

Planning Committee Meeting

**Moot Hall, Town Hall, High Street,
Colchester, CO1 1PJ**

Thursday, 09 September 2021 at 18:00

The Planning Committee deals with planning applications, planning enforcement, public rights of way and certain highway matters. If you wish to come to the meeting please arrive in good time. Usually, only one person for and one person against each application is permitted. Attendance between 5.30pm and 5.45pm will greatly assist in enabling the meeting to start promptly.

Information for Members of the Public

Access to information and meetings

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

Dates of the meetings are available here:

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

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

Have Your Say!

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

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

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

Access

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Covid 19

Please could attendees note the following:-

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

COLCHESTER BOROUGH COUNCIL
Planning Committee
Thursday, 09 September 2021 at 18:00

The Planning Committee Members are:

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

The Planning Committee Substitute Members are:

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

Councillors:

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

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

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

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

Live Broadcast

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

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

1 Welcome and Announcements (Virtual Meetings)

The Chairman will welcome members of the public and Councillors to the meeting and remind those participating to mute their

microphones when not talking. The Chairman will invite all Councillors and Officers participating in the meeting to introduce themselves. The Chairman will, at regular intervals, ask Councillors to indicate if they wish to speak or ask a question and Councillors will be invited to speak in turn by the Chairman. A vote on each item of business will be taken by roll call of each Councillor and the outcome of each vote will be confirmed by the Democratic Services Officer.

2 Substitutions

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

3 Urgent Items

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

4 Declarations of Interest

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

5 Minutes of Previous Meeting

The Councillors will be invited to confirm that the minutes of the meeting held on 8 July 2021 are a correct record.

Planning Committee Minutes 8 July 2021

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6 Have Your Say(Hybrid Planning Meetings)

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

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

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 | 202025 - Land South of Berechurch Hall Road

Development of 153 dwellings with associated parking, landscaping, open space, drainage and infrastructure and formation of new access and alterations to existing access onto Berechurch Hall Road. | 19 - 72 |
| 7.2 | 201686 - Land South of West Bergholt Cricket Club

Outline application for up to 18 dwellings with access to be determined and all other matters reserved. | 73 - 102 |
| 7.3 | 201882 - Former Lookers Renault 72-78 Military Road

Demolition of existing car showroom buildings and construction of a sheltered housing facility, comprising 44no. 1 and 2 bedroom apartments, and the construction of a residential apartment building, comprising 10no. 1 and 2 bedroom dwellings, together with associated access, basement and above ground parking and landscaping. | 103 -
136 |
| 7.4 | 201304 - Land between 7 and 15 Marlowe Way

Demolition of brick boundary wall to Lexden Manor. Construction of three 4-bedroom detached houses, each with integral garage, plus individual private driveways connecting to Marlowe Way. Retention of two TPO trees. | 137 -
166 |
| 7.5 | 211821 - Open spaces Pondfield Road

The proposed fence is 2.4m high palisade fencing and will cover an areas of 20m and placed along side of the existing palisade fence. Second section of fence approximately 4m in width. | 167 -
174 |
| 8 | 211958 – The Orchard, Foxes Lane, Eight Ash Green

Discharge or revoke an existing Section 106 Agreement. | 175 -
180 |
| | Planning Committee Information Pages v2 | 181 -
192 |

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

Thursday, 08 July 2021

Attendees: Councillor Lyn Barton, Councillor Helen Chuah, Councillor Robert Davidson, Councillor Pauline Hazell, Councillor Michael Lilley, Councillor Jackie Maclean
Substitutes: Councillor Patricia Moore (for Councillor Roger Mannion), Councillor Chris Pearson (for Councillor Martyn Warnes)
Also Present: Also in attendance: Cllrs Barber* and Chapman*

* attended remotely

854 211117 Land adjacent to 3 Highfield Drive, Colchester

The Committee considered an application for the erection of a four-bedroom detached house on land adjacent to 3 Highfield Drive, Colchester.

The application had been referred to the Committee as it had been called in by Councillor Barton, for the reasons laid out in the report.

A report had been laid before the Committee regarding this application, along with an amendment sheet noting that a RAMs payment had been made, overcoming that one of the reasons given for the recommendation for refusal.

Chris Harden, Senior Planning Officer, presented the report and assisted the Committee in its deliberations. A presentation was given of site photographs, aerial views and sketches of elevations and floorplans.

The Senior Planning Officer noted the RAMs payment had been made, negating that one of the reasons for recommended refusal. However it was noted that the application would cause a loss of local green space, judged by the Officer to be to the detriment of the area's character, and going against the priority of maintaining local green space and protecting the character of the streetscene. This view was in line with the view given by the Planning Inspector when the previous application for a dwelling on the site was dismissed on appeal in 2015. The National Planning Policy Framework [NPPF] presumption was in favour of sustainable development and, whilst this development was deemed to be sustainable, this did not override the harm which would be caused to the character of the local area.

The Senior Planning Officer noted that the application had been deemed to be of low impact regarding highways issues, and so it would not be reasonable to refuse the application on highways grounds.

Ms. Marguerite Haddrell addressed the Committee, pursuant to the provisions of Planning Committee Procedure Rule 8, in support of the application, being the applicant. She informed the Committee that this was a very personal application to her and argued that the refusal in 2015 was now almost seven years in the past, under old policies. The current Policy SP1 was highlighted as showing the Council's priority on sustainable development and dictates that applications which comply with its sustainability criteria should be approved without delay. Ms Haddrell reminded the Committee that this application had been judged to be sustainable.

Ms Haddrell argued that the reasons for the original refusal were no longer applicable, that the application was in keeping with the streetscape and setting, and that it would be unreasonable to refuse the application on the grounds of garden size, as this was 50% greater than the Council's minimum.

Drawing comparisons with other developments and applications, Ms. Haddrell questioned why, in her view, officers were not consistent in their advice to the Committee.

Councillor Barber attended and, with the consent of the Chair, addressed the Committee to oppose the application. He noted that, at the time of the original refusal on appeal in 2015, the NPPF sustainable development policy was already in place, and that this had been addressed by the case officer. The area was not specifically allocated for development in the Local Plan. Councillor Barber argued that the effect on the space and character of the area should be considered and urged the Committee to back the case officer's recommendation to refuse.

Councillor Barton explained that she had called in this application due to a discrepancy in the application documents which had been published and agreed that planning policies had moved on since 2015, with a greater emphasis on the importance of sustainability.

The Committee discussed the application, asking for confirmation that there were no access issues and noting the lack of highways problems and fact that no trees would be lost. One member noted that this was not a conservation area, the property would not overlook others, and would not impede access. Good access links to the Town Centre were also noted.

The Committee asked for clarity as to how this application differed from the earlier, refused application for the site, and requested assurances that reasons for refusal relating to planning policies were still valid. A clarification was also requested regarding

the sloped nature of the site, and whether the proposed property would be built at a level with the top of the slope, thus creating an imposing presence in the street scene, or whether ground would be excavated for it to be built lower, and below the level of the existing properties in keeping with the level of the existing street. The Committee considered whether a restriction could be placed to dictate the level on which building would be carried out.

The Committee discussed the proposed levels of the new property, whether this would overlook other properties and whether any design issues could be taken up with the applicant to resolve before Committee came to a decision.

In response to questions, the Senior Planning Officer confirmed that officers raised no concerns regarding land ownership or access rights and confirmed that it would be considered to be a sustainable development, then recapped the reasons given for the recommendation to refuse. It was confirmed that the sloped nature of the site remained of concern and would cause a discordant relationship in the height of the proposed building to neighbouring homes and the streetscene. The site would need to be 'built up' or excavated to allow building to go ahead. If built up, this would impose over the street scene. The NPPF still insisted that developments should be sympathetic to their areas and settings and add to the overall quality of the area. Adding built form within this important open space was considered to detract from the area's character, although officers' opinion was that there would be no issues of overlooking other properties.

The Committee was informed that the proposed garden was of a size in accordance with policies, but could still give grounds for refusal, if out of keeping with the area. This was not considered to be a key reason to refuse but was a valid reason.

Committee members discussed whether they needed to see more graphic representations of the proposed building heights and site levels. Simon Cairns, Development Manager, confirmed that the property would be above street level by a considerable degree (based on the image provided in the D & A statement submitted with the application, and would potentially require a retaining wall under it, making it up to half a storey higher over street level. He also confirmed that the same policies which had led to the initial refusal in 2015 were still in effect now and had not changed (as part 2 of the emerging local plan had yet to be adopted). There were social, economic and environmental elements to sustainable development, and the Development Manager gave the view that there would be environmental harm in this instance.

The Development Manager informed the Committee that, if it was minded to approve the application, it would need to identify changes in the circumstances of the case and grounds to overrule the original refusal and refusal at appeal, as well as the views given by the planning inspector.

RESOLVED that the application be refused (FOUR voted FOR, THREE voted

AGAINST), for the reasons set at out at paragraph 18.1 of the report.

855 211240 Holy Trinity Church, Trinity Street, Colchester

Councillor Lilley (in respect of having used his locality budget to support past projects of Art Eat Events) 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 consent to the painting of a permanent art mural on the external wall of the Vestry at the former Holy Trinity Church.

The application was referred to the Committee at the request of Cllr Goacher for the following reason: "Significant concerns about the impact and design of this mural. Will impact negatively on this heritage site as the design is not in keeping with the setting.". Moreover, the applicant was Cllr Leatherdale on behalf of Lion Walk Shopping Centre.

The Committee had before it a report in which all information was set out together with further information on the Amendment Sheet.

Eirini Dimerouki, Historic Buildings and Areas Officer, attended to present the report and assist the Committee. Parts of the building dated back to before 1066. The wall relating to this application was a later, 19th Century wall and part of the vestry, but was still part of the Grade One listed building. Objections made to this application had been shown in the report, and two submissions in support had been received on the previous day, and links to these were provided in the amendment sheets.

The Officer highlighted the material impact to the vestry and the concerns that the application did not provide enough information regarding issues such as paint to be used and whether this would be vapour permeable and compatible with the stonework. There were concerns regarding impact on the conservation area and it was noted that there was already much visual clutter in the area. The National Planning Policy Framework [NPPF] set out requirements regarding work on listed buildings and it was the officer's view that this application did not meet these.

Mr John Burton of the Colchester Civic Society addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 and in opposition to the application. Mr Burton raised the concern that approval of this application would set a precedent and make it harder to refuse harmful applications on listed buildings in the future. It was noted that the application being judged to be of less-substantive harm still meant that it was considered to be harmful. The use of housepaint on a Victorian wall

would cause problems and the view was given by Mr Burton that the current paint did not draw the eye and added to visual clutter.

Mr Burton raised concern that no consultation had been carried out and recommended that the Council worked with others to identify places and ways to beautify the area.

Ms Daisy Lees, of Art Eat Events, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 and in support of the application. Ms Lees described the work done by Art Eat Events to make spaces that improved areas and explained the process to select the art and artist for the site. Ms Lees argued that the technical details in the refusal recommendation were incorrect, and that this was only designed to be a temporary mural. A suitable paint technique could be found for the wall and the applicant would take on board the comments made. It was suggested that approval could be given on condition that a consultation exercise then be carried out to find a compromise design.

The Committee discussed the application, citing concerns that consultation had not been carried out prior to the application being submitted, that the application would detract from the church, and that approving this application would set a dangerous precedent regarding future applications to listed buildings.

Picking up on the lack of information regarding paint to be used, it was noted by the Committee that problems such as rising damp could quickly destroy some paints, if used inappropriately, and that there were modern walls in the area which would potentially be better sites for a mural. The Committee emphasised that their views were no comment on the artwork proposed and the Chairman hoped that the Lion Walk Management Company could work with stakeholders and the public to identify a suitable alternative location to the site proposed here.

RESOLVED (UNANIMOUSLY) that the application be refused for the reasons set out in the report.

856 210847 Church House, Church Road Wormingford

The Committee considered an application for the conversion and extension of an existing single storey outbuilding range to form a single three bedroom dwelling. The Committee had before it a report in which all information was set out. The application had been referred to the Committee as it represented a departure from the Local Plan as the site is situated outside an adopted settlement boundary in open countryside for policy purposes within the Dedham Vale AONB.

RESOLVED that the application be approved subject to the conditions and informatives as set out in the report.

857 202242 2 Delamere Road, Colchester

The Committee considered an outline application for a proposed four-bedroom bungalow.

The application was referred to the Committee because Cllr Hogg called in the application for the following reason:

‘The proposed site is unsuitable in both size and location particularly as the proposed plot is approximately 50 square metres smaller than the remaining donor site, A 4 bed bungalow and parking would be cramped and out of character in this area.’

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

Eleanor Moss, Senior Planning Officer, attended to present the report and assist the Committee.

Mr Geoffrey Eaton, as agent for the applicant, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 and in support of the application. Mr Eaton addressed questions regarding the proposed garden size, stating that this would be 30% larger than the minimum size required by the Council’s requirements, and would also allow for sufficient off-street parking to be included on the site. It was noted that the surrounding properties were also bungalows, as this would be, and that there would be hedging on three sides and a brick wall betwixt this site and the existing neighbouring property.

