

# Planning Committee Meeting

**Grand Jury Room, Town Hall, High Street,  
Colchester, CO1 1PJ**

**Thursday, 08 September 2022 at 18:00**

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

# Information for Members of the Public

## Access to information and meetings

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

Dates of the meetings are available here:

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

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

## Have Your Say!

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

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

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## Access

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**COLCHESTER BOROUGH COUNCIL**  
**Planning Committee**  
**Thursday, 08 September 2022 at 18:00**

**The Planning Committee Members are:**

Cllr Lilley  
Cllr Barton  
Cllr Chapman  
Cllr Chuah  
Cllr Mannion  
Cllr McLean  
Cllr Maclean  
Cllr McCarthy  
Cllr Nissen  
Cllr Tate  
Cllr Warnes

Chair  
Deputy Chair

**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:**

Tracy Arnold	Molly Bloomfield	Michelle Burrows	Roger Buston	Mark Cory
Pam Cox	Robert Davidson	Adam Fox	Mark Goacher	Jeremy Hagon
Dave Harris	Mike Hogg	Richard Kirkby-Taylor	Darius Laws	Sue Lissimore
Andrea Luxford Vaughan	Patricia Moore	Sara Naylor	Beverly Oxford	Gerard Oxford
Chris Pearson	Kayleigh Rippingale	Lee Scordis	Lesley Scott-Boutell	Paul Smith
William Sunnucks	Dennis Willetts	Barbara Wood	Julie Young	Tim Young

# **AGENDA**

## **THE LIST OF ITEMS TO BE DISCUSSED AT THE MEETING**

### **(Part A - open to the public)**

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

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

#### **Live Broadcast**

Please follow this link to listen to the meeting live:

[· Colchester Borough Council \(cmis.uk.com\)](http://cmis.uk.com)

#### **1 Welcome and Announcements**

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

#### **2 Substitutions**

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

#### **3 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.

#### **4 Urgent Items**

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

#### **5 Have Your Say!**

At meetings of the Planning Committee, members of the public may make representations to the Committee members in person. These Have Your Say! arrangements will allow for one person to make representations in opposition and one person to make

representations in support of each planning application. Each representation may be no longer than three minutes(500 words). Members of the public wishing to address the Committee need to register their wish to address the meeting by e-mailing [democratic.services@colchester.gov.uk](mailto:democratic.services@colchester.gov.uk) by 12.00 noon on the working day before the meeting date.

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

## **6 Minutes of Previous Meeting**

The Councillors will be invited to confirm that the minutes of the meeting held on 28 July 2022 are a correct record.

### **2022-07-28 CBC Planning Committee Minutes**

7 - 12

## **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 213530 & 213531 Land west of Peldon Road & Land adj, Borleys, Peldon Road, Abberton, CO5 7PB**

13 - 60

Outline planning application for: up to 50 dwellings; a new vehicle drop-off / pick up point; and access from Peldon Road. All Matters Reserved, except access & Outline application for the erection of five dwellings.

### **Planning Committee Information Pages v2**

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## **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)**



## PLANNING COMMITTEE

### 28 July 2022

<i>Present:-</i>	Councillors Lilley (Chair), Chapman, MacLean, Mannion, McCarthy, Smith, Tate, and Warnes
<i>Substitute Member:-</i>	Cllr Smith substituted for Cllr Barton Cllr Scott-Boutell substituted for Cllr Chuah
<i>Also in Attendance:-</i>	Cllr Fox

#### 935. Minutes

The Minutes of the meeting held on the 25 May 2022, 26 May 2022, 16 June 2022, and 7 July 2022 were confirmed as a true record.

#### 936. 211510 Colne Quay, land to the east of Hythe Quay, Colchester

**Councillor Lilley declared a pecuniary interest in the following item as he had previously spoken against the item when it had previously been before the Committee. Councillor Lilley advised members that he would be leaving the room for the entirety of the item.**

Councillor Lilley left the room prior to commencement of item 211510 and in the absence of the Chair and Vice Chair nominations were sought by the Democratic Services Officer for a Chair for item 211510 only.

It was proposed and seconded that Councillor Sam McCarthy be appointed as Chair for item 211510.

**RESOLVED (UNANIMOUSLY) that Councillor Sam McCarthy Chair item 7.1 (211510).**

The Committee considered a full planning application for the demolition of existing buildings and construction of student accommodation blocks to provide student studio apartments, internal communal areas, staff offices and associated facilities, a substation, landscaping, works to river wall, changes to access and parking. The applications were referred to the Planning Committee as it had previously been called-in by Councillor Lee Scordis for the following reasons:

1. Loss of light and overshadowing from large buildings
2. Loss of privacy for flats currently in place
3. Conservation of a wildlife area
4. Parking issues likely to arise

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

James Ryan, Planning Manager, presented the report and assisted the Committee in its deliberations. A presentation was given outlining the changes to the scheme since the item

had been deferred earlier in the year for the reasons of scale and access of the proposal. It was noted that these changes included:

- That the height of the building had been reduced by two-storeys bringing the proposal to 8 storeys tall.
- Additional parking bay for deliveries and servicing of the buildings
- Bin storage facilities are now available in both buildings
- Cycle parking had been moved on site to be closer to the university
- The footpath will be widened between the footbridge and the Hythe quay
- Increase in amenity space for students to use
- There is now 906sqm of amenity space on the ground floor for students to use
- Solar/ biodiverse roof on the proposal.

The Committee heard that the proposed studio flats would include en-suite facilities, a kitchenette and access to a larger kitchen with shared facilities within the building. It was noted that there had been a change to the suggested contributions so the Transport and Sustainability sum of £50,000 would go towards a pooled contribution pot directed at finding a solution to the flooding issue that occurs in Haven Road (rear of the Maltings). The Committee were shown a video outlining the main features of the proposal and the changes that would have to take place including the works to the river wall which was estimated to cost £1.2 million. The Area Manager concluded that the officer recommendation was for approval as detailed in the Committee report.

Simon Talbot (Applicant) addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of application 211510. The Committee heard that the application area was a brownfield site with no active use and outlined that national and local policies encouraged the use of brownfield land for redevelopment. The Applicant outlined that the proposal would rebuild the river wall and had focused on the reduction in height as requested through from the deferral which lowered the development by two storeys. It was noted that further elements of the proposal had been changed in response to the deferral and had worked to improve the impact on the immediate surroundings and neighbours by moving the proposal as far away from existing developments as possible.

With the permission of the Chair, Councillor Adam Fox addressed the Committee. The Committee heard that the application had been called in by a fellow ward Councillor and that it had been done so for the reasons of loss of privacy and conservation of the site. The visiting Councillor noted that some residents may not be happy with the proposal but the applicant had undertaken a lot of work to address the issues and the unsightly nature of the area in its current state. The Committee heard that the applicant had genuinely listened and adapted the development such as brown roofing and would provide a long-term solution for the area which looked unsightly when the tide went out. The visiting Councillor concluded by confirming that the proposal would be in-keeping with the wider area, that support would be given to the Hythe Task Force and additional funding for resolving flooding issues, and that the purpose-built student accommodation would stop students using family style homes in the area and encouraged support for the application.

At the request of the Chair the Area Manager responded to the points that had been raised by public speakers and visiting Councillors. The Committee heard that the proposal was for specific student accommodation but would count towards the Council's five-year land supply.

The Democratic Services Officer read out the following Statements from Councillors Julie Young and Tim Young as follows:

Councillor Julie Young:



*Dear Planning Committee*

*You will be considering the revised application submitted by Beyond the Box in relation to Hythe Quay at your committee on the 28th July 2022. I can speak from my personal experience of Beyond the Box working within Greenstead ward when building additional student accommodation at Avon Way House.*

*This company is really prepared to work with the local community to achieve their building project not only at the application stage but on an ongoing basis. They are not the type of developer who shrugs their shoulders when problems arise but will actively work with you to eliminate issues as they arise.*

*During the history of this proposal there have been significant changes made to respond to issues raised by the committee and also with the community, Beyond the Box should be commended for these revisions. Not all developers respond so positively.*

*Although some views will be affected by existing residents there are some significant benefits on offer such as the Piasa opposite the Spinnaker Pub which creates a social space for residents new and old, the investment in the River wall which is imperative to the stability of this stretch, the cash in the 106 agreement to support a much needed flooding solution and the sustainable travel options and improved public realm. All of these items are worth having. Accommodation around the river at this location is of a similar type in terms of scale and I think this scheme will bring benefits to the area.*

*The decision rests with the planning committee of course but I would support approval.*

Cllr Tim Young:

*Beyond the Box has demonstrated its credibility and trustworthiness in other schemes (including Avon Way House) and they are a local developer of quality accommodation and high principles.*

*They are a pleasure to work with because they listen and act according to local needs and concerns. They have clearly taken on board the issues raised at the previous Planning Committee and the modified proposals with the s106 commitments make this application very acceptable.*

*It is a development that neighbours Greenstead Ward and will affect some of the views from 'our' side of the river however the view at the moment is of an unattractive wall and derelict wasteland and the proposed development is not out of keeping with the buildings opposite.*

*I live in the area and, given the mitigation promised and the reputation of this developer, I have no hesitation in supporting approval.*

RESOLVED (by SEVEN votes FOR and ONE vote AGAINST) that the applications be approved subject to the conditions and informatives and Section 106 agreement in the report.

### **937. 220595 School Road, Langham, Colchester**

Councillor Lilley re-joined the meeting as Chair following the completion of 211510 but before the commencement of 220595.

The Committee considered an outline application for the erection of 30 houses with a new

access onto School Road, Langham with all matters reserved. The application was referred to the Planning Committee as the development proposed would constitute a major application; requiring a S106 agreement. Furthermore, a number of objections have been received raising material planning considerations.

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

Hayleigh Parker-Haines, Planning Officer, presented the report and assisted the Committee in its deliberations. A presentation was given outlining the application site and the surrounding area and that the officer recommendation was for approval as detailed in the committee report.

Paul Armstrong addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in objection to the application. The Committee heard that there was a severe issue of foul water disposal in the area and that commencement on previously approved proposals under policy SS9 should not commence until the issue had been resolved. The speaker outlined that if the development was approved then 112 of the 160 would be delivered 11 years ahead of schedule and that there was a significant pollution currently with raw sewage flowing into homes. The speaker concluded that no development should take place until the sewage capacity was available to protect amenity of existing and potential residents.

At the request of the Chair the Planning Officer responded to the points that had been raised by the public speaker. The Committee heard that Anglian Water were currently working with the Environment Agency and would complete improvement works by 2025 and drew the Committee's attention to condition 18 that required that no development would commence on the site until a detailed wastewater strategy had been approved by the Local Planning Authority.

In response to a question from the Committee the Planning Officer and Development Manager advised the Committee that the wastewater strategy would only allow development to commence on site once it was confirmed that the sewage system had capacity to accommodate the dwellings.

