on either the street scene or resident's amenity. The impacts of the development will be fully mitigated by the package of contributions previously agreed.

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 linking agreement under Section 106 of the Town and Country Planning Act 1990, within 6 months from the date of the Committee meeting to link this application to the legal agreement for application reference 181281.

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:

1. Removal/Variation of Condition(s) Approval

With the exception of condition 2 of Planning Permission 181281 which is hereby varied, the requirements of all other conditions imposed upon planning permission 181281 remain in force and shall continue to apply to this permission, including the details and provisions of any approved matters discharging any condition(s) of that permission.

Reason: To avoid any doubt that this application only applies for the variation of the stated condition(s) of the previous planning permission as referenced and does not seek the review of other conditions, in the interests of proper planning and so that the applicant is clear on the requirements they need to comply with.

2. Development to Accord with Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers **DRAWING NUMBERS TO BE ADDED ON THE AMENDMENT SHEET** except where the conditions below require amended or further details.

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

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.

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 withstand 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.