A statement from Councillor Hogg was read out with the consent of the Chair, addressing the Committee to oppose the application. Councillor Hogg apologised that he was unable to attend, due to a clash with another Council Committee meeting at which he had to be in attendance. Councillor Hogg explained his call in of the application and his hopes that the Committee would consider the comments and concerns submitted by local residents, regarding the fear that this development would make the site appear crowded and lead to a change of character in the area and a loss of visual amenity for existing residents. Councillor Hogg also expressed fears that the conditions proposed for bicycle storage and access would not restrict vehicle movements involving the site, should it become an HMO [House of Multiple Occupation] in the future, leading to loss of

residential amenity.

A Committee member requested that, should the application be approved, a condition be placed upon it requiring the replacement of a tree which had previously been located on the site, and had been subject to a Tree Preservation Order, but which had had to be removed some years ago. A suggestion from Committee was that this could be a sweet chestnut or similar. The Senior Planning Officer confirmed that the tree had been legally felled in 2011, and the required replacement not planted. The Council's legal services team had advised that too much time had elapsed since then for enforcement to require replanting to be carried out.

Committee discussions queried whether the four parking places proposed for this site included spaces for both residents and visitors, whether the Committee should require an increase in electric vehicle charging points and whether the proposed boundary would have a detrimental effect on the neighbouring property and road/footway. The Committee also queried how large the frontage of the bungalow was expected to be and whether the site satisfied the Council's size requirement. The Senior Planning Officer was asked to provide assurance that any property proposed for the site would be screened from the road and not protuberant from the existing building line. It was confirmed by the Officer that the building would likely protrude to a degree but would not be considered out of keeping with the street scene.

The Senior Planning Officer explained that all matters were reserved at this stage, so no details were required from the applicant for this application. The Council aimed for sites of round 430m² for such a property. This site was around 379 m² and so was smaller, but comparable to the sizes of existing properties on Delamere Road. The site was not considered to be imposing enough on the street scene for that to constitute a ground for objection, which was considered to meet requirements for sustainable development. It was highlighted that four spaces were shown as an illustration as to what would be possible on this site, but access and parking arrangements would be specified in any future application to build a specific property on the site. The minimum of spaces required would be two.

The perceived merits and demerits of this application, compared to other applications, were raised by one Committee member. The Development Manager emphasised that applications must be considered purely on their own merits and that no associations or comparisons should be drawn with other applications.

RESOLVED (UNANIMOUSLY) that the application be approved subject to the conditions and informatives as set out in the report, plus a requirement that reserved matters be referred to the Committee for consideration Landscaping to include replacement tree to compensate for failure to comply with the replanting notice issued following the felling of a protected tree in 2011.

858 211259 Land to the rear of The Retreat, Wood Lane, Fordham Heath

The Committee considered an application for a lawful development certificate to erect a summerhouse. The Committee had before it a report in which all information was set out. The application had been referred to the Committee as the applicant was a current Colchester Borough Councillor.

RESOLVED that the certificate as set out in the report be issued to the applicant as the proposal constitutes permitted development.

859 211237/211324 Brook Street, Colchester

The Committee considered an application for the installation of environmental "switch off" signage and revisions to application previously approved under 201799. The Committee had before it a report in which all information was set out. The application had been referred to the Committee as the applicant was Colchester Borough Council.

RESOLVED that advertisement consent for both applications be granted subject to the conditions set out in the report.

860 211519 Hythe House, 142 Hythe Hill Colchester

The Committee considered an application for the replacement of existing timber and render cladding with cedar panels; replacement of windows with identical UPVC units in black; replacement of existing aluminium front doors with similar doors finished in black.

The application was referred to the Committee because the applicant is the spouse of a senior manager within the Planning Department. The application has not been formally called in and no objections have been received.

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

James Ryan, Senior Planning Officer, attended to present the report and assist the Committee. He gave an overview of the application for external works to the property which was located in the Hythe Conservation Area and in proximity to a listed building. The Officer's view was that this application would improve a tired building and was

mindful of the listed building.

The Committee discussed the application, with views given by some members that the proposal represented a retrograde step that would likely detract from the character of the area. The Committee expressed the view that the decision should be deferred and the applicant asked to seek design options which would fit better with the character of the area and its industrial heritage.

RESOLVED that the application be deferred (FIVE votes FOR, THREE votes AGAINST) to allow for negotiations to be carried out with the applicant in order to achieve a more sympathetic aesthetic design for the windows and cladding to reflect the character of the Hythe Conservation Area and surrounding buildings.



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Item No: 7.1

Application: 202025

Applicant: Ms Paige Harris, Persimmon Homes Essex

Proposal: Development of 153 dwellings with associated parking, landscaping, open space, drainage and infrastructure and formation of new access and alterations to existing access onto Berechurch Hall Road.

Location: Land south of, Berechurch Hall Road, Colchester

Ward: Shrub End

Officer: Eleanor Moss

Recommendation: Approval subject to recommended conditions and S.106 agreement

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it is a major application which is a departure from the Adopted Local Plan, although not a departure from the Emerging Local Plan 2017-2033, and a number of objections have been raised.

2.0 Synopsis

- 2.1 The key issues for consideration are the weight that can be afforded to the Emerging Local Plan site allocation and the specifics of the proposal in terms of design, layout and highway safety.
- 2.2 The application is subsequently recommended for approval.

3.0 Site Description and Context

- 3.1 The allocation site measures 5.36 hectares and fronts onto Berechurch Hall Road.
- 3.2 The site is broadly rectangular in shape and measures up to 390 metres wide (east/west) and 130 metres deep (north/south). The site is currently in agricultural use and lacks topography. A farm track runs along the western boundary. There are no public footpaths in or around the site. The site is bounded on all sides by hedging consisting of shrubs and mature trees, some of which is on-site and some on adjacent land.
- 3.3 Immediately to the west of the site is an area which was the subject of an application by Harding Homes for 32 dwellings and approved in 2020. Separating the two respective sites is a belt of shrubs and trees.
- 3.4 To the south of the site is a large agricultural field, beyond which is the Birch Grove Golf Club which lies some 280 metres south of the site. There are no listed buildings on or around the site.
- 3.5 The Eastern Parcel benefits from an existing vehicular access from Berechurch Hall Road at the most westerly point along the site's northern boundary.
- 3.6 A proposal for 32 dwellings on 1.55 hectares land to the west of the application site has previously been granted planning permission (application ref: 191093).

4.0 Description of the Proposal

- 4.1 Full planning permission for 153 dwellings with associated parking, landscaping, open space, drainage and infrastructure and formation of new access and alterations to existing access onto Berechurch Hall Road.

5.0 Land Use Allocation

- 5.1 The site is unallocated land in the adopted Local Plan but is an allocation in the Emerging Local Plan. This matter will be detail within the Principle of Development Section of the report.

6.0 Relevant Planning History

- 6.1 None directly relevant to this application site however as mentioned in paragraph 3.6, 32 dwellings have recently been granted directly to the west of this site forming part of the same emerging site allocation.

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) (2021) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.

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

SD1 - Sustainable Development Locations
SD2 - Delivering Facilities and Infrastructure
SD3 - Community Facilities
H1 - Housing Delivery
H2 - Housing Density
H3 - Housing Diversity
H4 - Affordable Housing
UR2 - Built Design and Character
PR1 - Open Space
PR2 - People-friendly Streets
TA1 - Accessibility and Changing Travel Behaviour
TA2 - Walking and Cycling
TA3 - Public Transport
TA4 - Roads and Traffic
TA5 - Parking
ENV1 - Environment
ENV2 - Rural Communities
ER1 - Energy, Resources, Waste, Water and Recycling

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

DP1 Design and Amenity
DP2 Health Assessments

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

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

SA H1 Housing Allocations

- 7.5 Submission Colchester Borough Local Plan 2017-2033:
 The Council is developing a new Local Plan that has been submitted to the Planning Inspectorate (October 2017). An Inspector has been appointed and the formal examination commenced in January 2018. The examination is ongoing. Section 1 of the plan was adopted in February 2021. The examination of section 2 has yet to be completed with the examiner’s report expected imminently.

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.

Section 2 of the Emerging Local Plan is at an advanced stage and is, therefore, considered to carry some weight in the consideration of the application, but as it is yet to complete a full and final examination, it is not considered to outweigh the material considerations assessed above in accordance with up-to-date planning policies and the NPPF.

Adopted Local Plan and Emerging Local Plan Status – March 2021

Overview

The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The Section 2 Emerging Local Plan remains to complete examination, with hearing sessions having taken place during April 2021. Section 2 policies must be assessed on a case by case basis in accordance with NPPF paragraph 48 to determine the weight which can be attributed to each policy.

Core Strategy Policy SD1 is fully superseded by policies SP5 and SP6 of the Section 1 Local Plan. Policies SD1, H1 and CE1 are partially superseded by policies SP3, SP4 and SP5 in relation to the overall housing and employment requirement figures. The remaining elements of policies SD1, H1 and CE1 are relevant for decision making purposes.

The Council can demonstrate a five year housing land supply.

Adopted Section 1 Local Plan

On 1st February 2021, Full Council resolved to adopt the modified Section 1 Local Plan in accordance with Section 23(2)(b) of the Planning and Compulsory Purchase Act 2004. The final version of the Adopted North Essex Authorities' Shared Strategic Section 1 Local Plan is on the council's website [here](#).

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. Section 2 of each plan contains policies and allocations addressing authority-specific issues.

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.

Emerging Section 2 Local Plan

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

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

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

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

5 Year Housing Land Supply

Section 1 of the Emerging Local Plan was adopted by the Council on the 1 February 2021 and therefore carries full weight.

Section 1 includes strategic policies covering housing and employment, as well as infrastructure, place shaping and the allocation of a Garden Community. Policy SP4 sets out the annual housing requirement, which for Colchester is 920 units. This equates to a minimum housing requirement across the plan period to 2033 of 18,400 new homes.

Although the Garden Community is allocated in Section 1, all other site allocations are made within Section 2 of the Plan which is still to complete examination. Within Section 2 the Council has allocated adequate sites to deliver against the requirements set out in the strategic policy within the adopted Section 1. All allocated sites are considered to be deliverable and developable.

In addition and in accordance with the NPPF, the Council maintains a sufficient supply of deliverable sites to provide for at least five years' worth of housing, plus an appropriate buffer and will work proactively with applicants to bring forward sites that accord with the overall spatial strategy. The Council has consistently delivered against its requirements which has been demonstrated through the Housing Delivery Test. It is therefore appropriate to add a 5% buffer to the 5-year requirement. This results in a 5 year target of 4,830 dwellings ($5 \times 920 + 5\%$).

The Council's published Annual Housing Position Statement (May 2020) demonstrated a housing supply of 6,108 dwellings which equated to 5.4 years based on an annual target of 1,078 dwellings which was calculated using the Standard Methodology, prior to the Local Plan being adopted. The 5YHLS was tested at appeal and found to be robust, the most recent cases being on Land at Maldon Road, Tiptree (Appeal Ref: APP/A1530/W/20/3248038) and Land at Braiswick (Appeal Ref: APP/A1530/W/20/324575).

This position has been further improved now the Council has an adopted housing requirement of 920. When the 5% buffer is added the annual target is 966. In accordance with paragraph 73 of the NPPF, the adoption of the strategic housing policy in Section 1 of the Local Plan, means that the

adopted housing requirement is the basis for determining the 5YHLS, rather than the application of the standard methodology.

The Council has recently updated its Annual Position Statement in relation to 5-year supply. This shows the Council has a supply of 5564 dwellings against a target of 4830 which equates to a 5.75 year supply over the period 2021/22 – 2025/26.

Given the above, it is therefore considered that the Council can demonstrate a five year housing land supply, and that the tilted balance at paragraph 11 of the NPPF does not apply.

Appendix 1 – Policies Superseded from the Core Strategy Focused Review 2014 by the Shared Strategic Section 1 Local Plan

General Local Plan Status

The Colchester emerging Local Plan (eLP) was submitted to the Planning Inspectorate in October 2017. The Plan is in two parts with Section 1 being a shared Strategic Plan for the North Essex Authorities (Colchester, Braintree, and Tendring). Following Examination in Public (EiP) the Section 1 Local Plan was found sound and Colchester Borough Council adopted the Section 1 Local Plan on 1 February 2021 in accordance with Section 23(2)(b) of the Planning and Compulsory Purchase Act 2004.

Policy SP2 should be referred to when applying the Habitats Regulations requirements to secure RAMs contributions where appropriate. This does not update the approach that the Council have been implementing but the Policy context has updated status with the adoption of Section 1 which includes a specific policy covering this issue.

A few policies in the Core Strategy are superseded in part by the adopted Section 1 Local Plan, and SD2 in full only. The struck through text is superseded. This is outlined below in detail and a summary table for all Section1 Policies.