Members of the Committee debated the application on the issues including: the wastewater provision in the area and how this had been a serious issue for the area for a number of years, whether the condition would ensure that capacity would be made available, the timescale for development and the completion of the Section 106 Agreement.

The Democratic Services Officer read out the following Statement from Councillor Lewis Barber:

*I would urge the committee to defer this application until such time that the infrastructure for foul drainage for this development is suitably addressed.*

*It sends the wrong message should this authority pass permission whereby the nearby centre does not have capacity to treat the flows. The fact the required upgrades are not going to be completed until 2025 is, if this permission is passed, an unwelcome example of housing going in before infrastructure.*

*I urge you to consider this when making your decision. You will no doubt have the issue of an appeal raised. However, fear of permission being granted on appeal is not a convincing reason to give permission this evening. We must be clear that key infrastructure should be*

*delivered prior to permission. I also note that Essex County Council Place Services have made an objection and this should be taken into account too.*

Following the statement being read out the Planning Officer responded that the objection from Place Services was based on the incorrect plot of land, but further surveys would be undertaken to confirm status of the site prior to the commencement of any works.

The Development Manager asked the Committee to add the additional delegation that would allow the Development Manager to allow minor changes to conditions wording.

RESOLVED (by SEVEN votes FOR and TWO votes AGAINST) that the application be approved subject to the conditions and informatives and Section 106 Agreement in the report and amendment sheet with the additional delegation to the Development Manager to allow minor changes to conditions wording.

### **938. 221174 Roman Circus Archaeological Site, Flagstaff Road, Colchester**

The Committee considered an application for the erection of an interpretation panel containing historical information and graphics at the Roman Circus Archaeological site, Flagstaff Road. The application was referred to the Planning Committee as the applicant was Colchester Borough Council.

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

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

### **939. 220921 Land opposite, Magpie Chase, Stanway, Colchester, CO3 8WB**

**Councillor Warnes and Councillor Tate (in respect of their positions as a Directors of Colchester Commercial Holdings Limited) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7 (5)**

The Committee considered an application for the construction of an overspill car park. The application was referred to the Planning Committee as the applicant (Colchester Amphora Trading) is a subsidiary of Colchester Borough Council.

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

Lucy Mondon, Planning Manager, presented the report and assisted the Committee in its deliberations. A presentation was given outlining the previous application that had been approved on the site and was currently under construction and that the proposal before the Committee was for additional car parking on the site. The Planning Manager concluded the presentation by outlining the officer recommendation that delegated authority is given to the Development Manager to approve the application subject to the response from Essex County Council as the lead flood authority and any conditions as required.

Paul Dundas (Stanway Parish Council) addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support to the application. The Committee heard that when the application had been revised and approved previously the additional car parking spaces had been overlooked and not included in the proposal. The Parish Council representative outlined that whilst other forms of transport would be used to access the site many people would drive and park on the site for events such as weddings. The speaker

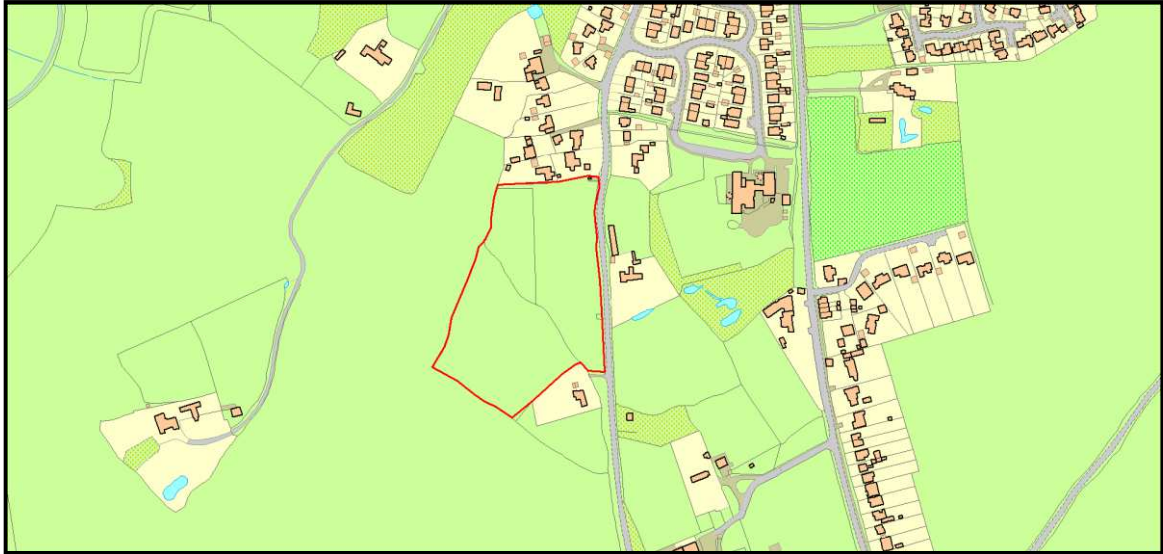
concluded by outlining that if the parking was not approved then it would lead to parking on residential areas and that if the application was not approved the development would become unsustainable.

Members debated the application on the issues including: the access to public transport in the area and speeding that had been noted in the area. Some Members were concerned that the additional car park could encourage anti-social behaviour and that new car park was not providing any additional disabled parking spaces.

At the request of the Chair the Planning Manager responded to the points that had been made by the Public Speaker and in the debate. The Committee heard that there was currently a proposal in the works for a crossing on the Stanway Western Bypass, that there was no proposed additional disabled parking in the proposed overspill car park but there was disabled parking, electric vehicle charging points and cycle parking points agreed on the previous application. The Planning Officer confirmed that an informative note could be added to the decision to encourage further disabled car parking spaces on the overspill car park.

The Planning Manager responded to further questions from the Committee on issues including: the maintenance of the overspill car park and that the operation of the site including security on the site would be managed by the site manager.

RESOLVED (UNANIMOUSLY) that the Delegated Authority was granted to address the Lead Flood Authority holding objection (in relation to Sustainable Urban Drainage) and apply or modify any conditions as necessary. Subject to drainage matters being resolved, APPROVAL of planning permission subject to conditions.



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**Item No:** 7.1

**Application:** 213530 & 213531

**Applicant:** Mersea Homes & Mr P Saunders

**Agent:** ADP Ltd & Mr Mark Jackson

**Proposal:** Outline planning application for: up to 50 dwellings; a new vehicle drop-off/pick up point; and access from Peldon Road. All Matters Reserved, except access & Outline application for the erection of five dwellings

**Location:** Land west of Peldon Road & Land adj, Borleys, Peldon Road, Abberton, CO5 7PB

**Ward:** Mersea & Pyefleet

**Officer:** Nadine Calder

**Recommendation:** Approval subject to a legal agreement and conditions & Approval subject to conditions

## **1.0 Reason for Referral to Planning Committee**

- 1.1 These applications were discussed at the Planning Committee of the 16<sup>th</sup> June 2022 when a decision on the applications was deferred to investigate the following items:
1. Improved turning area and drop off point in school grounds.
  2. Crossing point between two site allocations in policy SS1 and whether the safe delivery of a controlled crossing is possible at an affordable cost.
  3. Possible site B footway link to Public Right of Way.
  4. Possible options for further road calming speeds on Peldon Road.
- 1.2 The additional information that was requested by the Committee does not have an impact on the assessment of the proposed development which has previously been carried out by your Officers, and only requires certain aspects of the schemes (related to highway matters) to be investigated further. The recommendation remains one for approval subject to relevant conditions for both applications, as per the report that was presented to Members on the 16<sup>th</sup> June 2022, with only minor amendments proposed to the conditions, which are set out below. The original report and full assessment of the proposed developments can be found at Appendix 1 below.
- 1.3 It should be noted that since the Committee of the 16<sup>th</sup> June 2022 considered the application proposals, the Council formally adopted Section 2 of the Colchester Borough Local Plan 2017 – 2033. This means that all references to policies contained within the previous Local Plan (i.e. Core Strategy and Development Plan Document) made in the report at Appendix 1 are no longer relevant as the proposed development needs to be assessed solely against the currently adopted Local Plan (CBLP 2017-2033). Full statutory weight must now be afforded to relevant plan policies. Members will note that the assessment within the report already includes reference to the relevant Section 2 Local Plan Policies, most importantly Policy SS1. At the time of writing the report, Officers were able to attribute significant weight to these policies, given the advanced stage of the Local Plan. With Section 2 now having been adopted, full weight can be given to those policies. As a result of already having considered the proposed developments against the relevant Section 2 Plan Policies, and having been able to attribute significant weight to their aims, the adoption of Section 2 of the Colchester Borough Local Plan 2017 – 2033 does not require a reassessment of the proposed developments save that full weight now applies to the Local Plan.
- 1.4 Following the Committee's resolution to defer a decision pending investigation of the matters listed in paragraph 1.1 above, separate meetings with the respective applicants and their agents were held. For Site A, the Highway Authority and the chair of Abberton and Langenhoe Parish Council also participated. Site A needed to explore options to provide a controlled crossing. Failing this, more robust evidence was requested to justify the uncontrolled crossing. For Site B it was discussed that the potential to provide a footway link from the site to the Public Right of Way to the north of the site should be explored. The possibility of providing drop off and pick up facilities within the school grounds also needed to be explored with Essex County Council.

#### Site B (5 dwellings)

- 1.5 Following discussions with the Highway Authority, it has been possible to secure the provision of a footway along the eastern side of Peldon Road, from Site B to the Public Right of Way. The provision of this footway can be secured via condition which would require the details of the footway to be agreed with the Local Planning Authority, in conjunction with the Highway Authority, prior to commencement of the development, with the works requiring completion prior to the first occupation of the development.
- 1.6 As a result of Site B now being able to provide a footway link from the site to the school and the wider village, it is not considered necessary to provide a crossing between the two sites. The proposed development, subject to the aforementioned condition for the proposed footway, would satisfy the criteria of adopted policies and comply with highway safety. The development on the eastern side of Peldon Road (as proposed under the terms of reference 213531) is therefore held to be acceptable and the recommendation for this application remains one for approval, subject to the inclusion of a condition, as set out above.