Policy SD2 – Full

~~The Borough Council will work with partners to ensure that facilities and infrastructure are provided to support sustainable communities in Colchester. New facilities and infrastructure must be located and designed so that they are accessible and compatible with the character and needs of the local community.~~

~~New development will be required to provide the necessary community facilities, open space, transport infrastructure and other requirements to meet the community needs arising from the proposal. Development will also be expected to contribute, as appropriate, to strategic projects that support sustainable development and the wider community.~~

~~The Council will seek to ensure that new development makes a reasonable contribution to the provision of related facilities and infrastructure. This will either be through a planning obligation (usually contained within a Section 106 agreement)~~

~~and/or, if applicable, through a Community Infrastructure Levy (CIL) payment, following adoption of a CIL charging schedule.~~

~~A CIL charging schedule would set a specified charge for each square metre of gross internal floorspace, related to the use class of the development. CIL payments will contribute to the provision of infrastructure to support development. Planning obligations and s278 agreements will continue to be used to make individual applications acceptable. The Council will publish a list of infrastructure to be funded through CIL to ensure developers do not pay twice for the same item of infrastructure. The viability of developments will be considered when determining the extent and priority of development contributions.~~

Is replaced by SP6.

Policy SD2 is no longer relevant.

Policy SD1 – In Part

~~Colchester Borough Council will promote sustainable development and regeneration to deliver at least 14,200 jobs between 2001 and 2021 and at least 19,000 homes between 2001 and 2023.~~

~~When considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work proactively with applicants jointly to find solutions which mean that applications can be approved wherever possible and to secure development that improves the economic, social and environmental conditions in the area.~~

~~Planning applications that accord with the policies in this Local Plan (and, where relevant, with policies in neighbourhood plans) will be approved without delay unless material considerations indicate otherwise.~~

Is replaced by SP1.

All other parts of SD1 remain relevant.

Policy H1 – In Part

~~The Borough Council will plan, monitor and manage the delivery of at least 19,000 new homes in Colchester Borough between 2001 and 2023.~~

Is replaced by SP3 and SP4.

All other parts of H1 remain relevant.

Policy CE1- In part

~~The Borough Council will encourage economic development and will plan for the delivery of at least 14,200 jobs in Colchester between 2001 and 2021.~~

Is replaced by SP5.

All over parts of CE1 remain relevant.

Section 1 Adopted Policy	Context of Section 1 Policy	Relevant Core Strategy Policy status
<p>Policy SP 1 Presumption in Favour of Sustainable Development</p>	<p>Restates national Policy</p>	<p>Replaces SD1 - in part.</p> <p>Following text of SD1 is replaced by SP1.</p> <p><i>Colchester Borough Council will promote sustainable development and regeneration to deliver at least 14,200 jobs between 2001 and 2021 and at least 19,000 homes between 2001 and 2023.</i></p> <p><i>When considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work proactively with applicants jointly to find solutions which mean that applications can be approved wherever possible and to secure development that improves the economic, social and environmental conditions in the area.</i></p> <p><i>Planning applications that accord with the policies in this Local Plan (and, where relevant, with policies in neighbourhood plans) will be approved without delay unless material considerations indicate otherwise.</i></p>
<p>Policy SP 2 Recreational disturbance Avoidance</p>	<p>Statutory requirement under the Habitats Regs- Policy provides a new</p>	<p>New policy relevant to confirm approach</p>

and Mitigation Strategy (RAMS)	authorisation for contributions	implementing the Habitats Regulations. Full status for decisions post 1.02.2021
Policy SP 3 Spatial Strategy for North Essex	Strategic – relies on Section 2 eLP for Spatial hierarchy and Colchester strategy	High level N/A
Policy SP 4 Meeting Housing Needs	Sets the housing supply figure for the Plan period at 920 per year. Section to allocate sites and determine the spatial distribution	Replaces H1 - in part. Following text of H1 replaced by SP4. <i>The Borough Council will plan, monitor and manage the delivery of at least 19,000 new homes in Colchester Borough between 2001 and 2023.</i> All other parts of H1 remain relevant
Policy SP 5 Employment	Strategic target – relies on Section 2 eLP to allocated sites	Replaces CE1 – in part. Following text from CE1 replaced by SP5. <i>The Borough Council will encourage economic development and will plan for the delivery of at least 14,200 jobs in Colchester between 2001 and 2021.</i> All other parts of CE1 remain relevant.
Policy SP 6 Infrastructure & Connectivity	Strategic and restates national policy Section 2 covers matters specifically	High level/Garden Community – Section A Sections B, C, D and E of policy apply to all allocations and development proposals in the North Essex Authorities area. These sections replace SD2.
Policy SP 7 Place Shaping Principles	Strategic / restates national policy and eLP Section 2 covers matters specifically	High level N/A

Policy SP 8 Development & Delivery of a New Garden Community in North Essex	New- specific to the Garden Community	Garden Community N/A
Policy SP 9 Tendring/Colchester Borders Garden Community	New- specific to the Garden Community	Garden Community N/A

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

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

The Essex Design Guide
 External Materials in New Developments
 EPOA Vehicle Parking Standards
 Affordable Housing
 Community Facilities
 Open Space, Sport and Recreation
 Sustainable Construction
 Cycling Delivery Strategy
 Sustainable Drainage Systems Design Guide
 Street Services Delivery Strategy
 Developing a Landscape for the Future
 Air Quality Management Guidance Note, Areas & Order

8.0 Consultations

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

8.2 Urban Designer

The proposed layout is broadly in alignment with the spatial strategy previously set out by the LPA and the scheme includes favourable design features such as; the use of elements of interconnected blue infrastructure, high levels of pedestrian permeability, a strong defensible pedestrian route through the centre of the site and good levels of tree planting. Additionally, adequate parking provision is provided for the number of units proposed and the scheme provides an adequate amount of public open space...

The use of traditional vernacular forms is considered appropriate, as are the proposed materials. The variances to plan form and the subsequent varied proportions of units, achieves a good degree of articulation and visual interest within the street scenes...

The consistent use of traditional vernacular forms and a relatively modest materials palette allow the proposal to establish a degree of site wide character, by virtue of the relative homogeneity of built form.

4/8/21 Update:

Modest amendments to materials and surfacing plans considered appropriate

8.3 Landscape Advisor

The landscape content/aspect of the strategic landscape proposals submitted principally under the Landscape & Visual Impact Assessment dated Jan 2020 lodged on 18/09/20; and drawings JBA19/158-SK01.F, PH-154-008.A (boundary treatments) and PH-154-010.A (hard surfacing) lodged 21/06/21 would appear satisfactory.

8.4 Highway Authority

Provided the development is carried out in accordance with planning application drawing number PH-154-003 Rev. D, from a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to the following requirements:

- 1) *Prior to commencement of the development a construction traffic management plan, to include but shall not be limited to details of vehicle/wheel cleaning facilities within the site and adjacent to the egress onto the highway, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the agreed plan*
Reason: *To protect highway efficiency of movement and safety in accordance with policy DM1 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011*
- 2) *No occupation of the development shall take place until the following have been provided or completed:*
 - a) *Two priority junctions off Berechurch Hall Road to provide access to the proposal site as shown in principle on the planning application drawings*
 - b) *Two new bus stops in Berechurch Hall Road at and/or in the vicinity of the proposal site OR upgrade to Essex County Council specification the two bus stops which would best serve the proposal site (details shall be agreed with the Local Planning Authority prior to commencement of the development)*
 - c) *A toucan crossing in Berechurch Hall Road as shown in principle on planning application drawing number 19199.OS.115.01 Rev. C*
 - d) *A footway/cycleway between the toucan crossing in Berechurch Hall Road and existing footway/cycleway in Camulodunum Way at St. Michael's Primary School & Nursery (details shall be agreed*

with the Local Planning Authority prior to commencement of the development)

- e) *A Travel Plan and Residential Travel Information Packs both in accordance with Essex County Council guidance*

Reason: *To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking, in accordance with policy DM1, DM9 and DM10 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011*

- 3) *Within 28 days of completion of the development, the easternmost priority junction off Berechurch Hall Road shall be removed in its entirety and replaced with a size 3 turning head as shown in principle on planning application drawing number PH-154-003 Rev. D.*

Reason: *To protect highway efficiency of movement and safety in accordance with policy DM1 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011*

8.5 Arboricultural Advisor

Condition the most up to date plans as part of the approved documents

8.6 Environmental Protection

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.*

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.

ZPE - Limits to Hours of Construction Deliveries/Worker Traffic

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

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No deliveries

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.

Full applications

Where the internal noise levels exceed those stated in the current version of BS8233 with windows open, enhanced passive ventilation with appropriate sound insulating properties shall be provided to ensure compliance with the current version of BS8233 with windows closed and that maximum internal noise levels at night do not exceed 45dBA on more than 10 occasions a night. Where exposure exceeds the noise levels of 60dBLAeq 16 hours (daytime, 07:00-23:00, outside), 55dBLAeq 8 hours (night, 23:00-07:00, outside) significantly enhanced ventilation will be required. In addition, noise levels in external amenity spaces shall not exceed 55dBLAeq 16 hours, daytime and the mitigation measures detailed in the report shall be implemented. The development shall thereafter be carried out in accordance with any details approved, and shall be retained in accordance with these details thereafter.

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

ZCG - Communal refuse Areas

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

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

EV Charging points

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

8.7 SuDs

As the Lead Local Flood Authority (LLFA) this Council provides advice on SuDS schemes for major developments. We have been statutory consultee on surface water since the 15th April 2015. In providing advice this Council looks to ensure sustainable drainage proposals comply with the required standards as set out in the following documents:

Non-statutory technical standards for sustainable drainage systems

Essex C adopted Sustainable Drainage Systems Design Guide

The CIRIA SuDS Manual (C753)

BS8582 Code of practice for surface water management for development sites.

Lead Local Flood Authority position

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

8.8 Anglian Water

No objections received, an informative is recommended.

8.9 Essex Wildlife Trust

None received at the time of writing

8.10 Environment Agency

None received at the time of writing

8.11 Natural England

We welcome the additional assessment of impacts on Roman River SSSI which is located 0.6km from the site, and agree the mitigation measures outlined should be sufficient to mitigate indirect recreational disturbance. With regards the submitted Information to Inform an Appropriate Assessment (AA), please note that your Authority is required to produce the AA.

8.12 Contaminated Land

I note that the above have assessed plausible contamination risks to the proposed development, no potentially contaminative uses of the site have been identified (including risks from any agricultural uses of the site) and that it has been concluded that for the proposed residential development, contamination will not pose a significant risk to human health, environmental, historical and ecological receptors. It has been recommended that, should any evidence of contamination be subsequently identified, further action would be required. Based on all of the information provided, this conclusion would seem reasonable.

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

Reporting of Unexpected Contamination

In the event that historic land contamination is found at any time when carrying out works in relation to the development, it must be reported in writing immediately to the Local Planning Authority and all development shall cease immediately. Development shall not 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 DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

Reason – 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.

8.13 Archaeological Advisor

The applicant submitted an archaeological desk-based assessment and geophysical survey to support their application. While a moderate level of archaeological potential was identified, the results of the geophysics and recent nearby archaeological work indicated that the site is strongly unlikely to contain any remains of national significance (requiring preservation in situ). A trial trenched evaluation of the proposed development site should take place prior to development commencing, secured by planning condition. A Written Scheme of Investigation for this has been agreed with the applicant's archaeological agents and should be submitted formally to partially meet the requirements of the recommended condition.

8.14 Fire Services

Access for Fire Service purposes has been considered in accordance with the Essex Act 1987 - Section 13. From drawings available it appears satisfactory, but confirmation of the following should be confirmed with developer.

For the provision of Fire Service Access Approved Document B Vol 1 B5 compliance is required. Also please refer to note 1. Referring to not all fire appliances are standardised. When referring to Table 20, Essex Fire Service Appliance details: Min turning circle between kerbs 17.8 m and Minimum carrying capacity 18 tonnes More detailed observations on access and facilities for the Fire Service will be considered at Building Regulation consultation stage.

It is the responsibility of anyone carrying out building work to comply with the relevant requirements of the Building Regulations. Applicants can decide whether to apply to the Local Authority for Building Control or to appoint an Approved Inspector.

Local Authority Building Control will consult with the Essex Police, Fire and Crime Commissioner Fire and Rescue Authority (hereafter called "the Authority") in accordance with "Building Regulations and Fire Safety - Procedural Guidance". Approved Inspectors will consult with the Authority in accordance with Regulation 12 of the Building (Approved Inspectors etc.) Regulations 2010 (as amended).

The architect or applicant is reminded that additional water supplies for fire fighting may be necessary for this development. The architect or applicant is urged to contact the Water Technical Officer at Service Headquarters, telephone 01376-576344.

"There is clear evidence that the installation of Automatic Water Suppression Systems (AWSS) can be effective in the rapid suppression of fires. Essex County Fire & Rescue Service (ECFRS) therefore uses every occasion to urge building owners and developers to consider the installation of AWSS. ECFRS are ideally placed to promote a better understanding of how fire protection measures can reduce the risk to life, business continuity and limit the impact of fire on the environment and to the local economy. Even where not required under Building Regulations guidance, ECFRS would strongly recommend a risk based approach to the inclusion of AWSS, which can substantially reduce the risk to life and of property loss. We also encourage developers to use them to allow design freedoms, where it can be demonstrated that there is an equivalent level of safety and that the functional requirements of the Regulations are met."

8.15 Essex Badger Group

It is with dismay that we note wildlife is being pushed aside in favour of development. There are active badger setts on this land - all in the surrounding hedgerows but it is planned to close two of them. Why? The field in between Catkin Mews and this planned location is already being developed so why cannot the hedgeline plus additional metres either side be left to accommodate the animals as a wildlife corridor? Similar applies to the long back hedgerow. Why close the active badger sett - it backs onto open farmland (at the moment) and if the hedgerow is being retained then a few more metres and judicious planting will allow this sett to remain. Development should work with nature and not take the easy option and go for destruction. However, should this Application be approved then the mitigation as detailed in the Ecological Survey should be strictly adhered to not only in regard to badgers but all the other wildlife that currently occupies this field.

8.16 NHS

The development would give rise to a need for improvements to capacity, in line with emerging STP Estates Strategy; by way of refurbishment, reconfiguration, extension, or potential relocation for the benefit of the patients of Shrub End Surgery (and/or including the other practices that form Colchester Medical Practice) or through other solutions that address capacity and increased demand as outlined in 5.3 - Health & Wellbeing Statement. For this a proportion of the cost would need to be met by the developer.

A developer contribution will be required to mitigate the impacts of this proposal. North East Essex CCG calculates the level of contribution required, in this instance to be £93,470.08. Payment should be made before the development commences.

North East Essex CCG therefore requests that this sum be secured through a planning obligation linked to any grant of planning permission, in the form of a Section 106 planning obligation.

8.17 Essex Education

*EY&C (11.88 pupils generated): £197,160.48
Primary (39.60 pupils generated): £683,812.80
Secondary (26.40 pupils generated): £627,660.00*

Contribution on libraries and school transport was still being confirmed at time of meeting.

8.18 Colchester Cycling Campaign

The Campaign would like to see the design brought up to the standards set out in LTN 1/20 [2], otherwise the development should not be approved (S14.3.12 [2]).

8.19 Air Quality Officer

This AQ impact assessment is acceptable. The air quality (nitrogen dioxide) impact in the operational phase has been determined as an increase of 0.1µg/m³, negligible in terms of significance set out by the IAQM Planning guidance but still an increase upon the existing pollution within the AQMA. The EV charging condition should be implemented across the development.

8.20 Police

Thank you for the opportunity to comment on the revision of planning submission 202025. The applicant did not seek pre-application consultation as referenced in NPPF. Essex Police considers that it is important that, if approved, this specific development is designed incorporating the maximum achievable benefit of Crime Prevention Through Environmental Design (CPTED) for which Secured by Design (SBD) is the preferred enabler. This reflects sections 91 and 127 of the NPPF which support the need for safe and secure developments. Good design should aim to achieve healthy, inclusive and safe places, which are accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion.

As such, it is strongly recommended that the developer seeks to achieve Secured by Design-Homes 2019 accreditation for this development. SBD accreditation is only achieved by compliance with the requirements of the relevant Design Guide ensuring the security built into each property and a development as a whole is risk commensurate to that location.

Essex police would like the following points clarified: -

- It is unclear from the masterplan if there is to be a public pathway between plots 108-109 and plots 110-111. Please clarify this.*
- There appears to be limited surveillance of the rear parking court for plots 90-93, what is proposed to resolve this?*
- The entrance between plot 114 & 115 and accompanying alley has the potential to become a crime generator due to poor surveillance and lack of capable guardianship, what is proposed to resolve this?*

Essex Police provide a no cost, impartial advice service to applicants who require advice on Crime Prevention Through Environmental Design and Secured by Design and we would welcome and encourage discussion with the applicant relating to this development. We invite them to contact Essex Police via designingoutcrime@essex.police.uk to discuss this further.

Officer comment: There are public pathways between plots 108-109 and 110-111. Lighting will be installed to ensure plots 90-93 are well lit at night and there is surveillance from the rear of properties 90-93, 97 and 98. In the latest revision of the detailed layout plan (rev D) a gated entrance is shown to this walkway which can only be accessed with a key by plots 115 and 116.

9.0 **Parish Council Response**

9.1 Non-Parished

10.0 **Representations from Notified Parties**

10.1 The application resulted in 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 Following the consultation exercise, 20 representations of concern were received. These are summarised as follows:

- Lack of infrastructure
- Increase in traffic
- Increase in pollution
- Loss of view
- Loss of property value
- Impact upon wildlife
- Lack of footpaths
- Additional housing not required in the area
- Lack of zebra crossings
- Unsustainable location
- Harmful impact upon human rights
- Harmful impact upon character of the area
- Impact upon light

11.0 Parking Provision

11.1 The application scheme proposes 153 no. one and two bedroom apartments and two, three and four bedroom dwelling houses including 334 parking spaces (including those for visitors). The parking provision is set out in the table below:

	Units proposed	Parking per unit	Total
One Bedroom Apartment	10	1	10
Two Bedroom Apartment	12	2	24
Two Bedroom FOG	10	2	20
Two Bedroom House	42	2	84
Three Bedroom House	60	2	120
Four Bedroom House	19	2	38
Visitor Parking			38
TOTAL			334

11.2 Disabled parking is provided for the wheelchair units at plots 120 and 130 as shown on the detailed layout plan. Further to this, cycle parking is provided.

12.0 Accessibility

12.1 It is noted the affordable housing element meets the enhanced accessibility standard of Part M4 cat 2 (Building Regulations 2015) in lieu of lifetime homes, in accordance with the requirements in DP12 (Development Policies 2014). This is to be welcomed.

13.0 Open Space Provisions

13.1 As can be seen from the submitted Public Open Space plan, this scheme proposes a central area of public open space and then a number of small sections of incidental open space. Together they add up to over 10% of the site area. It must also be noted that the scheme is affording additional pedestrian access points to the proposed 'Outer Colchester Orbital' which is located to the south of the site. This will be discussed in the report but is held to have significant public benefit.

14.0 Air Quality

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

15.0 Planning Obligations

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

Affordable Housing:

The proposed scheme will deliver 46 dwellings (36AR&10SO)

Accommodation Schedule with affordable housing requested as follows: -

Dwelling Type	No	AR	SO
1 Bed Flat	11	8	3
1 Bed FOG	1	1	0
2 Bed Flat	8	4	4
2 Bed FOG	4	4	0
2 Bed House	7	7	0
3 Bed House	11	8	3
4 Bed House	4	4	0
	46	36	10

Currently, the council would support the current mix. As per policy 30% of the development needs to be provided which is met. The tenure mix should be no less than 80% affordable rent and no more than 20% shared ownership which has also been met.

We would request that the 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 DP12 (Development Policies 2014).

To note the council preference would be for the two 1B2P(AR) to be designed to meet Part M4 Cat (3) (2) (a) or Part M4 Cat 3 (2) (b).

NHS - £93,470.08

Contribution towards Shrub End Medical Surgery part of Colchester Medical Practice

Archaeology – £17,553

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

£2,400 for an interpretation panel

£753 for enhancement of the Colchester HER

£348 will be required if no archaeological remains are affected by the development, to integrate the information from the archaeological investigations into the HER.

Highways – Works conditioned and delivered either as part of the site or by a s278 agreement

1. Upgrade bus stops to ECC specification (details to be agreed with local planning authority prior to comment of development)
2. A Toucan crossing in Berechurch Hall road and associated cycleway/footways
3. A cycleway/footway along Camulodunum Way between Berechurch Hall road and St Michael's Primary School & Nursery (details to be agreed with the local planning authority prior to commencement of development)
4. Residential Travel Information Packs in accordance with ECC guidance.

Communities – £363,561.53

1. 30th Colchester Scout Hut – To replace current wooden building with new brick building and improve access route from main road to car park.
2. St Cedd's Community Hall – Upgrading works consisting of Extension to building to create additional space, car park requires extending, replacement of dance floor and kitchen requires upgrading.
3. Shrub End Social Centre - to offer more services £70K is requires to complete existing projects.
4. 34th Colchester Scout Hut - requires an extension to current building along with upgrading works to heating and wiring. Quotes to be obtained.
5. Gosbecks Visitor area - Creation of new visitor community space. Work with CIMS/Archaeological teams to establish if any remaining funds exist.

Parks & Recreation - £478,790.91

Offsite - £408,191.84

Ward 65% - £265,324.70 – West End Sports Ground Improvements to tennis courts/lighting and access facilities - £150,000.00

Gosbecks Archaeological Site improvements to interpretation boards and drainage/car park improvements - £115,324.70.

Borough 35% - £142,867.14

Improvements to Leisure World/Northern Gateway - £47,622.38

Castle Park - £47,622.38

Colchester Orbital Projects £47,622.38

£70,599.07 Maintenance Sum based on 25years

POS £8,985.07

Leap £61,614.00

Transportation –

Projects -

1. development must be connected to the existing and planned cycle network therefore a contribution, or by way of a S278, will be required to extend the segregated routes from the eastern end of the site to link with the Garrison route at Berechurch Road and from the western end of the site to join Layer Road (and LCWIP route) This is in accordance of ECC's CCAP, and CBC's CCDS adopted SPD.

2. 2x cycle and pedestrian crossings are provided across Berechurch Hall Road and one crossing of Berechurch Road to link the Garrison cycle route

3. the speed limit on Berechurch Hall Road is reduced to 30 mph

Note - The emerging local plan states 'New bus stop provision to service the site and improve sustainable transport links to Colchester town centre'. The site is not on or near a regular bus route, therefore should a new service be provided? Bus route which has a frequent service are more than 400m away. ECC to advise.

Officer response: It is not considered the applicant can deliver item 1 within highway and/or land under their control. It is also considered this would fail the CIL tests in terms of being reasonable in scale etc. - as confirmed by ECC. In relation to item 2, the ECC recommendation includes a Toucan crossing in Berechurch Hall Road and connecting footway/cycleways on both sides of it. ECC confirm the main desire line for pedestrians and cyclists would be north-south towards the town centre and other services and facilities within the built-up area of Colchester. In relation to item 3, the speed limit in the vicinity of the proposal site is already 30 mph. ECC recommendation deals with bus stops. Given the proposed number of dwellings, in terms of CIL, it is considered a new bus service would be unreasonable in scale.

16.0 Report

The Principle of Development

Introduction

- 16.1 The proposal for 153 dwellings on land at Berechurch Hall Road is on land which is outside of the currently adopted settlement boundary in the adopted local plan. The proposed site forms part of an allocation in the Emerging Local Plan (Policy SC1 - South of Berechurch Hall Road).
- 16.2 The planning policy approach to the proposal reflects the Council's current position in the plan-making process where both an adopted and an emerging local plan are relevant. The relationship of the proposal to each of those Plans and the compliance of relevant adopted and emerging policies with the 2021 NPPF are accordingly key variables in assessing the 'planning balance'.
- 16.3 It is considered that the fundamental principles of both the Adopted and Emerging Local Plans are compliant with the new NPPF. The analysis below will consider whether there are any relevant non-compliant elements of CBC policy with the NPPF that justify a reduction in the weight to be given to the policy in assessing the planning balance in this case. For the Emerging Local Plan, the following analysis reflects the NPPF criteria on the weight to be given to policies, which depends on the stage of preparation of the plan; the extent to which there are unresolved objections to relevant policies; and the degree of consistency of the relevant policies to the Framework (see paragraph 48).

Adopted Local Plan

- 16.4 The NPPF continues to support the Policy approach in the Adopted Local Plan in principle, in respect of the key policies on settlement hierarchy relevant to this proposal, SD1 and ENV1. As the Council is able to demonstrate a 5-year housing land supply these policies are relevant to the decision making on this proposal. Policy SD1 accords with Paragraphs 10-12 of the 2021 NPPF which provide for a presumption in favour of sustainable development. Policy SD1 is consistent with the NPPF's approach to decision-taking which entails approving proposals that accord with the Local Plan unless material considerations indicate otherwise, and which involves the LPA working proactively with applicants. It is noted, however, that the housing and jobs target provided in the policy no longer remain current. Whilst the supply figure itself may be out of date the principle of the overarching spatial strategy and the settlement hierarchy are not and as such weight should still be afforded. The requirements of policy ENV1 for the conservation and enhancement of Colchester's natural and historic environment is in accordance with paragraph 174 which clearly recognises the intrinsic character and beauty of the countryside and demonstrates that planning policies should contribute to and enhance the natural local environment via protection, maintenance, and preventing unacceptable risk.

- 16.5 Based on the protection afforded to land outside Settlement Boundaries (SBs) and outside of the most sustainable locations in SD1 and ENV1, the proposal is not considered to be compliant with these adopted policies.

Emerging Local Plan (ELP)

- 16.6 The Council is now well advanced in preparing a new Local Plan. The Emerging Local Plan was submitted to the Planning Inspectorate in October 2017. The Emerging Local Plan includes a Shared Strategic Section 1 (with Braintree and Tendring District Councils) and a Section 2 which includes Colchester specific policies and allocations. The Local Plan has been subject to two separate examinations, as noted above, Section 1 was adopted in February 2021.
- 16.7 Section 1 of the eLP was adopted in February 2021 and carries full weight. Consequently Policies SD1, H1 and CE1 of the CS are now partially superseded by Policies SP3, SP4 and SP5 of the Section 1 Local Plan in relation to the overall housing and employment requirement figures but the hierarchy elements remain valid. The remaining elements of Policies SD1, H1 and CE1 are not superseded and remain relevant for decision-making purposes. Core Strategy Policy SD2 is now fully superseded by Policy SP6 Infrastructure and Connectivity of the Section 1 Local Plan.
- 16.8 The Section 2 Local Plan is currently subject to examination with hearing sessions held for a two-week period in April 2021. The Council are currently awaiting further correspondence from the Inspector regarding proposed modifications to enable a six-week public consultation to begin in Summer 2021. Adoption of Section 2 is anticipated in Winter 2021.
- 16.9 Plan preparation is therefore at a very advanced stage and the Council will reference relevant consultation responses and conformity with the NPPF to explain its conclusions concerning the weight to be attached to specific policies in the Section 2 Emerging Local Plan in accordance with NPPF paragraph 48.
- 16.10 The site subject to this application, forms part of an allocation in the Emerging Local Plan as outlined in Policy SC1. This is set out below:

Policy SC1: South Colchester Allocations

Allocations as shown on the policies map will be safeguarded for residential uses. In addition to the requirements of Policy PP1, proposals will be required to satisfy the Local Planning Authority with regard to the site specific requirements as identified below.