#### Site A (up to 50 dwellings)

- 1.7 Discussions between the applicant, their technical team and the Highway Authority have resulted in the submission of a Technical Note with a view to address the concerns that were raised by Members of the Planning Committee on the 16<sup>th</sup> June 2022.
- 1.8 As a starting point, Members should note that, whilst every effort has been made to get formal confirmation from the Education Authority that additional parking facilities within the school grounds can be provided, no such confirmation (nor an objection to this suggestion) was received. The relevant officers at Essex County Council (ECC) were chased on multiple occasions, however, given the absence of a formal agreement to provide drop off and pick up facilities within the school grounds, the development should be assessed on the basis of its submission, i.e. with a drop off and pick up facility within the north eastern corner of Site A.
- 1.9 The Technical Note provided by the applicant highlights that the site characteristics, the number of vehicles (gaps in traffic) and the number of pedestrians does not require or justify a formal crossing.
- 1.10 It states that long standing national practice<sup>1</sup> should be considered as directed by ECC to assess the justification for a crossing by calculating the  $PV^2$  value as an evaluation of the potential for conflict between pedestrians and vehicles, where P is the number of pedestrians per hour and V is the number of vehicles per hour squared. If the value  $PV^2$  is less than  $1 \times 10^8$  no formal crossing facilities are required. The following assessment is taken from the Technical Note:

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<sup>1</sup> Roads and Traffic in Urban Areas – Department of Transport

- **Morning Peak Traffic** - Peak traffic flows occur in the morning when school traffic coincides with other peak hour traffic. That figure is expected to be around 187 vehicle movements (144 plus 23 from the development plus 20 associated with the 8 school drop off pick up spaces assuming all travel to and from the north, which represents a robust figure).
- **Pedestrians AM Peak** – Pedestrians crossing during the AM peak will be from the new development (estimated at 45 - based on 15 children (ECC assessment) being escorted by parent i.e., parent taking child and returning home), plus an allowance for no school pedestrians (estimated at 5); and the school drop off on the western side of Peldon Road (30 pedestrians)
- **Evening Peak Traffic** - In the evening peak 1700-1800 there will be no school traffic and few pedestrians crossing.

The PV<sup>2</sup> calculation is therefore as follows:  $80 \times 187^2 = 2.8 \times 10^6$  or  $0.028 \times 10^8$

This figure is considerably less than the threshold  $1 \times 10^8$  demonstrating that a formal crossing is not appropriate at this location.

- 1.11 Crossings only operate correctly if they are used on a regular basis throughout the day. The above calculations suggest that this would not be the case.
- 1.12 It is stated that if there are too few pedestrians for most of the day, drivers may consequently tend to ignore the crossing and put pedestrians at risk on the occasions when they are using the facility. Conversely, if traffic flows are low then pedestrians can comfortably cross in the gaps without needing a crossing.
- 1.13 The Highway Authority confirmed that they would not support a formal crossing at this location for safety reasons. A decision on the application was originally deferred because Members raised concerns that the safety of pedestrians is not guaranteed through the absence of a formal crossing, however, the evidence provided as part of the Technical Note would suggest that the provision of a formal crossing, as requested by Members, would in fact result in a less safe option for pedestrians. The provision of a formal crossing would therefore appear to be contrary to the intentions of the Planning Committee to provide a safe crossing.
- 1.14 If Members consider that the drop off and pick up facilities within the school grounds should continue to be investigated as a solution (despite the lack of commitment from ECC), then the number of crossings would be reduced by more than a third, further emphasising that the overall demand arising from the proposed development is not significant enough to justify a controlled crossing.
- 1.15 The Technical Note not only assesses the matter as to whether a controlled crossing is appropriate in this location based on pedestrian crossings (PV<sup>2</sup> Calculation) but also with regards to traffic flows and gaps.



- 1.16 Referring back to the figures utilised for the  $PV^2$  calculation, peak hour movement of 187 vehicles per hour is the equivalent of about 1 vehicle every 20 seconds. In this regard:
- Most pedestrians accept a gap of about 5 seconds although some slower moving pedestrians require 10 seconds.
  - A gap on average of 20 seconds is therefore considered sufficient to allow slower moving pedestrians to cross.
  - Outside of peak hours traffic flows will be much less at around 100 vehicles per hour with very low numbers of pedestrians crossing.
- 1.17 Based on the above, it was concluded, and accepted by the Highway Authority, that there are sufficient gaps in the traffic for pedestrians to safely cross at an uncontrolled crossing. A formal crossing is therefore not required in this situation.
- 1.18 The proposed development also includes a number of proposed mitigation measures, including:
- New footways of up to 2 metres;
  - A dedicated crossing point with dropped kerbs; and
  - If possible, the relocation of the 30mph speed limit sign to the south (subject to successful application for a Traffic Regulation Order (TRO)).
- 1.19 Potential additional mitigation measures which the applicant would be willing to provide include:
- Signage, for example Please drive carefully / Reduce your speed / School children; and
  - Gateway feature at new 30mph sign location.
- 1.20 There is also a possibility that the width of the carriageway could be reduced to provide a wider footway on the eastern side of Peldon Road. Whilst this cannot be guaranteed, it would have further traffic calming impacts at the point of the proposed crossing. The potential for this mitigation could however only be explored as part of a discharge of condition application for the development on Site B should this be approved, which requires details of the footway to be provided, as set out above.
- 1.21 Taking into account all of the above, it is considered that sufficient evidence has been provided to justify the proposed uncontrolled crossing. The Technical Note was reviewed by the Highway Authority, who remain of the opinion that the proposed uncontrolled crossing is not only appropriate in this location but also the safer option, for reasons highlighted above.
- 1.22 The recommendation for the proposed development on Site A (as per the terms of reference 213530) therefore remains one for approval, with the only change suggested being the removal of condition 30 which requires the relocation of the existing 30mph speed sign, as it cannot be confirmed at this stage whether the relocation is possible due to this being subject to a separate TRO statutory consultation process. However, the proposals are not contingent on this happening, rather it would good if the TRO was successful and the start of the 30mph speed limit could be relocated and a gateway feature provided.

### Other Matters

- 1.23 Since the previous Committee, a late request for a financial contribution from the proposed development on Site A (up to 50 houses) towards primary healthcare services was received by the NHS Clinical Commissioning Group through the Development Team. A total of £30,300 is requested to be split between the Malting Green Surgery (£15,400) and West Mersea Surgery (£14,900). The final contribution would be dependent on the number of dwellings provided on Site A, with the proposed figure being based on 50 dwellings.
- 1.24 This contribution was agreed with the applicant and will need to be added to the heads of terms for the legal agreement.

### Conclusion

- 1.25 The above is considered to fully address the concerns that have been raised at the previous Committee meeting, which led to the deferral of these applications. Members of the Planning Committee are respectfully requested to consider the additional information and evidence provided in conjunction with the original Committee Report (provided at Appendix 1) which assess the proposed development in detail, conclude that the proposal meets the requirements of the Development Plan and therefore recommend that planning permission be granted subject to the recommended conditions and, in the case of application reference 213530, a legal agreement, as follows:

### Recommendation

- 1.26 The Officer recommendation to the Committee for application reference 213530 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 contribution of £30,300 towards primary healthcare services shall be added to the Planning Obligations to be secured via the legal agreement and the permission shall be subject to the conditions as set out in the original Committee report, except for condition 31 (as below) which is proposed to be removed:

#### **31. Non Standard Condition – Relocation of Speed Sign**

Prior to the first occupation of the development hereby permitted, the developer shall be responsible for the relocation of the existing two speed limit signs along Peldon Road further south, in accordance with a scheme that shall have previously been submitted to, and approved in writing by, the Local Planning Authority. The signs shall then remain in the approved location in perpetuity and remain clear of obstruction.

Reason: In the interests of highway safety.

- 1.27 The Officer recommendation to the Committee for application reference 213531 is for: APPROVAL of planning permission subject to the conditions as set out in the original Committee Report (Appendix 1) except for condition 10 which is proposed to be amended as follows:

Previously proposed condition:

**10. Non-Standard Condition – Pedestrian Link**

Prior to the first occupation of the development hereby permitted, details of a new pedestrian access route from Peldon Road to the grounds of Langenhoe Community Primary School shall be submitted to, and approved in writing by, the Local Planning Authority in consultation with Langenhoe Community Primary School and the Highway Authority.

Reason: There is insufficient information to ensure that the pedestrian access is appropriate and that it will be maintained to a satisfactory condition.

To be replaced by:

**10. Z00 – Non-standard Condition: Provision of Footway**

Prior to the commencement of the development hereby permitted, details of a scheme to provide a footway along the eastern side of Peldon Road, linking the development to the Public Right of Way (PROW 122\_7), shall be submitted to, and agreed in writing by, the Local Planning Authority. The approved works shall be completed prior to the first occupation of the residential development hereby permitted.

Reason: To ensure that the footway is constructed to an acceptable standard, in the interests of highway safety.

## **APPENDIX 1- Copy of Committee Report considered at meeting 16 June 2022**

### **1.0 Reason for Referral to the Planning Committee**

- 1.1 These applications are referred to the Planning Committee because they represent a departure from the adopted Development Plan and in the case of the larger application the signing of a legal agreement is required, and objections have been received.

### **2.0 Synopsis**

- 2.1 The key issues for consideration are the principle of the proposed developments in terms of land use allocation; highway safety; wildlife impact; flood risk and contamination.
- 2.2 The sites currently form a field/meadow and garden land that are bounded by open countryside and residential development. They are the subject of an emerging allocation for residential development (SS1- Abberton & Langenhoe). Based on the information submitted, it is considered that the sites are able to accommodate the proposed quantum of development without appearing cramped or overdeveloped. The schemes are also acceptable from a highway safety point of view. Subject to appropriate conditions, there is unlikely to be any detriment to the amenity of the surrounding area or significant impact upon existing vegetation, wildlife, flood risk or contamination.
- 2.3 The applications are subsequently recommended for approval.

### **3.0 Site Description and Context**

- 3.1 The larger site (also referred to as Site A) lies to the west of Peldon Road, while the smaller site (also referred to as Site B) lies to the east of Peldon Road, approximately 250 metres south from the centre of the village of Abberton.
- 3.2 Site A extends to 2.6ha and is located to the west of Peldon Road, Abberton. It comprises two fields/meadows separated by a hedgerow (tree and shrub belt). To the north, the site is bound by the properties that form the existing edge of the village of Abberton. The eastern and western boundaries are characterised by mature hedgerow and trees that visually enclose the site from the surrounding area. The southern boundary runs through the middle of a meadow-field. The wider field itself is enclosed by mature landscaping in the form of hedgerows, that minimises views of the site from the wider area.
- 3.3 Site B measures 0.25ha in size and lies to the east of Peldon Road. It forms part of a garden and small paddock, formerly an orchard between Borleys and the Grade II listed building Pete Tye Hill. Borleys is a former farmstead with buildings historically arranged to the north. One of these buildings, a black boarded outbuilding remains.
- 3.4 To the east of Site B lies Langenhoe Community Primary School and its playing field. The site is well screened to the north, east and west boundaries by

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hedgerows and trees. The southern boundary with Borleys contains mature trees and a gated access between the house and the meadow. The sites slope from north to south.