South of Berechurch Hall Road

Development of this site will be supported where it provides:

- 1. Up to 150 new dwellings of a mix and type of housing to be compatible with the surrounding development;*
- 2. Contributions to/delivery of improvements to the local road network;*
- 3. New bus stop provision to service the site and improve sustainable transport links to Colchester town centre; and*

4. *A comprehensive approach to development of the three separate parcels of land which together make up the allocation.*
- 16.11 The key policies in the ELP relevant to this scheme are considered to be highly consistent with the NPPF and should therefore be afforded considerable weight. The final issue to be taken into account when considering the weight to be afforded to the ELP is the level of unresolved objection to the relevant policies.
- 16.12 Accordingly, further consideration of the issues raised in representations to Policy SC1 is necessary to guide the judgement of the weight which should be given to the emerging policies in this case.
- 16.13 Two representations were received relating to the Berechurch Hall Road allocation specifically, and two broader representations which relate to SC1 as a whole. There were seven representations in total to SC1, but the remaining three relate to the now approved Gosbecks Phase 2 scheme and are not relevant to this proposal. These representations are summarised below:

Policy SC1 South Colchester Allocations (South of Berechurch Hall Road)

- *Area of land to north of Earlswood Wood and area of land south of Berechurch Hall Road and west of Selby Close are incorrectly shown as public open space. These are areas within the Merville Barracks;*
- *No measures shown to alleviate increased volume of traffic generated in Shrub End and connections to A134 and A12, also notably at Layer Road junction;*
- *Partnership formed to promote and bring forward Berechurch Hall Road allocation, with a number of studies being commissioned and discussions begun to progress towards submission of a planning application. A draft housing layout has begun, with intention of continuing to develop layout informed by ongoing technical assessments. Suggestion that allocation may be able to accommodate additional units. Delivery of entire development will be possible within the next 5 years;*
- *Further technical assessments undertaken which demonstrate there are no insurmountable problems in delivering the site. Scope to extend allocation to the south to address 200 unit shortfall in trajectory following appeal decision on former Sainsbury's site at Tollgate Village. Additional land could be brought forward in the event of delays in delivery at Middlewick Ranges.*

- 16.14 As will be set out in detail below, following negotiation the provision of 46 affordable dwellings to meet the 30% affordable housing contribution as outlined in Policy DM8 is highly welcomed. The proposal funding towards the Colchester Orbital (via s106), which was previously considered a missed opportunity is also welcomed. Further to this, an informal footpath is proposed which provides pedestrian links to the south of the site and it to be made available for public use.

- 16.15 The proposal includes an access link to the adjacent allocation. As outlined in Policy SC1 clause ii) and iii), there is a requirement for a contribution to improvements to the local road network and the provision of a new bus stop respectively. As statutory consultee to this application, no objection has been received from the Highway Authority and they have requested:
1. two priority junctions off Berechurch Hall Road to provide access to the proposal site,
 2. two new bus stops in Berechurch Hall Road at and/or in the vicinity of the proposal site or upgrade to Essex County Council specification the two bus stops which would best serve the proposal site (details shall be agreed with the Local Planning Authority prior to commencement of the development),
 3. a Toucan crossing in Berechurch Hall Road, and
 4. a footway/cycleway between the toucan crossing in Berechurch Hall Road and existing footway/cycleway in Camulodunum Way at St. Michael's Primary School & Nursery.
- 16.16 The weight that the Emerging Plan and policy SC1 can be afforded is one for the decision maker to weigh in the planning balance. In this instance the objections to the policy are held to be surmountable and therefore officers consider that significant weight can be given to policy SC1. On balance, the proposal is considered to be acceptable in principle for the reasons outlined above.

Design and Impact on the Character of the Area

- 16.17 In considering the wider design impacts of the proposal, Core Strategy policy UR2 and Development Plan policy DP1 are relevant. These policies seek to secure high quality and inclusive design in all developments, respecting and enhancing the characteristics of the site, its context and surroundings. Core Strategy policies H2 and H3, relating to housing density and housing diversity are also relevant.
- 16.18 This site has been the subject of a number of detailed designed meeting with the Council's in-house Urban Design officer.
- 16.19 The house types proposed have a strong traditional design language, utilising Essex Design Guide principles. External materials are from the local vernacular palette, including facing brickwork and weatherboarding, along with grey plain tiles.
- 16.20 In terms of wider impact, the character of the site is semi-urban given the built form to the north and west of the application site. There remain open fields to the south of the application site. The proposal is not considered to disrupt this character as there would still be a feeling of spaciousness to the south of the application site. The proposal is, therefore, considered to be compatible with its surroundings in terms of housing density.
- 16.21 In terms of layout, this proposal has been the subject of extensive discussions over a number of years with Council officers (and in particular the Council's in-house Urban Designer). The layout has evolved considerably since the first

iteration and is now a scheme that is held to successfully respond to the site's broadly linear shape. The proposal includes character areas and the areas of open space are located to the eastern, southern and western parameters of the site. The layout has also taken the rest of the allocation into account and this will eventually be served via an access through the smaller land parcel to the west (as detailed within the submitted drawings. To be secured via the s106). The existing access serving the smaller allocation to the west will eventually be closed off and the whole allocation will be served by the access route provided in this application.

- 16.22 This scheme has funding allocated towards the proposed 'outer orbital route' which is a wider strategic aspiration for the Council, via the s106 agreement. Public pedestrian access to the informal footpath on site has been secured. The futureproofing and access of the route has been secured via the s106.
- 16.23 In terms of amenity provision, generally gardens are well in excess of adopted standards. The scheme has been amended since submission in order to increase the amenity provision. On balance, all units have good quality, usable areas.

Amenity

- 16.24 Development Plan policy DP1 requires all development to be designed to a high standard that protects existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, and daylight and sunlight. These principles are emphasised in Development Plan policy DP12 which relates to dwelling standards and focuses on the avoidance of adverse overshadowing, ensuring acceptable levels of daylight to all habitable rooms (with no single-aspect north-facing homes), acceptable levels of privacy, continued maintenance of buildings and external spaces, the adaptability of internal layouts, parking standards, and accessible bin and recycling storage areas.
- 16.25 The proposal is not in close proximity to existing residential properties so there are no concerns regarding its impact on the private amenity of existing residents. The closest are located to the north or to the west of the site, however these are considered to be sufficiently distanced. There may be some instances of overlooking within the development itself. That being said, instances where overlooking could occur between properties is limited and is not considered to be a significant issue to justify refusal of planning permission.
- 16.26 In terms of the remaining requirements of Development Policy DP12, it is considered that the proposed dwellings would be afforded adequate levels of daylight and sunlight. Maintenance of the buildings and external space can be secured via condition. Parking standards are discussed in the subsequent section 'Highway safety and parking provisions'.

Amenity Space and Public Open Space

- 16.27 Development Plan policy DP16 requires all new residential development to provide private amenity space to a high standard which has a sufficient level of

privacy and is secure and usable. Standard garden sizes are set out in the policy, with two- and three-bedroom houses requiring garden sizes of at least 50sqm 60sqm respectively, and flats requiring a minimum of 25sqm per flat to be provided communally. In terms of public open space, policy DP16 requires all new development to provide at least 10% of the gross site area as usable open space.

- 16.28 The proposal includes amenity provision which is considered to be compliant with the aforementioned policy. Communal space is considered to be policy compliant, such as the formal gardens and walled gardens, as is the more 'public' open space (parkland and woodland to the west) which equates to 10% of the site area.
- 16.29 When read as a whole, the proposal is considered to provide sufficient amenity space.

Highway Safety and Parking Provisions (including cycling)

- 16.30 Core Strategy policy TA4 seeks to make the best use of the existing highway network and manage demand for road traffic. The policy makes it clear that new development will need to contribute towards transport infrastructure improvements to support the development itself and to enhance the broader network to mitigate impacts on existing communities. Development Plan policy DP17 requires all development to maintain the right and safe passage of all highways users. Development Plan policy DP19 relates to parking standards in association with the Vehicle Parking Standards SPD.
- 16.31 The Highway Authority has confirmed that they have no objections to the proposal on highway safety grounds subject to conditions that secure the provision of two priority junctions, a toucan crossing and bus stops.
- 16.32 It is important to note that this scheme has an access point on Berechurch Hall Road that sits directly adjacent to the smaller allocation to the west. This means that the access for the smaller allocation can eventually be closed off by bollards and the development will be served by the access from the application site (pedestrians and cyclists will still be able to use this access). The Highway Authority have assessed the scheme and, as amended, it has now reached a point where it is an adoptable layout.
- 16.33 The scheme provides parking as set out in the relevant section of the report above. It is considered that the scheme has sufficient parking to serve the development and will not cause materially harmful on-street parking, either within this site or elsewhere.

Off-site Highway Works

- 16.34 The Highway Authority have requested a number of off-site works to mitigate the impact of this proposal. They require the applicant to deliver two new bus stops in Berechurch Hall Road at and/or in the vicinity of the proposal site or upgrade to Essex County Council specification the two bus stops which would best serve the proposal site (to be agreed with the LPA), a Toucan crossing, a footway/cycleway between the toucan crossing in Berechurch Hall Road and existing footway/cycleway in Camulodunum Way at St. Michael's Primary School & Nursery. The applicants are happy to provide these works to mitigate the impact of this development (as required by the CIL Regulations).

Flood risk and drainage

- 16.35 Development Plan policy DP20 states that development will only be supported where it minimised the risk of increased flooding both within the development boundary and off site in Flood Zones 2 and 3. Sustainable Drainage Systems (SuDS) are identified as being important to manage surface water runoff rates.
- 16.36 The site is located within Flood Zone 1 which has a very low risk of flooding from rivers or the sea (less than 0.1%) according to Environment Agency Long Term Flood Risk Information. The site is also outside any areas at risk of flooding from reservoirs. The site is not, therefore, considered to be susceptible to flooding.
- 16.37 In terms of surface water flooding, the scheme would result in an overall increase in structures and hard surfacing (the new build and associated pathways/driveways). Essex County Council, as Lead Local Flood Authority, have confirmed that they have no objections to the proposal in terms of surface water flood risk subject to recommended conditions. These recommended conditions are suggested to be imposed on any planning consent.
- 16.38 In terms of foul drainage, Anglian Water have confirmed Colchester Water Recycling Centre has capacity for the foul drainage flows and that the sewerage system has capacity to accommodate the proposal.

Ecology

- 16.39 Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity and a core principle of the 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. New developments are required to be supported by ecological surveys where appropriate, minimise the fragmentation of habitats, and maximise opportunities for the restoration, enhancement and connection of natural habitats.
- 16.40 This site has been subject to onsite assessment from a qualified ecologist and a Phase 1 Ecology report has been provided. The site was subject to Phase 2 surveys during 2017 and 2018 by Robson Ecology Ltd (Robson Ecology, 2018) and included:

- Badger;
- Bats – roosting (ground level tree assessment) and activity;
- Birds – breeding and wintering;
- Dormice;
- Reptiles presence / likely absence; and
- Small and medium-sized mammals.

- 16.41 An updated preliminary ecological assessment (PEA) was undertaken by SES on the 7 January 2020 to evaluate the habitats on site and determine if there have been any significant changes in the status of protected species. A Habitats Regulations Assessment (HRA) report was also completed (SES, 2020).
- 16.42 The badger survey confirmed the presence of one main sett and two subsidiary setts on site. The sett monitoring survey confirmed that the main sett and both subsidiary setts were considered active.
- 16.43 Bat activity was considered low across the site, with most activity being limited to the field boundary, particularly the southern boundary by common and soprano pipistrelles. A total of five species were recorded during the activity surveys, common pipistrelle, soprano pipistrelle, noctule, brown long-eared and serotine *Eptesicus serotinus*. Common pipistrelles were the most common species observed. July recorded the highest number of passes. The majority of the observations were in direct association with foraging activity along the hedgerows. the bat assemblage is considered to be of importance at the Local level for bat species.
- 16.44 A number of mature oak trees along the southern boundary could support roosting bats. These trees are to be retained as part of the development. The roost potential, given the presence of Barbastelle in spring and autumn, is considered of Local value.
- 16.45 The breeding bird surveys recorded a total of 25 species. Breeding species included four species of conservation concern (Eaton *et al.*, 2015) (BoCC). There were four red-listed species recorded: song thrush *Turdus philomelos*: was recorded on all survey visits and is likely to breed within the site; starlings *Sturnus vulgaris* were recorded in small numbers foraging on the shorter grassland and small flocks were recorded within residential gardens to the north of the site boundary; house sparrow *Passer domesticus* was recorded adjacent to the northern site boundary; and skylark *Alauda arvensis* was recorded within the arable area to the south of the site boundary, but not within the site itself.
- 16.46 A total of 30 species were recorded using the site; all species were common and widespread in Essex and elsewhere in the UK. Although some were listed as BoCC they were all typical of lowland farmland, woodland and urban fringe habitats and the assemblage is considered to be unexceptional and of low conservation value. The majority of the bird assemblage was associated with the hedgerows within and around the site. This assemblage included seven species listed as red birds BoCC and four amber BoCC. The populations of all of these species are small and were considered to be of site importance. The wintering bird community is hence regarded as being of Site value.