#### **4.0 Description of the Proposal**

- 4.1 This report describes two proposals that are directly adjacent to each other and form part of one allocation under the Emerging Section 2 Local Plan Policy SS1. It has been requested that the two proposals are assessed simultaneously.
- 4.2 Application reference 213530 (Site A) seeks outline planning permission with all matters, save access, reserved for up to 50 dwellings, of which 30% would be affordable and a new vehicle drop-off/pick up point for the local school. Detailed matters for a single vehicular access point from Peldon Road and a separate pedestrian and cycle access point, also from Peldon Road, are also provided.
- 4.3 Application reference 213531 (Site B) seeks outline planning permission with all matters reserved, save for access, for the provision of 5 residential dwellings and access from Peldon Road to the west of the site. The application is supported by an indicative Site Layout Plan and House Type drawings. Vehicular access to the site is proposed via a new access off Peldon Road to the west of the site, relatively central within the site.

#### **5.0 Land Use Allocation**

- 5.1 The sites lie outside the defined settlement boundary for Abberton, and thus within the countryside in the Adopted Local Plan (Site Allocations DPD (2010)). Within the emerging Colchester Borough Local Plan 2017-2033 in Section 2, the sites form part of a housing allocation under Policy SS1 Abberton and Langenhoe, referred to as 'Land to the west of Peldon Road' and 'Land to the east of Peldon Road'.
- 5.2 'Land to the west of Peldon Road' (Site A) is identified to accommodate 50 dwellings, provision of a new drop-off/pick-up point at Langenhoe Primary School and the provision of new public footpaths to the north of the site, connecting to the school and village.
- 5.3 'Land to the east of Peldon Road' (Site B) is identified to accommodate 5 dwellings, a new pedestrian access route from Peldon Road to the grounds of Langenhoe Primary School and provision of a new drop-off/pick-up point at Langenhoe Primary School.

#### **6.0 Relevant Planning History**

- 6.1 There is no planning history that is particularly relevant to these applications.

## 7.0 Principal Policies

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

### 7.2 Local Plan 2017-2033 Section 1

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

- SP1 Presumption in Favour of Sustainable Development
- SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
- SP4 Meeting Housing Needs
- SP7 Place Shaping Principles

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

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

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

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

SD1 - Sustainable Development Locations

H1 - Housing Delivery

H2 - Housing Density

H4 - Affordable Housing

UR2 - Built Design and Character

PR1 - Open Space

TA1 - Accessibility and Changing Travel Behaviour

TA2 - Walking and Cycling

TA3 - Public Transport

TA4 - Roads and Traffic  
TA5 - Parking  
ENV1 - Environment

- 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  
DP2 Health Assessments  
DP3 Planning Obligations and the Community Infrastructure Levy  
DP14 Historic Environment Assets  
DP17 Accessibility and Access  
DP19 Parking Standards  
DP20 Flood Risk and Management of Surface Water Drainage
- 7.5 Some “allocated sites” also have specific policies applicable to them. The adopted Site Allocations (adopted 2010) policies set out below should also be taken into account in the decision making process:  
n/a
- 7.6 The site is not in a Neighbourhood Plan area.
- 7.7 Submission Colchester Borough Local Plan 2017-2033:  
The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The Section 2 Emerging Local Plan is at an advanced stage having undergone examination hearing sessions in April 2021 and completed consultation on modifications. The inspectors letter has now been received and confirms the plan to be sound. Formal adoption of Section 2 is now awaited. Section 2 should be afforded significant weight due to its advanced stage.

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.

Policies relevant to this application include:

SG1 Colchester's Spatial Strategy  
SG2 Housing Delivery  
ENV1 Environment  
SS1 Abberton and Langenhoe  
DM1 Health and Wellbeing  
DM8 Affordable Housing  
DM9 Development Density  
DM10 Housing Diversity  
DM15 Design and Amenity  
DM16 Historic Environment  
DM18 Provision of Public Open Space  
DM19 Private Amenity Space

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

- 7.8 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):  
The Essex Design Guide  
External Materials in New Developments  
EPOA Vehicle Parking Standards  
Community Facilities  
Open Space, Sport and Recreation  
Sustainable Construction  
Sustainable Drainage Systems Design Guide  
Planning for Broadband 2016  
Managing Archaeology in Development.

## **8.0 Consultations**

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

### Site A (50 dwellings)

- 8.2 The Arboricultural Officer is satisfied with the arboricultural content of the proposal and considers it likely that the 10% uplift in canopy cover can be achieved.
- 8.3 The Archaeological Adviser does not object to the proposal.
- 8.4 The Contaminated Land Officer raises no objection to the proposal subject to a precautionary condition relating to the reporting of unexpected contamination.
- 8.5 Environmental Protection do not object to the proposal subject to conditions.
- 8.6 The Landscape Advisor raises no objection to the proposal subject to conditions.
- 8.7 Anglian Water raise no objection to the proposal.
- 8.8 Essex Fire and Rescue do not object to the proposal at this outline stage and note that more detailed observations will be made at Building Regulations stage.
- 8.9 Essex Police have no objection to the proposal. They advise that the final scheme should incorporate Secure by Design.
- 8.10 The Highway Authority does not object to the proposal subject to conditions. Following lengthy discussions and a site visit, a further request to relocate the 30mph speed limit has been made by the highway authority.



8.11 The Lead Local Flood Authority raises no objection to the proposal subject to conditions.

8.12 Natural England request that a Habitat Regulation Assessment be undertaken prior to a decision being issued.

Site B (5 dwellings)

8.13 The Arboricultural Officer is satisfied with the arboricultural content of the proposal.

8.14 The Archaeological Adviser does not object to the proposal subject to a condition.

8.15 The Contaminated Land Officer raises no objection to the proposal.

8.16 Environmental Protection do not object to the proposal subject to conditions.

8.17 The Historic Buildings and Areas Officer provided comments on application reference 213531 (Site B) and confirmed that they do not object to the principle of the proposal but consider that the number of dwellings should be reduced, and their scale made smaller. The architectural language should be more utilitarian and rural, and the hedge needs to be preserved as far as possible, with any breaks through it minimised and located away from the listed building.

8.18 The Landscape Advisor raises no objection to the proposal subject to conditions.

8.19 The Highway Authority does not object to the proposal subject to conditions.

8.20 Natural England request that a Habitat Regulation Assessment be undertaken prior to a decision being issued.

## **9.0 Parish Council Response**

9.1 The Parish Council submitted lengthy comments (which can be read on the website) objecting to the proposal on the following grounds (as summarised):

- Density is too high and object to number of dwellings and site allocation;
- Proposal does not appropriately address the parking issues relating to the school; and
- No reference is made to addressing the infrastructure needs of integrating this overall development into the current village setting.

## **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 Application reference 213530 has resulted in 32 letters of objection/general comments from 28 households while application reference 213531 has resulted in 18 letters of objection/general comments from 16 households. Comments were also received from Langenhoe Community Primary School, Colchester Cycling Campaign and Essex & Suffolk Water. The main reasons for commenting can be summarised as follows:

- Proposed development would be out of keeping with the character of the village;
- Cause overlooking and overshadowing;
- Impact on views;
- Impact on wildlife/reservoir (SSSI);
- Increase light pollution;
- Increase traffic;
- Increased vehicle movements at junction of Peldon Road and Layer Road;
- Lack of infrastructure and amenities in Abberton;
- Increase houses and population in Abberton and Langenhoe;
- Disproportionate increase in the size of the village;
- Location on a dangerous bend in the road;
- Vehicles speed along the road;
- No pedestrian footway;
- Requirement for pedestrian crossing with traffic signals;
- Village water pressure is low;
- Adverse impact on Broadband speed;
- Development will lead to local school being oversubscribed;
- Secure cycle parking should be provided;
- Construction process will cause significant traffic disruption;
- Construction period will have a considerable effect on residents.

## **11.0 Parking Provision**

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

## **12.0 Accessibility**

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

## **13.0 Open Space Provisions**

13.1 As the applications are submitted in outline, the layout will be determined at reserved matter stage. It is however considered that there is sufficient space on site to provide a minimum of 10% open space on both sites.

## **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 Application reference 213530 (50 dwellings) is classed as a “Major” application, and there was therefore a requirement for this proposal to be considered by the Development Team. It was considered that Planning Obligations should be sought towards local projects. The Obligations that would be agreed as part of any planning permission would be:

### **Communities - £143,641.50**

#### Project

Abberton and Langenhoe Village Hall, projects to increase capacity for functions and extensive refurbishment.

Calculations based on 50 x 3 bed houses as no mix given. Final contribution request will be dependent on the number and mix of houses.

### **Affordable Housing - 15 units**

The tenure mix should be no less than 80% affordable rent and no more than 20% shared ownership.

Mix to be evenly apportioned over all unit sizes when allocated to affordable.

Affordable housing should meet the enhanced accessibility standard of Part M4 Cat 2 Building Regulations 2015) in lieu of lifetime homes, in accordance with the requirements in Policy DP12.

The Council would request 5% (1 unit) of affordable homes is designed to meet Part M4 Cat (3) (2) (a) or Part M4 Cat 3 (2) (b).

### **Parks & Recreation - £94,058.66**

#### Projects

Colchester Orbital  
Leisure World

### **Education**

Primary: £259,020.00, index-linked to January 2020

Secondary: £237,750.00, index-linked to January 2020

Libraries: £3,890.00

15.2 Application reference 213531 (5 dwellings) is not classed as a “Major” application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (s.106) of the Town and Country Planning Act 1990.

## 16.0 Report

### Principle of Development

16.1 The development plan for Colchester is the Adopted Local Plan and Section 1 Local Plan as follows:

- Colchester Local Plan Section 1 – North Essex Shared Strategic Section 1 Plan 2013-2033 (adopted February 2021)
- Core Strategy (2008) as amended by the Focused Review (2014)
- Site Allocations (2010)
- Development Policies (2010)

16.2 In the context of the Adopted Local Plan (Core Strategy / Site Allocations), the site is located on greenfield land and therefore contrary to key policies in the Development Plan. However, as the site is allocated for housing development in the emerging Local Plan, which is very advanced in its preparation, a pragmatic approach is suggested with very significant weight to be given to the emerging Policy context, rather than that of the current Adopted Plan.