- 16.47 No reptiles were recorded within the site. However, within the adjoining western boundary three species of reptiles were recorded: common lizard, slow worm and grass snake. Peak daily counts of reptiles were: two common lizards (adults); three grass snakes (two adults); and four slow worms (three adults). This resulted in a 'low' population of grass snakes (peak count of one adult); 'low' population of slow worms (three adults); and a 'low' population of common lizards (maximum of 3 adults) recorded within the immediate wider area. The offsite habitat was considerably more suitable for reptiles in the form of scrub thickets and grassland. Although no reptiles were recorded on site, the reptiles within the western boundary habitats may colonise the site in small numbers. Hence, reptiles within the site are considered possibly present at the boundaries of site and being of Site value.
- 16.48 The hedgerows and semi-improved grassland habitats are considered to provide suitable foraging habitat for the European hedgehog. The hedgerows on site are also considered to provide sheltering habitat. Although no evidence or sightings of hedgehog were observed while on site during the surveys, it is still considered possible for hedgehogs to utilise the site.
- 16.49 An active main sett was recorded along the eastern boundary of the site and will be retained as part of the development. However, the two outlier/subsidiary setts are to be lost to development and as such will need to be closed under a Natural England license. As badgers are prolific sett-builders, it is recommended that an update badger survey is undertaken no less than three months before construction takes place to ensure all potential setts have been considered. Provision of the following suitable mitigation measures during construction will further mitigate adverse impacts upon badgers during the construction phase, these provisions include:
- The securing of the site perimeter to restrict access to contractors beyond the site boundary;
 - The covering of trenches at night, with scaffold planks left as a means of escape if trenches can't be covered;
 - The storing of chemicals in sealed compounds;
 - Suitable ecological briefing to all contractors and site staff identifying all ecological constraints; and
 - Regular monitoring of any setts and site by an ecologist.
- 16.50 During the operational stage, there will be large expanses of optimal sett-building habitat available to badgers on site in the form of the retained hedgerows. The proposed development will include the improvement of the hedgerows which could include more fruiting trees, thus providing additional food sources for badgers.

- 16.51 Through implementing the recommended mitigation and enhancement within the submitted ecological report, it is considered that all significant adverse impacts from the proposed development upon designated sites, habitats and protected species will be adequately mitigated and result in a positive outcome for biodiversity. On balance, the proposal is considered to be acceptable in this regard.
- 16.52 The scheme proposes up to 153 dwellings on a site within an identified Zone of Influence (Zol) of a number of European / internationally designated sites. The nearest European designated site is Abberton Reservoir SPA and Ramsar site which is located approximately 2km south of site. Abberton Reservoir SPA and Ramsar site is designated for its waterfowl assemblage with 13 species occurring in internationally important numbers. The three remaining European designations are situated greater than 5km from the site boundary and are Essex Estuaries (SAC), Colne Estuary (Mid Essex Coast Phase 2) (SPA, Ramsar) and Blackwater Estuary (Mid Essex Coast Phase 4).
- 16.53 The proposed development will provide 153 residential units. At the local average of 2.3 persons /household (UK Census Data, 2011) this is 352 persons. Natural England (NE) advice (NE 2008) on the extent of Suitable Alternative Greenspace (SANGS) in relation to the Thames Basin Heaths SPA is that there should be a provision of 8ha per 1,000 of new population. This equates to a greenspace provision of $352 \times 8/1000 = 2.82\text{ha}$. This is more than that required as mitigation for effects on coastal designated sites which are used by wintering waterbirds where access is often limited to public rights of way along, for example, sea walls, as the SANGS provision for the Thames Basin Heaths SPA is to mitigate effects on ground-nesting birds that are highly sensitive to human disturbance and especially to dogs off lead.
- 16.54 The area of open space/greenspace is estimated to be approximately 0.59ha as shown on the masterplan. Proposed footpaths permit a circular route around the site of approximately 1km. The site is located close to accessible green space on nearby Army land. These resources together will provide sufficient SANGS to offset the estimated increase in dog walking and associated disturbance from the development at the site in relation to coastal designated sites.
- 16.55 Given the scale of development, its location on the southern fringe of Colchester adjacent to large areas of existing residential, the SANGS provision within the site and the immediate local access to greenspace, the effects of the development alone are therefore considered fully mitigated.
- 16.56 Mitigation in the form of a contribution to the Essex Coast RAMS is agreed to be provided as off-site mitigation to ensure there are no increased recreational pressures on the coastal protected areas in combination with other plans and projects. The s106 agreement secures the payment of the contributions which are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development, and in accordance with Regulation 122 of the CIL Regulations.

Landscaping

- 16.57 Core Strategy Policy ENV1 seeks to conserve and enhance Colchester's natural and historic environment, countryside and coastline, with Development Plan Policy DP1 requiring development proposals to demonstrate that they, and any ancillary activities associated with them, will respect and enhance the character of the site, context and surroundings in terms of (inter alia) its landscape setting.
- 16.58 In this instance, the proposals have been revised since submission in order to address concerns raised by the Landscape Planning Advisor. Following discussions, the landscape content/aspect of the strategic landscape proposals submitted principally under the Landscape & Visual Impact Assessment are considered to be acceptable. The Landscape Advisor does not object to the proposal and landscape conditions are considered to be suitable to mitigate the impact of the proposal.

Environmental and Carbon Implications

- 16.59 The Council has declared a Climate Emergency and has committed to being carbon neutral by 2030. The purpose of the planning system is to contribute to the achievement of sustainable development as defined in the National Planning Policy Framework. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are economic, social and environmental objectives.
- 16.60 This report has taken into account the Climate Emergency and the sustainable development objectives set out in the NPPF. The site is located in a sustainable location that the Council has allocated for future residential development in the Emerging Local Plan. There are good connections to bus to the town centre. There are also off-road cycle links close to the site that run through/adjacent to the Garrison also towards the town.
- 16.61 In addition, Environmental Protection have suggested EV charging points to be secured via condition and the applicants have agreed to a condition requiring approval of a scheme for EV charging. This will help facilitate the uptake of ultra-low emission vehicles. It is therefore considered that on balance the application is considered to represent sustainable development.

Contamination:

- 16.62 Development Plan policy DP1 requires new development to undertake appropriate remediation of contaminated land. The Framework (paragraph 174) requires the planning system to contribute to and enhance the natural and local environment by (inter alia) preventing both new and existing development from contributing to or being put at an unacceptable risk from or being adversely affected by unacceptable levels of soil pollution. Planning decisions should ensure that new development is appropriate for its location and the potential sensitivity of the area or proposed development to adverse effects from pollution should be taken into account.

- 16.63 The proposal is for residential development, which would be classed as a 'sensitive receptor' should the site be contaminated. Under the previous application the Phase 1 Desk Study and Preliminary Risk Assessment identified some potential contamination risks and recommended an intrusive investigation, including ground gas and groundwater monitoring, in order to better assess the risk. These investigations have now been undertaken and further information was submitted under the conditions of the previous permission. As a result, the Council's Contaminated Land Officer is satisfied that the development can be undertaken safely in terms of contamination risk. A condition to cover the procedure should any unexpected contamination be encountered during the development is considered to be necessary.

17.0 Conclusion and Planning Balance

- 17.1 National policy requires planning to be genuinely plan-led. The proposal is considered to accord with the advanced emerging local plan but is contrary to the adopted Local Plan as the site is outside the current settlement boundary of Colchester. The National Planning Policy Framework (the Framework) makes it plain that the purpose of the planning system is to contribute to the achievement of sustainable development and identifies three dimensions to sustainable development: economic, social and environmental. In respect of the first of these, the current proposal would provide economic benefits, for example in respect of employment during the construction phase, as well as support for existing and future businesses, services, and facilities by introducing additional residents that would make use of them and provide future spend in the local economy.
- 17.2 The social role of sustainable development is described as supporting strong, vibrant and healthy communities by providing the supply of housing required to meet the needs of present and future generations and by creating a high-quality built environment with accessible local services that reflect the community's needs and support its health, social and cultural well-being.
- 17.3 The proposal is considered to meet these objectives as it would contribute towards the number of dwellings required to support growth in the south of Colchester, including balanced communities through the delivery of 30% affordable housing, and is located within walking distance of a number of key local services and facilities required for day-to-day living.
- 17.4 In respect of the third dimension (environmental), the proposal will provide housing in a sustainable location so that future residents would not be wholly reliant on private car, being able to walk, cycle or use public transport to access necessary services and facilities, thereby minimising environmental impacts; ecological enhancements can also be secured as part of the development through enhanced habitats.
- 17.5 There is also sufficient evidence to be confident that overall, the development would not cause significant harm to the amenity of nearby residents or have a severe impact upon the highway network. The scheme

DC0901MWeV9.3

as amended is held to constitute acceptable design. Whilst the proposed development would have an impact on the existing character of the site (i.e., by introducing built development where there is none currently) through a general suburbanising effect on the wider setting, which carries some weight against the proposal, the positive economic and social effects, as well as the sustainability of the proposal would weigh in favour of this scheme as does the significant weight afforded to the supply of new homes in the Framework.

- 17.6 In conclusion, it is considered that the benefits of the scheme convincingly outweigh any adverse impacts identified and the planning balance tips in favour of an approval.

18.0 Recommendation to the Committee

- 18.1 The Officer recommendation to the Committee is for:

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

1. ZAA - Time Limit for Full Permissions

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

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

2. ZAM - *Development to Accord With Approved Plans*

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

Detailed Layout PH-154-003 revision D

Masterplan PH-154-002 revision D

Flat Block A Floor Plans PH-154-050 revision C

Hard Surfacing Plan PH-154-010 revision B

Arboricultural Impact Assessment AIA Rev B /Berechurch Rd/23-07-21 revision B

Materials Plan PH-154-004 revision C

Detailed Air Quality Assessment 15120-SRL-RP-YQ-02-P1 dated 16 July 2021

Landscape Concept Masterplan JBA 19/158-SK01 revision F

Street Scenes A-A and B-B PH-154-070 revision A

Street Scenes C-C and D-D PH-154-071 revision A

External Railing Details PH-154-066

External Wall Details PH-154-065

Car Ports PH-154-064

Flat Block C Elevations PH-154-055 revision C
 Flat Block C Floor Plans PH-154-054 revision B
 Flat Block B Elevations PH-154-053 revision C
 Flat Block B Floor Plans PH-154-052 revision C
 Flat Block A Elevations PH-154-051 revision B
 House Type S Plot 118 PH-154-041 revision A
 House Type R PH-154-040 revision A
 House Type Q PH-154-039 revision B
 House Type P PH-154-038 revision B
 House Type N PH-154-037 revision C
 House Type L PH-154-035 revision B
 House Type K3 PH-154-031 revision B
 House Type K2 PH-154-030 revision B
 House Type J PH-154-028 revision B
 House Type H PH-154-027 revision C
 House Type G PH-154-026 revision B
 House Type F PH-154-025 revision B
 House Type E PH-154-024 revision B
 House Type D PH-154-023 revision B
 House Type C PH-154-022 revision B
 House Type B PH-154-021 revision B
 House Type A PH-154-020 revision B
 Character Area Plan PH-154-009 revision A
 Boundary Treatment Plan PH-154-008 revision A
 Refuse and Recycling Plan PH-154-007 revision C
 Tenure Plan PH-154-006 revision B
 Storey Heights Plan PH-154-005 revision B
 Drainage Strategy Sheet 1 28755 / SK6001 version 8
 Drainage Strategy Sheet 2 28755 / SK6002 version 8
 Potential new toucan crossing and footway/cycleway widening
 19199.OS.115.01 revision C
 Potential new toucan crossing and footway/cycleway widening
 19199.OS.115.02
 Potential new toucan crossing and footway/cycleway widening
 19199.OS.115.03
 Substation PH-154-062
 Bin and Cycle Stores PH-154-061 revision A
 Garages Plot 1 PH-154-060
 Ecological Impact Assessment Issue 2 dated 19 March 2020
 Cycle Stores PH-154-063
 Flood risk assessment 28755 revision 2
 Tree survey and constraints plan TCP/Berechurch Hall Road/17-01-20
 Noise assessment (15120-SRL-RP-YA-001-S2-P3)
 Site location plan PH-154-001

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

3. 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 shall include an assessment of significance and research questions; and:

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

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

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development, in accordance with Policy SD1 and ENV1 of Colchester Borough Council's Core Strategy (2008).

4. Non Standard condition - *SUDS

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

- Limiting discharge rates to 1l/s with an outfall orifice diameter of no smaller than 50mm, for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change. All relevant permissions to discharge from the site into any outfall should be demonstrated.
- Provide further details on the receiving ditch network that there is a clear continuous connection to the Roman River and that the flows added will not increase surface water flood risk.

- 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.
- Provide details of what happens and what contingencies are in place for times of pump failure.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy

The scheme shall subsequently be implemented prior to occupation. It should be noted that the full application should 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.

5. Non Standard condition - SUDS

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

Reason: The National Planning Policy Framework states 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.

6. Non Standard Condition - SUDS

No works shall take place until 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 before commencement of works may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

7. Non standard condition - SUDS

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

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

8. Non Standard Condition - SUDS

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

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

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

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

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

10. ZDE - Removal of PD for Open Plan Fences/Walls

Notwithstanding the provisions of Class A of Part 2 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no fences, walls, gates or other means of enclosure, other than any shown on the approved drawings, shall be erected in advance of any wall of the

dwelling to which it relates (including a side or rear wall) which faces a highway (including a footpath or bridleway) unless otherwise subsequently approved, in writing, by the Local Planning Authority.

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

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

Notwithstanding the provisions of Classes A, B and C of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no windows, rooflights or other openings shall be installed above ground floor level within the WALL(S) or roof FACE(S) of the DWELLINGS unless otherwise approved, in writing, by the Local Planning Authority.

Reason: To protect the privacy of adjacent dwellings.

12. Non Standard condition - Detailing

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

Reason: Insufficient detail has been submitted to ensure that the proposed works are of high quality design in the interests of visual amenity.

13. Non Standard Condition - Extracts

No works shall commence (above ground floor slab level) until details of all new extract ducts, vents, grilles and meter housings have been submitted to and approved, in writing, by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

Reason: In the interests of good design and visual amenity.

14. Non Standard condition - Tree and Natural Feature Protection: Protected Areas

No works shall take place until all trees, shrubs and other natural features not scheduled for removal on the approved plans have been safeguarded behind protective fencing to a standard that will have previously been submitted to and agreed, in writing, by the Local Planning Authority (see BS 5837), as shown in the submitted AIA (AIA Rev B /Berechurch Rd/23-07-21 revision B). All agreed protective fencing shall thereafter be maintained during the course of all works on site and no access, works or placement of materials or soil shall take place within the protected area(s) without prior written consent from the Local Planning Authority.

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

15. Non Standard condition - Tree and Hedgerow Protection: General

No works or development shall be carried out until an Arboricultural Method Statement in accordance with BS 5837 as shown in the submitted AIA (AIA Rev B /Berechurch Rd/23-07-21 revision B), has been submitted to and approved, in writing, by the Local Planning Authority (LPA). Unless otherwise agreed, the details shall include the retention of an Arboricultural Consultant to monitor and periodically report to the LPA, the status of all tree works, tree protection measures, and any other arboricultural issues arising during the course of development. The development shall then be carried out strictly in accordance with the approved method statement.

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

16. Non Standard Condition - Car Electric Charging Points

The development hereby approved shall be provided with at least 1 No. electric vehicle (EV) charging point per dwelling with dedicated parking and at a rate of at least 10% provision for unallocated parking spaces. The EV charging points shall be installed prior to the first occupation of their respective dwellings.

Reason: In the interests of sustainability and air quality by encouraging the use of ultra-low emission vehicles.

17. Non Standard Condition - Boundary walls

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

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

18. Non Standard Condition - EMMP

Prior to the commencement of development an Ecological Mitigation and Management Plan (EMMP) including an Implementation Timetable shall be submitted to and approved in writing by the local planning authority. The EMMP shall include, but not be limited to, the proposed mitigation detailed in the submitted Ecological Assessment including the additional survey work identified in the document. The development shall then be carried out and maintained in accordance with the approved EMMP.

Reason: In order to mitigate the impact of the development upon ecology and biodiversity and in the interest of ecological enhancement.

19. Non Standard Condition - Digital

Prior to occupation, appropriate digital connectivity to serve each dwelling shall be provided. The digital connectivity shall then be implemented prior to occupation of the development.

Reason: In the interest of providing high quality digital infrastructure as part of social wellbeing.

20. 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:

- 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.
- 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.

21. 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.

22. 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;

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.

23. 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.

24. ZPE - Limits to Hours of Construction Deliveries/Worker Traffic

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

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No deliveries

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

25. Non Standard Condition - Noise

Where the internal noise levels exceed those stated in the current version of BS8233 with windows open, enhanced passive ventilation with appropriate sound insulating properties shall be provided to ensure compliance with the current version of BS8233 with windows closed and that maximum internal noise levels at night do not exceed 45dBA on more than 10 occasions a night. Where exposure exceeds the noise levels of 60dBLAeq 16 hours (daytime, 07:00-23:00, outside), 55dBLAeq 8 hours (night, 23:00-07:00, outside) significantly enhanced ventilation will be required. In addition, noise levels in external amenity spaces shall not exceed 55dBLAeq 16 hours, daytime and the mitigation measures detailed in the report shall be implemented. The development shall thereafter be carried out in accordance with any details approved, and shall be retained in accordance with these details thereafter.

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

26. ZCG - Communal refuse Areas

Prior to the first occupation of the dwellings and units benefitting from communal storage areas, details of the management company responsible for the maintenance of communal storage areas and for their maintenance of such areas, shall be submitted to, and agreed in writing by, the Local Planning Authority. Such detail as shall have been agreed shall thereafter continue unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

27. 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 DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

Reason: 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.

28.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.

29.Non Standard Condition - Highways

Prior to commencement of the development a construction traffic management plan, to include but shall not be limited to details of

vehicle/wheel cleaning facilities within the site and adjacent to the egress onto the highway, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the agreed plan

Reason: To protect highway efficiency of movement and safety

30. Non Standard Condition - Highways

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

- a) Two priority junctions off Berechurch Hall Road to provide access to the proposal site as shown in principle on the planning application drawings
- b) Two new bus stops in Berechurch Hall Road at and/or in the vicinity of the proposal site OR upgrade to Essex County Council specification the two bus stops which would best serve the proposal site (details shall be agreed with the Local Planning Authority prior to commencement of the development)
- c) A toucan crossing in Berechurch Hall Road as shown in principle on planning application drawing number 19199.OS.115.01 Rev. C
- d) A footway/cycleway between the toucan crossing in Berechurch Hall Road and existing footway/cycleway in Camulodunum Way at St. Michael's Primary School & Nursery (details shall be agreed with the Local Planning Authority prior to commencement of the development)
- e) A Travel Plan and Residential Travel Information Packs both in accordance with Essex County Council guidance

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

31. Non standard Condition - Highways

Within 28 days of completion of the development, the easternmost priority junction off Berechurch Hall Road shall be removed in its entirety and replaced with a size 3 turning head as shown in principle on planning application drawing number PH-154-003 Rev. D

Reason: To protect highway efficiency of movement and safety.

32. Non Standard condition - Parking

Prior to the first occupation of each dwelling and unit, the vehicle parking area indicated on the approved plans and cycle parking, including any parking spaces for the mobility impaired, shall have been hard surfaced, sealed, marked out in parking bays and made available for use to the satisfaction of the Local Planning Authority. The vehicle parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles that are related to the use of the development.

Reason: To ensure that there is adequate parking provision to avoid on-street parking of vehicles in the adjoining streets in the interests of highway safety.

33. Non Standard Condition - Retaining Garage for Parking

The garage accommodation forming part of the development shall be retained for parking motor vehicles at all times and shall not be adapted to

be used for any other purpose, including other uses ancillary to the residential use, unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: To retain adequate on-site parking provision in the interest of highway safety.

19.1 Informatives

19.1 The following informatives are also recommended:

1. ZT0 – Advisory Note on Construction & Demolition

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

2.ZTA - Informative on Conditions Stating Prior to Commencement/Occupation

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

3.ZTB - Informative on Any Application With a Site Notice

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

- The above requirements should be imposed by way of negative planning conditions or planning obligation agreements as appropriate
- 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
- Prior to any works taking place in the highway the developer should enter into an agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works
- All or some of the above requirements may attract the need for a commuted sum towards their future maintenance (details should be agreed with the Highway Authority as soon as possible)
- 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

Appendix 1 HRA record

Habitat Regulation Assessment (HRA) Record

- >100 dwellings

Colchester Borough Council

Application details	
Case officer	Eleanor Moss
Application reference	202025
Application description	Residential Development (153 dwellings)
Application address	Berechurch Hall Road, Colchester
HRA Stage 1: screening assessment	
Test 1 – the significance test: Based on the development type and proximity to European designated sites, a judgement should be made as to whether the development constitutes a 'likely significant effect' (LSE) to a European site in terms of increased recreational disturbance ¹	
The whole of Colchester Borough is within the zone of influence (Zoi) for the Essex Coast RAMS.	
The proposal is for 100+ dwellings and it is anticipated that such development is likely to have a significant effect upon the interest features of Habitat sites [Colne Estuary SPA and Ramsar site, Blackwater Estuary SPA and Ramsar site, Dengie SPA and Ramsar site, Stour and Orwell Estuaries SPA and Ramsar site (south shore) and Essex Estuaries SAC] through increased recreational pressure, when considered either alone or in-combination with other plans and projects. Therefore, an appropriate assessment is needed to assess recreational disturbance impacts. The qualifying features of these sites are set out at the end of this report.	
HRA Stage 2: Appropriate Assessment	

Test 2 – the integrity test: The applicant must provide sufficient evidence to allow the Appropriate Assessment to be made, which is the stage at which avoidance and/or mitigation measures can be considered

The appropriate assessment will need to consider both alone and in-combination effects and incorporate bespoke mitigation measures into the proposal. The following are examples of bespoke mitigation measures that may be necessary, in addition to a contribution to the Essex Coast RAMS:

- High-quality, informal, semi-natural areas
- Circular 1km dog walking routes within the site and/or with links to surrounding sites
- Dedicated ‘dogs-off-lead’ areas
- Signage/information leaflets to householders to promote these areas for recreation
- Dog waste bins
- A commitment to the long term maintenance and management of these provisions

A contribution in line with the Essex Coast RAMS should be secured to address likely significant effects in-combination.

Summary of the Appropriate Assessment

Summary of recreational disturbance mitigation package:

The applicants have provided a shadow HRA which the LPA is broadly in agreement with.

The RAMS tariff for 2021/22, which will apply from 1 April 2021, is £127.30 per dwelling

A contribution to the Essex Coast RAMS at the following amount will be secured via the Legal Agreement:

153 dwellings x £127.30 = £19,476.90

The shadow HRA report provided by the applicants also suggests the following provisions will be provided in addition to the contribution:

Given the distance of all European designated sites from the site, potential direct effects from the construction and operation of the site upon the nature conservation features of the European protected sites are considered negligible.

There are a range of indirect effects including increased air and water pollution, water abstraction, noise and recreational disturbance. All issues except the raised levels of human disturbance caused by the

increase in numbers of dog walkers and other recreational activities are considered negligible effects and are screened out because of the distance of the site from the coast and the infrastructure measures in place within Colchester.

There has been widespread concern about the effects of increased recreational pressure on European sites especially heathland SPAs because of the reduced breeding success and reduction in territory occupancy by ground nesting species such as woodlark *Lullula arborea* and nightjar *Caprimulgus europaeus*. A number of studies have looked at visitor recreational use of designated sites of nature conservation interest. Horse riders, cyclists/mountain bikers and joggers use protected European Sites. Increased levels of these activities could cause erosion and dog-fouling nutrient deposition.

A general study of recreational use of the natural environment commissioned by Natural England (Johnson *et al.* 2009), which found that most visitors use designated sites for walking or dog walking. All studies corroborate the general findings that most local users access designated sites on foot within 1km and by vehicle within 8km, and previously these distance buffers were used as the Zol in HRA analyses.

The data in Table 1 from NE provide an updated assessment of the Zol for the coastal European protected sites, noting that Abberton Reservoir SPA and Ramsar site is not considered likely to be disturbed because of the strictly controlled arrangements for visitor access around the entire site. The Zol data confirm that the site is within the Zol of coastal European protected sites and hence that mitigation for these indirect effects is required.

In accordance with the Essex Coast RAMS, in-combination effects may therefore not be screened out as the site is within the Zol, and consequently mitigation is required.

Creating Suitable Alternative Natural Green Space (SANGS) to draw potential recreational users, particularly dog-walkers, away from designated sites is the principal on-site measure to mitigate indirect recreational effects alone. The Guidelines for the creation of SANGS by Natural England (NE, 2008) are well defined, and in the context of this proposal (on-site/adjacent provision) are required to be suitable publicly accessible areas of semi-natural character with suitable circular walks and within 400m of the site.

The proposed development will provide 153 residential units. At the local average of 2.3 persons/household (UK Census Data, 2011) this is 352 persons. Natural England (NE) advice (NE 2008) on the extent of Suitable Alternative Greenspace (SANGS) in relation to the Thames Basin Heaths SPA is that there should be a provision of 8ha per 1,000 of new population. This equates to a greenspace provision of $352 \times 8/1000 = 2.82\text{ha}$. This is more than that required as mitigation for effects on coastal designated sites which are used by wintering waterbirds where access is often limited to public rights of way along, for example, sea walls, as the SANGS provision for the Thames Basin Heaths SPA is to mitigate effects on ground-nesting birds that are highly sensitive to human disturbance and especially to dogs off lead.