16.3 The Council has now received the Inspector’s Report for the Colchester Local Plan Section 2. Subject to main modifications, the Inspector has found that the Section 2 Local Plan is sound. As such, further weight can be attributed to the policies within the emerging Section 2 Local Plan. The proposal is an allocation in the emerging Local Plan (Policy SS1), which is outlined below:

#### ***Policy SS1: Abberton and Langenhoe***

*In addition to the infrastructure and mitigation requirements identified in policy PP1, development of the sites below, as shown on the Policies Map will be supported where they meet the requirements identified for each site below;*

#### ***Land to the west of Peldon Road***

*Development will be supported which provides;*

- (i) *50 dwellings of a mix and type of housing for which there is a demonstrated need; and*
- (ii) *A transport statement to include but not limited to a safety assessment of the Peldon Road/Layer Road junction and any necessary mitigation; and*
- (iii) *Provision of a new drop-off/pick-up point at Langenhoe Primary School; and,*
- (iv) *Provision of new public footpaths to the north of the site connecting to the school and village.*

#### ***Land to the east of Peldon Road***

*Development will be supported which provides:*

- (i) *5 dwellings;*

- (ii) *A new pedestrian access route from Peldon Road to the grounds of Langenhoe Primary School;*
- (iii) *Provision of a new drop-off/pick-up point at Langenhoe Primary School.*

*Development must conserve, and where appropriate, enhance the significance of heritage assets (including any contribution made by their settings). Designated heritage assets close to the sites include the Grade II Pete Tye Hill and Old Cottage.*

*Pantiles Farm on Peldon Road is allocated as a Local Economic Area and will continue to be protected for this use. Any future development proposals will be required to comply with policy SG4.*

- 16.4 The provision of a new drop off/pick up point at Langenhoe Primary School is included within the larger application (Site A). Despite the two proposals representing two standalone applications, given that they have been submitted concurrently, there is an ability for both to be considered in the wider site context and it is considered that this policy requirement is being met. The Place Strategy Team (Planning Policy) requested that there should be a mechanism, such as a planning condition, to ensure that in the event that the larger application is refused planning permission, the policy requirement is still being fulfilled by the smaller proposal in some capacity. Whilst the logic behind this is accepted, it is not considered to be possible as the two applications are not linked. In any event, the site (Site B) is allocated for five dwellings and the size of the site is not considered to be sufficient to appropriately provide five dwellings plus the required drop off/pick up point. One requirement of this part of the policy is therefore expected to be breached either way. It is therefore considered that the absence of a pick-up/drop off area on Site B is acceptable, even if planning permission on Site A were to be refused or development on this site would not come forward.
- 16.5 As per Policy SS1, the proposals are required to provide a pedestrian access route from Peldon Road to the grounds of Langenhoe Primary School. Site A includes the provision of a footway along the western side of Peldon Road, an uncontrolled crossing and further footways along the eastern side of Peldon Road, linking to the existing public footpath and existing footways. This is considered to meet the aims of the Policy.
- 16.6 The indicative block plan for Site B on the other hand includes a pedestrian access along the northern boundary of the site, however it is understood that Langenhoe Primary School do not consider a secondary access to the school grounds desirable. This may therefore result in a breach of the site allocation policy. To compensate for this, it is proposed that satisfactory pedestrian access from the proposed development to the existing footway network should be provided and this will be explored further below.

### **Planning Balance and Conclusion**

- 16.7 The proposal does not accord with the currently adopted Local Plan, being contrary to Policies SP1, SD1 and ENV1 which restrict development outside development boundaries.

- 16.8 The most important/relevant policy context for determining these applications is however now the emerging Section 2 Local Plan and the policies most pertinent to the principle of the development can be afforded significant weight (SS1). The principle of development on this site is therefore supported as the Section 2 Local Plan is very advanced and pending formal adoption.

#### Access and Highways Impacts

- 16.9 Access is the only matter to be considered as part of both outline applications. The proposal on Site A includes a new priority junction access on the western side of Peldon Road to serve the site. In addition, the development proposals include pedestrian connections to the existing pedestrian facilities, including the public right of way, and Langenhoe Primary School via an uncontrolled crossing over Peldon Road. This would provide access to those making use of the proposed school pick up and drop off area that is proposed to be located in the northern part of Site A.
- 16.10 Vehicular access to Site B is proposed to be provided to the west of the site by creating a new access centrally positioned between Borleys and Pete Tye Hill. The proposal includes the removal of the existing frontage hedgerow, though it is proposed to replace this with a new hedge planted behind the visibility splays. The final landscape aspect of the scheme would be determined via a reserved matters application. The internal layout of the access road, driveways and parking areas as well as the pedestrian link to the rear of the school do not form part of this application.
- 16.11 The Highway Authority has raised no objection to either proposed development, subject to conditions, which are considered to be reasonable and necessary to make the proposed development acceptable and would therefore need to be imposed on any planning permission that may be granted. Subject to these, there are no objections to the proposed vehicular accesses to the sites.
- 16.12 It is noted that there is currently no footway along the eastern side of Peldon Road to Site B. As set out above, the application for the development of Site A includes the provision of a footway to the north of the site, however, this would not extend as far as Site B. It is noted that there are other existing dwellings to the north of the site which do not currently benefit from a footway and it is considered unlikely that a satisfactory footway along the eastern side of Peldon Road linking the site to the public footpath to the north can be achieved, as this would, in places, be too narrow and thus potentially unsafe. On this basis, it is not considered that this could be requested to be provided as part of this application. What would however be necessary, is a footway along parts of the site's frontage, leading up to a crossing point that is provided on Site A. This would provide future residents of this site with appropriate access to the village when travelling on foot. The exact details of this footway could be requested via condition.

- 16.13 Concerns have been raised with regard to the proposed pick up and drop off area on Site A, which would require those using the facility to cross Peldon Road via an uncontrolled crossing. This aspect of the proposed development has been reviewed by the Highway Authority and is deemed to be safe, given the fact that there would be increased visibility when looking south (as a result of the existing vegetation being removed to ensure adequate visibility for the proposed developments can be achieved). Comments have been made that vehicles exceed the 30mph speed limit and it has therefore been suggested that the speed limit sign could be relocated to allow vehicles more time to slow down when entering the village. It has also been noted that one of the two signs when travelling northbound on Peldon Road is obstructed by vegetation, thus not visible. By increasing the visibility of these signs and relocating them further south, which could be secured via condition, it is expected that vehicles will approach the location of the uncontrolled crossing at a lower speed, thus not endangering those crossing the road. The Highway Authority also requested that additional village gateway features are provided where the speed sign is relocated to, to emphasise that highway users enter a village location, however, this is not considered to be appropriate to be requested of the applicant as such a requirement would not meet the six tests for a condition.
- 16.14 Notwithstanding the above, it has become apparent that there may be scope to increase the pick-up and drop off facilities within the school grounds. The school already benefits from an area of parking along Bracken Way and there is a triangular shaped plot of land to the south of Bracken Way and to the north east of the main school building that is laid to grass, and which may, with the permission of Essex County Council as the Education Authority, be turned into additional parking provision. The applicant for Site A, where the pick up and drop off area is currently proposed, would be willing to work with the school to identify whether it is possible to provide parking in this area and if so, a financial contribution towards providing the works could be secured. This contribution would be in lieu of the proposed pick up and drop off area on Site A and would not act as an additional facility. Should Members consider this to be a more appropriate solution, then Officers would ask Members to delegate authority to Officers to further explore this option, in conjunction with the Parish Council, and if possible, add the scope of works and financial contribution to the heads of terms for the legal agreement that is required for the larger scheme on Site A. Members are however advised that, should it not be possible to provide additional parking facilities within the school grounds, then the pick-up and drop off area on Site A would remain part of the proposal. For reasons set out above, the location of the proposed facility has been found to be acceptable and with no objection having been raised by the Highway Authority, the proposed crossing is held to be acceptable.

#### Design, Layout, Appearance and Landscaping

- 16.15 Both applications are submitted in outline form with scale, layout, appearance and landscaping forming the reserved matters. The final design and layout of the proposed developments would therefore be the subject of a submission of detail with the appropriate reserved matters and this would have to demonstrate that all relevant adopted space, amenity and parking standards are satisfactorily met.

16.16 Notwithstanding the above, the proposed development was reviewed by the Council's Urban Design Officer who noted that design considerations are limited to whether the quantum of development proposed is appropriate in the context of the sites and whether the applications demonstrate that the sites are capable of accommodating the quantum of development proposed in an appropriate manner.

16.17 Site A measures approximately 2.6ha and the application therefore proposes development at an average density of up to 19dph. The application earmarks 0.35ha for 'Land for green infrastructure/SUDs' and would require the remainder of the site to achieve average densities of 22dph. Site B measures approximately 0.25ha and therefore proposes development at an average density of up to 20dph. These low densities are consistent with the site's context as an extension to an existing rural settlement. On this basis, it is considered that the site is likely capable of accommodating the proposed development whilst achieving an appropriate standard of design.

16.18 The proposed accesses for both applications are also considered appropriate in design terms. Site B has provided an indicative site plan and house types as part of the application, however, neither of these achieve an appropriate standard of design in their current form and as such should not be approved as part of any approval at this stage.

16.19 The following should be taken into consideration for the detailed design stage:

- Residential areas should include areas of informal/incidental green/open space.
- Street trees should be included within the public realm to ensure their long term retention and should feature beyond the main access road.
- Built form and landscaping should be positioned so as to enclose the public realm.
- Built form should establish a site wide identity that responds to the sites context and reinforces/enhances the local vernacular.
- Features of the landscaping, architecture and placement of built form should combine to an overall sense of place.
- A clear road hierarchy should be established and reinforced by adopting a varied surface material for shared surfaces and utilising a variety of frontage treatments for plots.
- Focal/nodal buildings should be included to enhance legibility within the site.

Additionally, Site A should:

- Create a number of distinct and legible character areas that contribute to an overall sense of place.
- Back to back distances should comply with the Essex Design Guide (15-25m dependent on relationship between units).
- Brick walls should be used to enclose boundaries that address public/semi-public realm, this includes parking courts.

16.20 While landscape is a reserved matter, in an attempt to be proactive, the Landscape Adviser offered the following assessment for Site B (with no



objection being raised for Site A) as a means to progressing the design should the current indicative layout be used as a basis for future proposals:

- In the absence of any Type 1 visualisation from viewpoint 6 within the Landscape & Visual Appraisal ref 21.062/1 dated July 2021 accurately illustrating the height and spread of the development, or visualisations from Mersea Road or the intersection point of PRoWs 147\_15 & 147\_16, the development would appear to be potentially visible from these sensitive viewpoints to the south of the site. Any reserved matters will require these viewpoints/visualisations to be submitted, and if the proposed development is evidenced through this data as being exposed on the ridgeline, then this will need to be countered through proposing a linear feature of medium sized trees, with a mature height greater than any proposed unit, along the southern boundary of the site as mitigation planting.
- In order to allow space for the frontage hedge to establish and thrive a soft landscape bed at a minimum depth of 2m needs to be allowed for it, the hedge will need to be single species and native to complement its rural edge setting, with medium to large native trees set all along its length. Note: the soft landscape proposals on drawing 21/3004/03A are inaccurate, e.g., Ilex aquilifolium is native holly not birch, it is recommended any landscape scheme submitted to satisfy reserved matters should be professionally drawn up by a landscape consultant (preferably a landscape architect).

16.21 These matters are proposed to be secured via conditions.

#### Impact on Neighbour Amenities

16.22 Development Plan Policy DP1 and Emerging Plan Policy DM15 require all development to be designed to a high standard that protects existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, and daylight and sunlight.

16.23 This is a matter that will be dealt with via the reserved matters, however, there is nothing to suggest that schemes of the proposed density cannot be achieved in a matter that is not compliant with the Essex Design Guide in terms of overlooking and back to back distances.

#### Impact on the Surrounding Area

16.24 The sites are allocated for residential purposes in the very advanced emerging local plan Policy SS1 and are located to the south of existing residential development. The soundness of this site allocation has been subject to examination. As such, it is held that the proposed residential development of the sites would not have an adverse impact on the surrounding area.

#### Impact on Historic Environment

16.25 Site B sits directly to the south of the grade II listed Pete Tye House, named Pete Tye Hill in the list description. The list entry describes the house thus:

*Late C16 or early C17, timber framed and plastered, 2 storey with red plain tile roof. Black weatherboarded south side. Three window*

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*range horizontal sliding bashes with glazing bars. Lean-to on north side. Remains of original chimney stack.*

- 16.26 The listed building sits back from the road in generous gardens, at the exact point where the grain of development loosens, and village turns into countryside. When travelling south, as one passes the listed building the sense is immediately of being in the countryside. This is an important aspect of its setting. Further to the north this sense has been somewhat eroded by modern infill development, but as this is nearer to the settlement it does not seem unnatural. There is a mature hedge of native trees along both sides of the road to the south of the listed building, which further emphasises the rural character of the site.
- 16.27 The host building, Borleys, is clearly of some age, although this is most evident from looking at the roof. It appears to have been altered extensively over the years: the west elevation and south elevation are clearly two distinct phases of development. The south elevation shows some influence by the Arts and Crafts movement, so perhaps dates to the second half of the 19<sup>th</sup> century or the first quarter of the 20<sup>th</sup>. It is unlisted but appears on the first edition of the Ordnance Survey map, dating to the 1870s. It would be appropriate to consider this to be a non-designated heritage asset.
- 16.28 The proposed site is between these two buildings, concealed behind one of the two hedges described above.
- 16.29 The Historic Building and Areas Officer considers that the current proposal would undoubtedly harm the setting of the listed building Pete Tye Hill. Five large buildings are introduced onto the site, each rather too large for its allocated piece of the land. This would represent a tightening of the grain of development at the exact point where the loosening of the grain allows Pete Tye Hill to retain its feeling of sitting in rural surroundings.
- 16.30 Five new driveways between the listed building and Borleys would destroy that illusion of isolation and make the setting of the listed building more suburban in feel. The large number of dwellings proposed for the site, along with the inevitable domestic paraphernalia that accompanies all homes (swings, trampolines, bins, garden furniture, washing lines) would all combine to erode the setting of the listed building.
- 16.31 The Historic Buildings and Areas Officer states that if this site is to be successfully developed, the scheme needs to propose fewer units, of smaller and much more modest scale. A more modest and utilitarian architectural language might also enable any new development to integrate better into the landscape. In this instance taking cues from ancillary agricultural structures such as piggeries and cow byres, rather than barns would be appropriate. This does not imply a requirement for pastiche, but instead an architectural language and tone of design that might be expected to be found along a country lane.
- 16.32 Furthermore priority needs to be given to minimising the number of breaks in the hedge line to allow access to the site. One or perhaps two entrances, as

narrow as possible and as far away from the listed building as possible would be far preferable to the five currently proposed.

- 16.33 These comments are noted, however, they must be assessed against the current policy framework which has allocated the site for residential development and the provision of five dwellings. The Block Plan that has been provided is indicative only and would therefore not form part of an approval. With the detailed design, scale, layout and landscaping forming part of a reserved matters, these matters would need to be addressed at a later stage. This application simply seeks to establish the principle of providing five dwellings on this site and this is held to be acceptable. Given the significant concerns that have been raised, it is however necessary to inform any future developer that the indicative site layout is inappropriate and that the design and scale will have to be amended to appear more contextually sympathetic of the nearby (non) designated heritage assets. Subject to this, it is not considered that this application should be refused on heritage grounds. The detailed layout and design of the units and landscape strategy can deliver effective mitigation for the potential impact on the setting of the heritage assets and any residual impact needs to be considered in the planning balance.

#### Drainage and Flood Risk

- 16.34 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.
- 16.35 The site lies within Environment Agency Flood Zone 1, however a Flood Risk Assessment was required for Site A as the site exceeds 1 hectare. The application is therefore supported by a Flood Risk Assessment and Drainage Strategy. The submitted information has been reviewed by Essex County Council as the Lead Local Flood Authority ("LLFA") who raised no objection to the proposed development in principle. As the application is in outline form only, with all matters except access reserved, a detailed surface water drainage scheme for the site would need to be secured via condition. Additional conditions requested by the LLFA, such as the submission of a scheme to minimize the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution; a maintenance plan detailing the maintenance arrangement of the surface water drainage system; and the maintenance of yearly logs of maintenance, are considered to be relevant and necessary in order to make the development acceptable. Subject to these conditions, it is considered that the proposed development would comply with the aims of the above-mentioned policies.
- 16.36 In addition to the above, Anglian Water confirmed that Fingringhoe Water Recycling Centre will have available capacity for the flows of this development and consequently, raised no objection to the proposed development.

#### Affordable Housing

- 16.37 Emerging Policy DM8 states *‘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’*.
- 16.38 Despite the strategic nature of the proposed development the sites form two separate allocations in the Section 2 Local Plan as per policy SS1. Site A, which is classed as a major application, provides 30% affordable housing (15 dwellings).
- 16.39 It is not considered reasonable to request affordable housing on the smaller site (Site B) given that the two sites are separate applications, even though it is acknowledged that they form part of a wider allocation. They are however in separate ownership and there is no evidence to suggest that a deliberate attempt to split the site has been made in order to avoid affordable housing provision on this smaller site.

#### Health Implications

- 16.40 Policy DP2 of the adopted Local Plan requires all developments in excess of 50 units to be accompanied by a Health Impact Assessment (“HIA”) to identify the potential health consequences on a given population and maximise the health benefits and minimise potential adverse effects. It is noted that the threshold in the Emerging Local Plan is 100 dwellings. The current scheme is for up to 50 dwellings, therefore falling short of both requirements. Notwithstanding this, an HIA has been submitted and it concludes that the scheme will have health benefits by introducing new areas of public open space and internal walking routes that will link up with existing footpaths within the village and wider area. This provides the opportunity for healthy lifestyles. The scheme is therefore acceptable in this regard.

#### Biodiversity

- 16.41 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 Framework 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 while paragraph 174 of the Framework seeks to minimise impacts on and provide net gains for biodiversity.
- 16.42 The application on Site A is supported by an Ecological Impact Assessment (EclA), a reptile presence/absence survey, bat activity survey, bird surveys and botanical walkover. It is noted that a great crested newt was found during a reptile survey, confirming presence on site, and suggesting that the site is likely to support terrestrial habitat. The EclA states that District Level Licensing will be used to mitigate for impacts on great crested newts. The report also highlights that mitigation involving fencing, trapping and translocation is required in respect of common lizard. Mitigation measures are also required for badger and nesting birds. Provided mitigation measures are applied in strict accordance with the EclA, the report states that there remains no risk of legally

protected species being harmed as a result of the proposed development. A repeat ecological walkover survey, including for badger is recommended prior to development to account for changes in wildlife use of the site in the interim.

- 16.43 It is also recommended that a Construction Environmental management Plan, Landscape and Ecological Management Plan and lighting strategy for biodiversity are secured by condition. The development will include enhancement measures, including hedgerow management, tree planting, SuDS basin and habitat boxes, in compliance with paragraph 174 of the Framework and Policy DP21.
- 16.44 The application on Site B is supported by a Low Impact Ecological Impact Assessment which identified the site to be of limited ecological value containing a managed amenity lawn and boundary buildings, hedgerows and trees and confirmed that no evidence of, or potential for, legally protected species was found on the site. The report however states that mitigation measures are required to ensure that nesting birds on site are given appropriate protection. It is suggested that trees and hedgerows on site boundaries shall be protected in accordance with best practice and arboricultural advice will be sought for any below ground works within root protection areas.
- 16.45 The report further notes that the development presents an opportunity to implement enhancement measures such as hedgerow management/enhancement, new planting, bat roost boxes and bird nesting features, which will increase the wildlife value of the site post development. These measures would provide a measurable biodiversity net gain, in line with the requirements of paragraph 174 of the Framework. A canopy cover assessment has been provided for Site A and this appears accurate. It is anticipated that through planting on the Public Open Space and provision of gardens, the uplift of 10% is achievable in conformity with the provisions of policies ENV1/CC1 of the Section 2 CBLP.
- 16.46 In addition to the above, and in line with the requirements of Section 1 Policy SP2, a RAMS wildlife mitigation payment has been secured via a signed Unilateral Undertaking and/or will be secured via the S106 agreement and this, in combination with the above measures, is considered appropriate to mitigate the impact of the proposed development.

## Other Matters

- 16.47 The Archaeological Advisor confirmed that Site A lies in an area that has been thoroughly archaeologically evaluated in the past, with negative results. There are therefore no archaeological requirements for this proposal. For development on Site B, it was however noted that the development would involve relatively substantial ground disturbance, and is on the outskirts of Abberton village, which has medieval origins, being mentioned in the Domesday Book. Dispersed features containing medieval pottery were discovered during archaeological trial trenching immediately on the other side of Peldon Road in 2020. In order to achieve preservation by record of any important heritage assets, any permission granted should be the subject of a planning condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed.
- 16.48 The proposed housing mix on Site B consists of 3no. 3-bedroom houses and 2no. 4-bedroom houses with the mix on Site A being yet unknown. The indicative Block Plan that was submitted as part of the proposal for Site B indicates that the proposed layout and house types are inappropriate for this site. In this edge of village location, it should be considered to provide smaller homes that act as a transition from the village into the countryside rather than the provision of a large number of bigger homes. As such, it is considered that a more proportionate mix of housing based on local and Borough wide evidence shall be provided on both sites and this will need to be secured via condition.
- 16.49 The Contaminated Land Officer confirmed that the submitted Phase 1 Geoenvironmental Desk study and preliminary risk assessment for both applications are acceptable and that there is no objection to planning permission being granted on this site from a contaminated land perspective subject to a precautionary condition, given that the proposed residential use would be vulnerable to the presence of any unexpected contamination sources encountered during development.
- 16.50 The application on Site B is supported by a signed Unilateral Undertaking, securing the relevant financial contributions towards community facilities (replacement of doors and window at the village hall), sports and recreation projects (no project was put forward, the UU specifies this as a contribution towards the provision and/or improvement and/or maintenance of open space sport and recreational facilities in the vicinity of the Application Site and the Borough Projects) and also a RAMS payment. The development is therefore acceptable in this regard.

## **17.0 Conclusion**

- 17.1 To summarise, the proposals to provide up to 50 residential dwellings on Site A and five residential dwellings on Site B is acceptable in principle and the proposed access arrangements have been found to be acceptable on highway safety grounds. Adequate provision of a drop off and pick up point for Langenhoe Primary School has been made and the proposed developments would secure improvements to the local footway network.

- 17.2 The final details of the scheme will have to be the subject of a submission of detail within the appropriate reserved matters and these will have to demonstrate that the design, layout, appearance and landscaping element of the proposed development are acceptable.

## **18.0 Recommendation to the Committee**

- 18.1 The Officer recommendation to the Committee for application reference 213530 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 Permissions Part 1 of 3**

No development shall be commenced until plans and particulars of "the reserved matters" referred to in the below conditions relating to 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 Part 2 of 3**

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

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

### **3. ZAE - Time Limit for Outline Permissions Part 3 of 3**

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

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

### **4. 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

1140.L.001 (B) Site Location Plan

1140.L.005 Development Plan

1919/10 RevB Peldon Road/Site Access Visibility Assessment

1919/13 RevB Proposed Pedestrian Footway and Informal Crossing

Arboricultural Impact Assessment and Preliminary Method Statements (Reference No. TPSarb0971119, dated 2<sup>nd</sup> December 2021)

Ecological Impact Assessment (EclA) (Version 2: December 2021)

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

## **5. ZAN – Site Levels Plan**

No works shall take place until detailed scale drawings by cross section and elevation that show the development in relation to adjacent property, and illustrating the existing and proposed levels of the site, finished floor levels and identifying all areas of cut or fill, have been submitted and agreed, in writing, by the Local Planning Authority. The development shall thereafter be completed in accordance with the agreed scheme before the development is first occupied.

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

## **6. Non-Standard Condition – Landscape**

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:

- Updated Landscape and Visual Appraisal, to include Type 2 photomontaged visualisations with year 1 & 15 mitigation from viewpoints 6 & 16.
- Finished levels or contours, where notable changes are proposed.
- Means of enclosure.
- Car parking layouts and other vehicle and pedestrian access and circulation areas.
- Hard surfacing materials.
- Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.).
- Proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. Indicating lines, manholes, supports etc.).
- Planting plans (drainage and building foundation detailing shall take account of the position of the trees as so indicated).
- Written specifications.
- Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.
- Implementation timetables and monitoring programs.

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

## **7. 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.



## **8. ZPA – Landscape and Ecological Management Plan**

Prior to commencement of any works, a landscape and ecological management plan (LEMP) shall have been submitted to, and approved in writing by, the Local Planning Authority. The content of the LEMP shall include the following:

Description and evaluation of features to be managed.

Ecological trends and constraints on site that might influence management.

Aims and objectives of management.

Appropriate management options for achieving aims and objectives.

Prescriptions for management actions.

Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).

Details of the body or organisation responsible for implementation of the plan.

Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which long term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan shall be implemented in accordance with the approved details.

Reason: In the interest of biodiversity.

## **9. ZPA – Construction Method Statement**

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

the parking of vehicles of site operatives and visitors;

hours of deliveries and hours of work;

loading and unloading of plant and materials;

storage of plant and materials used in constructing the development;

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

wheel washing facilities;

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

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

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

## **10. ZPA – Construction Environmental Management Plan**

No works shall take place, including any demolition, until a Construction Environmental Management Plan 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:

- Development contacts, roles and responsibilities.
- Public communication strategy, including a complaints procedure.
- Dust suppression, mitigation and avoidance measures.
- Noise reduction measures, including use of acoustic screens and enclosures, the type of equipment to be used and their hours of operation.
- Use of fences and barriers to protect adjacent land, properties, footpaths and highways.
- Details of parking and traffic management measures.
- Avoidance of light spill and glare from any floodlighting and security lighting installed.
- Pest control.

Reason: To ensure that all demolition and construction work in relation to the application does not cause materially harmful effects on nearby land, properties and residents.

## **11. Non Standard Condition – Detailed surface water drainage scheme**

No works except demolition shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, shall be 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 drainage scheme has been approved in writing by the Local Planning Authority. The approved scheme shall subsequently be implemented prior to occupation and should include details of, but not be limited to:

- Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure and the infiltration testing methods found in chapter 25.3 of The CIRIA SuDS Manual C753.
- Limiting discharge rates to 6.2 l/s for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change storm event subject to agreement with the relevant third party. All relevant permissions to discharge from the site into any outfall should be demonstrated.
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.

- An updated drainage strategy incorporating all of the above bullet points.

The scheme shall subsequently be implemented prior to occupation. It should be noted that all outline applications are subject to the most up to date design criteria held by the LLFA.

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

## **12. Non Standard Condition – scheme to minimise offsite flooding**

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

Reason: The National Planning Policy Framework paragraph 167 and paragraph 174 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution. Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore, the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development. Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

## **13. Non Standard Condition - SuDS Maintenance Plan**

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

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

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

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

## **14. Non-Standard Condition - SuDS Yearly Logs**

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

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

#### **15. Non-Standard Condition – Radius kerbs**

Prior to the first occupation of the development, the proposed estate road, at its bellmouth junction with Peldon Road shall be provided with 10m. radius kerbs returned to an access road carriageway width of 5.5m. and flanking footways 2m. in width returned around the radius kerbs. The new road junction shall be constructed at least to binder course prior to the commencement of any other development including ground works or 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.

#### **16. Non-Standard Condition – Visibility Splays**

Prior to the proposed access being brought into use, vehicular visibility splays of 120m by 2.4m by 120m 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.

#### **17. Non-Standard Condition – Close redundant access**

Any part of an access (constructed or field) rendered redundant or unnecessary by this development shall be suitably and permanently closed to the satisfaction of the Local Planning Authority, incorporating the re-instatement to full height of the highway verge/footway/kerbing to the specifications of the Highway Authority, immediately the proposed new accesses are brought into use.

Reason: To ensure the removal of and to preclude the creation of un-necessary points of traffic conflict in the highway and to prevent indiscriminate access and parking on the highway, in the interests of highway safety.

#### **18. Non-Standard Condition – Stage 1 Road Safety Audit**

Prior to the submission of Reserved Matters, the applicant shall submit a Stage 1 Road Safety Audit (RSA) for the proposed new junctions together with the Designers Response.

Reason: To ensure that the proposed development makes no detrimental impact on the highway network or users of the highway in the interests of highway safety.

### **19. Non-Standard Condition Details of estate roads and footways**

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.

### **20. Non-Standard Condition Carriageways**

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.

### **21. Non-Standard Condition – Footways**

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.

### **22. Non-Standard Condition 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 carriageway and to a width of 3.7m and each shared vehicular access shall be constructed at right angles to the carriageway 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.

### **23. Non-Standard Condition – Car Parking**

The development shall not be occupied until such time as car parking has been provided in accord with current Parking Standards together with a workable, convenient and efficient turning area for each dwelling. These facilities shall be retained in this form at all times and shall not be used for any purpose other than the parking and turning 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.

### **24. Non-Standard Condition - Garage set back**

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

### **25. Non-Standard Condition - Cycle storage**

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

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

#### **26. Non-Standard 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 re-commence until such times as an investigation and risk assessment has been submitted to and approved in writing by the Local Planning Authority, and where remediation is necessary, a remediation scheme has been submitted to and approved in writing by the Local Planning Authority. Development shall only re-commence thereafter following completion of measures identified in the approved remediation scheme, and the submission to and approval in writing of a verification report. This must be conducted in accordance with all relevant, current, best practice guidance, including the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

Reason: The site lies on or in the vicinity of agricultural land where there is the possibility of contamination and Environmental Protection wish to ensure that development only proceeds if it is safe to do so.

The Local Planning Authority has determined the application on the basis of the information available to it, but this does not mean that the land is free from contamination. The applicant is responsible for the safe development and safe occupancy of the site.

#### **27. Non Standard Condition – Provision of footway and informal crossing**

Prior to the first occupation of the development hereby permitted, the Pedestrian Footway and Informal Crossing, as shown on drawing no. 1919/13 RevB, shall have been provided and completed.

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.

#### **28. Non Standard Condition – Upgrades to Public Footpath**

Prior to the first occupation of the development hereby permitted, surfacing improvements shall have been made to PROW 122\_7 (Footpath 7 Abberton), the details of which shall have previously been submitted to, and approved in writing by, the Local Planning Authority and shall include, but not be limited to, the cutting back/removal of vegetation to improve width, appropriate construction/surfacing to provide an all weather surface).

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.

### **29. Non Standard Condition – Provision of drop off/pick up point**

Prior to the occupation of the development hereby permitted, provision shall be made for a small rural car park of at least 8 no. spaces on the site, the details of which shall have previously been submitted to, and agreed in writing with, the Local Planning Authority. In the event that provision of additional parking capacity at Langerhoe Primary School is possible, then in lieu of the on-site provision, a financial contribution to facilitate additional parking within the school grounds can be secured. This shall have previously been agreed, in writing, with the Local Planning Authority together with a timeframe for implementation.

Reason: To ensure that there are adequate pick up and drop off facilities for the school and to reduce traffic congestion in the surrounding area at the beginning and end of school days.

### **30. Non Standard Condition – Improvements to bus stops**

Prior to the first occupation of the development hereby permitted, the developer shall provide improvements to both the northbound and southbound bus stops (No 67 and 69 services) known as “Butterfly Lodge” on Mersea Road by the provision of level entry kerbing, new posts and flags, timetables, hard surfaced pedestrian waiting area (NB), pedestrian crossing points (pram crossing), any adjustments in levels, surfacing and any accommodation works to the footway and carriageway channel being provided entirely at the developer’s expense, the specifications of which shall have previously been submitted to, and agreed in writing by, the Local Planning Authority.

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.

### **31. Non Standard Condition – Relocation of Speed Sign**

Prior to the first occupation of the development hereby permitted, the developer shall be responsible for the relocation of the existing two speed limit signs along Peldon Road further south, in accordance with a scheme that shall have previously been submitted to, and approved in writing by, the Local Planning Authority. The signs shall then remain in the approved location in perpetuity and remain clear of obstruction.

Reason: In the interests of highway safety.

### **32. ZCE - Refuse and Recycling Facilities**

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

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

### **33. ZGQ - \*Light Pollution for Major Development\***

Prior to the first OCCUPATION of the development hereby permitted, a validation report undertaken by competent persons that demonstrates that all lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) fully complies with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note for zone E22 RURAL, SMALL VILLAGE OR DARK URBAN AREAS shall be submitted to, and agreed in writing by, the Local Planning Authority. Any installation shall thereafter be retained and

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maintained as agreed therein.

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

#### **34. Non-Standard Condition – EV Charging**

Prior to the first occupation of the development, provision shall be made for EV charging point infrastructure at the rate of 1 charging point per 10 spaces.

Reason: To encourage the use of ultra-low emission vehicles.

#### **35. Non Standard Condition - Ecology**

The development hereby permitted shall be carried out in accordance the recommendations set out within the Ecological Impact Assessment (EclA) prepared by Hybrid Ecology Ltd (Version 2, dated December 2021).

Reason: To ensure that adequate measures are taken to protect wildlife species.

#### **36. Non Standard Condition – Housing Mix**

The reserved matters application shall include a proportionate mix of housing based on local and Borough wide evidence.

Reason: To meet the needs of a range of different groups within the population and to create inclusive and sustainable communities.

#### **37. Non Standard Condition - Provision of Open Space**

The reserved matters application shall include at least 10% of the site area to be laid out for use as amenity open space, and shall include a landscape scheme, implementation timetables, monitoring programme and management plan to be submitted and approved by the Local Planning Authority. The open space shall be provided in accordance with the approved details.

Reason: In order to ensure that the development provides an adequate provision of open space(s) that are usable for public enjoyment after the development is completed.

#### **38. ZPD - Limits to Hours of Work**

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

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working

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

#### **39. ZGB - \*Restricted Hours of Delivery\***

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

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Public Holidays: No deliveries

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



the submitted application, and for the avoidance of doubt as to the scope of this permission.

#### **40. 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.

#### **41. Non-Standard Condition - Residential Travel Packs**

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

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

#### **42. Non Standard Condition - Fibre Broadband**

The construction of the dwellings shall include the installation of empty ducting to allow the provision of fibre broadband.

Reason: In the interests of delivering sustainable economic growth.

### **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](http://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. ZTG - Informative on Section 106 Agreements**

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

#### **5. Non-Standard Informative – Landscape**

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

#### **6. ZTV - Informative on New Roads Serving Over 5 Dwellings**

PLEASE NOTE that the applicant is advised by Essex County Council Highway Authority that 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 by Essex County Council within 6 weeks of building regulations approval being granted and prior to the commencement of any development must usually provide them with guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specifications sufficient to ensure future maintenance as a public highway.

#### **7. ZTM - Informative on Works affecting Highway Land**

All work within or affecting the highway should be laid out and constructed by prior arrangement with and to the requirements and satisfaction of the Highway Authority, details to be agreed before commencement of the works. An application for the necessary works should be made to [development.management@essexhighways.org](mailto:development.management@essexhighways.org)

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.

#### **8. Non-Standard Informative - Highway 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
4. Any internal road junctions should be provided with a 25m x 2.4m x 25m visibility splay
5. Size 3 service vehicle turning and manoeuvring facilities should be provided within the site
6. Refuse freighters are unlikely to manoeuvre over Private Drives.
7. Communal refuse and recycling storage areas should be provided within 15m of any carriageway where a collection vehicle can manoeuvre.

### **9. Non-Standard Informative - Highways**

The Highway Authority notes the accessibility improvements mentioned within the application description.

### **10. Non-Standard Informative - Highway works**

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

### **11. Non-Standard Informative - Creation of new street**

All residential 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 commencement of the development must provide guaranteed deposits, which will ensure the new street is constructed in accordance with a specification sufficient to ensure future maintenance as highway by the Highway Authority

### **12. Non-Standard Informative - Anglian Water - Connection to public sewer**

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.

### **13. Non-Standard Informative - Anglian Water - Protection of existing assets**

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

### **14. Non-Standard Informative - 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.

### **15. Non-Standard Informative - Anglian Water – Sewer adoption**

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

## **18.2 The Officer recommendation to the Committee for application reference 213531 is for: Approval subject to conditions.**

### **1. ZAC – Time Limit for Outline Permissions Part 1 of 3**

No development shall be commenced until plans and particulars of "the reserved matters" referred to in the below conditions relating to 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 Part 2 of 3**

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

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

## **3. ZAE - Time Limit for Outline Permissions Part 3 of 3**

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

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

## **4. 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 21/3004/01, 21/3004/02, HWA10652\_APIII (Arboricultural Impact Assessment) and Low Impact EcIA (Version 1, dated April 2021).

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

## **5. ZAN – Site Levels Plan**

No works shall take place until detailed scale drawings by cross section and elevation that show the development in relation to adjacent property, and illustrating the existing and proposed levels of the site, finished floor levels and identifying all areas of cut or fill, have been submitted and agreed, in writing, by the Local Planning Authority. The development shall thereafter be completed in accordance with the agreed scheme before the development is first occupied.

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

## **6. Non-Standard Condition – Archaeology**

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

The scheme 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, in accordance Adopted Development Policy DP14 (2010, Revised 2014) and the Colchester Borough Adopted Guidance titled Managing Archaeology in Development (2015).

## **7. Non-Standard Condition – Landscape**

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

- Updated Landscape and Visual Appraisal, to include Type 2 photomontaged visualisations, accurately illustrating the height and width of the development, with year 1 & 15 mitigation from viewpoints 6 and additional viewpoints from Mersea Road and the intersection of Public Rights of Way 147\_15 & 147\_16.
- Finished levels or contours, where notable changes are proposed.
- Means of enclosure.
- Car parking layouts and other vehicle and pedestrian access and circulation areas.
- Hard surfacing materials.
- Proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. Indicating lines, manholes, supports etc.).
- Planting plans (drainage and building foundation detailing shall take account of the position of the trees as so indicated), including a minimum 2m deep planting bed to the site frontage with single species native hedge and hedgerow trees.
- 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.

## **8. ZFE – Landscape Management Plan**

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

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

### **9. ZPA – Construction Method Statement**

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

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

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

### **10. Non-Standard Condition – Pedestrian Link**

Prior to the first occupation of the development hereby permitted, details of a new pedestrian access route from Peldon Road to the grounds of Langenhoe Community Primary School shall be submitted to, and approved in writing by, the Local Planning Authority in consultation with Langenhoe Community Primary School and the Highway Authority.

Reason: There is insufficient information to ensure that the pedestrian access is appropriate and that it will be maintained to a satisfactory condition.

### **11. Non-Standard Condition – Foul Drainage**

Details of the proposed method of foul drainage for the development shall be submitted to and agreed in writing by the local planning authority. Such agreed works shall be fully implemented prior to the first occupation of any dwelling hereby permitted and shall be maintained in the approved form while the premises are in use for the permitted purpose.

Reason: In order to avoid unnecessary environmental, amenity and public health problems that could otherwise arise.

### **12. Non-Standard Condition – Vehicular Access**

Prior to the first occupation of the proposed dwelling, the proposed vehicular access shall be constructed to a width of 5.5m and shall be provided with an appropriate dropped kerb vehicular crossing of the 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.

### **13. Non-Standard Condition – Visibility Splays**

Prior to the proposed access being brought into use, minimum vehicular visibility splays of 120m Northerly by 2.4m by 160m Southerly 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.

#### **14. Non-Standard Condition – Drainage**

Prior to the first use of the proposed access, details of the construction and future maintenance of the necessary bridging or piping of the drainage ditch/watercourse shall be 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.

Reason: To prevent or reduce the risk of flooding of the adjoining highway, in the interests of highway safety.

#### **15. Non-Standard Condition – Parking Provision**

The development shall not be occupied until such time as car parking has been provided in accord with current Parking Standards together with a workable, convenient and efficient turning area for each dwelling. These facilities shall be retained in this form at all times and shall not be used for any purpose other than the parking and turning 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.

#### **16. Non-Standard Condition – Cycle storage**

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

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

#### **17. Non-Standard Condition – EV Charging**

Prior to the first occupation of the development, provision shall be made for EV charging point infrastructure at the rate of 1 charging point per 10 spaces.

Reason: To encourage the use of ultra-low emission vehicles.

#### **18. ZIF – No Unbound Surface Material**

No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

Reason: To avoid the displacement of loose material onto the highway in the interests of highway safety.

#### **19. Non-Standard Condition – Boundary Hedge**

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.

#### **20. Non-Standard Condition – Garage 6m set back**

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.

#### **21. Non Standard Condition – Housing Mix**

Notwithstanding the details hereby approved, the reserved matters application shall include a proportionate mix of housing based on local and Borough wide evidence.

Reason: To meet the needs of a range of different groups within the population and to create inclusive and sustainable communities.

#### **22. ZPD – Limits to Hours of Work**

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

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working

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

#### **23. ZGB – Restricted Hours of Deliveries**

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

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Public Holidays: No deliveries

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

### **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](http://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. Non-Standard Informative - Heritage**

PLEASE NOTE the indicative layout and housetypes submitted as part of this application are not considered to achieve an appropriate standard of design and would cause a harmful impact on the setting of nearby (non) designated heritage assets.

The proposed development needs to be reduced in scale, the architectural language should be more utilitarian and rural, and the hedge needs to be preserved as far as possible, with any breaks through it minimised and located away from the listed building.

### **4. Non-Standard Informative – 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>

### **5. Non-Standard Informative – Landscape**

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

### **6. Non-Standard Informative – Unilateral Undertaking**

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

### **7. Non-Standard Informative – Works affecting highway**

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

The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org).

### **8. 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 withhold challenge in appeal or through the courts. Failure to do so would result in a costs award against the Council for acting unreasonably (see other notes pages within this Agenda). Similarly, if the Highway Authority were unable to support their own conclusions they may face costs being awarded against them as the statutory consultee.

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

### **Parking Standards**

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

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

For residential schemes:

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

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





## **Colchester Borough Council Environmental Control**

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

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

#### **Best Practice for Construction Sites**

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

##### **Noise Control**

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

##### **Emission Control**

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

## **Best Practice for Demolition Sites**

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

### **Noise Control**

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

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

### **Emission Control**

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

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

## **Class A1. Shops**

Use for all or any of the following purposes—

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

## **Class A2. Financial and professional services**

Use for the provision of —

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

## **Class A3. Restaurants and cafes**

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

## **Class A4. Drinking establishments**

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

## **Class A5. Hot food takeaways**

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

## **Class B1. Business**

Use for all or any of the following purposes—

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

## **Class B2. General industrial**

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

## **Class B8. Storage or distribution**

Use for storage or as a distribution centre.

**Class C1. Hotels**

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

**Class C2. Residential institutions**

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

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

**Class C2A. Secure residential institutions**

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

**Class C3. Dwellinghouses**

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

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

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

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

**Class C4. Houses in multiple occupation**

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

**Class D1. Non-residential institutions**

Any use not including a residential use —

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

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

(c) for the provision of education,

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

(e) as a museum,

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

(g) as a public hall or exhibition hall,

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

**Class D2. Assembly and leisure**

Use as —

(a) a cinema,

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

(d) a dance hall,

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

### **Sui Generis Uses**

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

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

### ***Interpretation of Class C3***

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

### ***Interpretation of Class C4***

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

## **Supreme Court Decision 16 October 2017**

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

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

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

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

## Deferral and Recommendation Overturn Procedure (DROP) Flowchart

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

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