The area of open space/greenspace is estimated to be approximately 0.59ha as shown on the masterplan (Appendix 2). Proposed footpaths permit a circular route around the site of approximately 1km. The site is located close to accessible green space on nearby Army land (Appendix 3). These resources together will provide sufficient SANGS to offset the estimated increase in dog walking and associated disturbance from the development at the site in relation to coastal designated sites.

The greenspace areas should be established during the construction phase. The greenspace area should be managed as a SANGS through the provision of a range of measures that will include cutting and maintaining a network of paths, with provision of dog-waste bins and signage to inform residents of the SANGS area and reason for it (i.e. recreational diversion from nearby designated sites).

Given the scale of development, its location on the southern fringe of Colchester adjacent to large areas of existing residential, the SANGS provision within the site and the immediate local access to greenspace, the effects of the development alone are therefore considered fully mitigated.

On-site semi-natural open space will include:

- High-quality, informal, semi-natural areas of grassland and scrub
- Circular dog walking routes of 1km
- An area where dogs can be exercised safely 'off-lead'
- Dog waste bins

A visual information board on site and information leaflets to new householders will promote these areas and non-estuarine walking routes for recreation. It is stated that the developer will commit to the long-term maintenance and management of these provisions via agreement.

Conclusion

Having considered the proposed avoidance and mitigation measures above, Colchester Borough Council concludes that with mitigation the project is not predicted to have an Adverse Effect on the Integrity of the European sites included within the Essex Coast RAMS.

Having made this appropriate assessment of the implications of the plan or project for the site(s) in view of that (those) site(s)'s conservation objectives, and having consulted Natural England and fully considered any representation received, the authority may now agree to the plan or project under regulation 63 of the Conservation of Habitats and Species Regulations 2017.

Local Planning Authority Case Officer comments, signed and dated:

It considered the financial payment towards the Essex RAMS and the on site measure suggested above (along with other financial contributions secured via the DT process towards the improvement of local alternative sites) is sufficient to mitigate against the off-site harm on the Integrity of the European sites included within the Essex Coast RAMS.

Eleanor Moss
24 08 2021

Qualifying features

Colne Estuary SPA (Mid Essex Coast Phase 2) and Ramsar site

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring;

- The extent and distribution of the habitats of the qualifying features
- The structure and function of the habitats of the qualifying features
- The supporting processes on which the habitats of the qualifying features rely
- The population of each of the qualifying features, and
- The distribution of the qualifying features within the site.

Qualifying features of the Colne Estuary SPA:

Dark-bellied brent goose (non-breeding) (*Branta bernicla bernicla*)

Common pochard (breeding) (*Aythya farina*)

Hen harrier (non-breeding) (*Circus cyaneus*)

Ringed plover (breeding) (*Charadrius hiaticula*)

Common redshank (non-breeding) (*Tringa totanus*)

Little tern (breeding) (*Sterna albifrons*)

Waterbird assemblage

Blackwater Estuary SPA (Mid Essex Coast Phase 4) and Ramsar site

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring;

- The extent and distribution of the habitats of the qualifying features
- The structure and function of the habitats of the qualifying features
- The supporting processes on which the habitats of the qualifying features rely
- The population of each of the qualifying features, and
- The distribution of the qualifying features within the site.

Qualifying features of Blackwater Estuary SPA:

Dark-bellied brent goose (non-breeding) (*Branta bernicla bernicla*)

Common pochard (breeding) (*Aythya farina*)

Hen harrier (non-breeding) (*Circus cyaneus*)

Ringed plover (breeding) (*Charadrius hiaticula*)

Grey plover (non-breeding) (*Pluvialis squatarola*)

Dunlin (non-breeding) (*Calidris alpina alpina*)

Black-tailed godwit (non-breeding) (*Limosa limosa islandica*)

Little tern (breeding) (*Sterna albifrons*)

Waterbird assemblage

Dengie SPA (Mid Essex Coast Phase 1) and Ramsar site

Ensure that, subject to natural change, the integrity of the site is maintained or restored as appropriate, and that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring;

- the extent and distribution of the habitats of the qualifying features
- the structure and function of the habitats of the qualifying features
- the supporting processes on which the habitats of the qualifying features rely
- the populations of qualifying features
- the distribution of qualifying features within the site

Qualifying features of the Dengie Estuary SPA:

Dark-bellied brent goose (non-breeding) (*Branta bernicla bernicla*)

Grey plover (non-breeding) (*Pluvialis squatarola*)

Hen harrier (non-breeding) (*Circus cyaneus*)

Knot (non-breeding) (*Calidris canutus*)

Waterbird assemblage

Stour and Orwell Estuaries SPA and Ramsar site

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring;

- The extent and distribution of the habitats of the qualifying features;
- The structure and function of the habitats of the qualifying features;
- The supporting processes on which the habitats of the qualifying features rely;

- The population of each of the qualifying features; and
- The distribution of the qualifying features within the site.

Qualifying features of the Stour and Orwell Estuaries SPA:

Dark-bellied brent goose (non-breeding) (*Branta bernicla bernicla*)

Northern pintail (non-breeding) (*Anas acuta*)

Pied avocet (breeding) (*Recurvirostra avosetta*)

Grey plover (non-breeding) (*Pluvialis squatarola*)

Red knot (non-breeding) (*Calidris canutus*)

Dunlin (non-breeding) (*Calidris alpina alpina*)

Black-tailed godwit (non-breeding) (*Limosa limosa islandica*)

Common redshank (non-breeding) (*Tringa tetanus*)

Waterbird assemblage

Essex Estuaries SAC

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Condition Status of its Qualifying Features, by maintaining or restoring;

- The extent and distribution of qualifying natural habitats
- The structure and function (including typical species) of qualifying natural habitats, and
- The supporting processes on which qualifying natural habitats rely.

Qualifying features of the Essex Estuaries SAC:

Sandbanks which are slightly covered by sea water all the time; Subtidal sandbanks
Estuaries

Mudflats and sandflats not covered by seawater at low tide; Intertidal mudflats and sandflats

Salicornia and other annuals colonising mud and sand; Glasswort and other annuals colonising mud and sand

Spartina swards (*Spartinion maritimae*); Cord-grass swards

Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*)

Mediterranean and thermos-Atlantic halophilous scrubs
(*Sarcocornetea fruticose*); Mediterranean saltmarsh scrub



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Item No: 7.2

Application: 201686

Applicant: Mr And Mrs S Penrose

Agent: Mr Andrew Black, Andrew Black Consulting

Proposal: Outline application for up to 18 dwellings with access to be determined and all other matters reserved.

Location: Land south of West Bergholt Cricket Club, Colchester Road, West Bergholt, Colchester

Ward: Lexden & Braiswick

Officer: Annabel Cooper

Recommendation: Approval subject to legal agreement

1.1 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee as it is a major application and will require a S106 agreement to secure planning obligations/contributions.

2.0 Synopsis

- 2.1 The key issues for consideration are the principle, landscape, highway and ecology impacts.
- 2.2 The relevant policy context includes the adopted Local Plan, the emerging Local Plan and the West Bergholt Neighbourhood Plan. West Bergholt is identified as a Settlement and Key Development Area within the Settlement Hierarchy of the adopted Local Plan. The emerging Local Plan seeks to allocate additional land to meet the housing targets up to 2033 of 920 homes per year on sites which are in accordance with the revised Spatial Strategy (SG1). West Bergholt is identified as a Sustainable Settlement and thus is considered to have the potential to accommodate further proportionate growth. The West Bergholt Neighbourhood Plan was “made” on 16th October 2019. It provides the policy context for West Bergholt, including provision for housing growth through the allocation of two sites to accommodate 120 dwellings.
- 2.3 The proposed outline application is for up to 18 dwellings is on land which under Policies SG8 & SS15 of the Emerging Local Plan, has been allocated in the West Bergholt Neighbourhood Plan Policy PP9. The application site is part of one of the allocated sites (Site B) included in the Neighbourhood Plan as indicated in Policy PP9 and Map PP9/2. Due to the presence of a badger sett and the requirement for a wildlife buffer zone the site does not accord entirely with the area as defined by Map PP9/2. However it is considered that the area proposed is acceptable and that the proposed site is compliant with Policy PP9 of the Neighbourhood Plan. The proposed is therefore acceptable in principle.
- 2.4 The proposed includes a new access from Colchester Road this is considered to be acceptable, there are no concerns with regard to highway safety.
- 2.5 A active badger sett will be protected by a wildlife buffer zone.
- 2.6 In terms of the planning merits of the case, the site is large enough to be able to accommodate 18 dwellings without appearing cramped or overdeveloped. The submitted drawings are for illustrative purposes only and an improved layout and building form would be expected at the Reserved Matters stage.
- 2.7 The application is subsequently recommended for approval subject to conditions and a Section 106 legal agreement to secure planning obligations.

3.0 Site Description and Context

- 3.1 The application site is a large, open grassland parcel with established hedgerow boundary planting. To the north of the site is the West Bergholt Cricket Club, the site's southern boundary is formed by the B1508 (Colchester Road). To the east of the site is a further field however full planning permission was recently granted for 41 new homes on this site reference 191997. Existing site access is via Manor Road, a private road which serves a small number of residential units and well as the the West Bergholt Cricket Club.

4.0 Description of the Proposal

- 4.1 The application seeks outline planning permission for 18 dwellings and a new access from Colchester Road, all matters apart from access are reserved.
- 4.2 Matters of appearance, landscaping, layout, and scale would be determined under Reserved Matters application(s) to follow. Proposals submitted under Reserved Matters will still need to comply with current planning policy, and emerging local plan policies (where relevant).

5.0 Land Use Allocation

- 5.1 Allocated for residential development within the adopted West Bergholt Neighbourhood Plan.

6.0 Relevant Planning History

- 6.1 None

7.0 Principal Policies

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.
- 7.2 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations
SD2 - Delivering Facilities and Infrastructure
H1 - Housing Delivery
H2 - Housing Density
H3 - Housing Diversity

H4 - Affordable Housing
 UR2 - Built Design and Character
 PR1 - Open Space
 PR2 - People-friendly Streets
 TA1 - Accessibility and Changing Travel Behaviour
 TA2 - Walking and Cycling
 TA3 - Public Transport
 TA4 - Roads and Traffic
 TA5 - Parking
 ENV1 - Environment
 ER1 - Energy, Resources, Waste, Water and Recycling

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

DP1 Design and Amenity
 DP3 Planning Obligations and the Community Infrastructure Levy
 DP12 Dwelling Standards
 DP13 Dwelling Alterations, Extensions and Replacement Dwellings
 DP16 Private Amenity Space and Open Space Provision for New Residential Development
 DP17 Accessibility and Access
 DP19 Parking Standards
 DP21 Nature Conservation and Protected Lanes
 DP25 Renewable Energy

- 7.4 The Neighbourhood Plan for West Bergholt is also relevant. This forms part of the Development Plan in this area of the Borough.

- 7.5 Submission Colchester Borough Local Plan 2017-2033:
 The Council is developing a new Local Plan that has been submitted to the Planning Inspectorate (October 2017). Part one of the plan was adopted in February 2021. An Inspector has been appointed and the formal examination commenced in January 2018. The examination is ongoing on Part 2 of the Plan with examination sessions concluding in April and the Examiner's report is now awaited.

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

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

The Emerging Local Plan Section 2 is at an advanced stage and is, therefore, considered to carry some weight in the consideration of the application, but as it is yet to complete full and final examination, it is not considered to outweigh the material considerations assessed above in accordance with up-to-date planning policies and the NPPF.

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

The Essex Design Guide
External Materials in New Developments
EPOA Vehicle Parking Standards
Affordable Housing
Sustainable Construction
West Bergholt Parish Plan & West Bergholt Village Design Statement

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.

Affordable Housing Strategy Officer

- 8.2 Affordable housing was requested and accepted by the applicant, details of which can be read in Developer Obligations and Contributions section of this report.

Anglian Water

- 8.3 No assets located in site, there is foul water capacity and the water system has capacity.

Archaeological Adviser

- 8.4 The proposed development is situated within the area of archaeological interest that has been defined in the Colchester Historic Environment Record (HER). Cropmarks, indicative of archaeological remains, are recorded to the east of this site (HER Monument no. MCC7769). Groundworks relating to the application would cause ground disturbance that has potential to damage any archaeological deposits that exist.

- 8.5 A planning condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed is recommended and has been agreed by the applicant.

North East Essex Badger Group

- 8.6 The NEEBG agree with the content of the submitted Badger Assessment and wish to see the badger sett identified retained. They confirm that the buffer zone as proposed is adequate. They suggest that suitable fencing to safeguard the sett from machinery during construction should be erected as well as permanent fencing when the site is occupied. They also suggest that the buffer zone could be planted with native trees, bushes etc. to give the badger sett protection from the general public.

- 8.7 There are some comments made with regards to the neighbouring development site which is outside the scope of the current application.

Contaminated Land Officer

- 8.8 The submitted Preliminary Risk Assessment is acceptable for Environmental Protection purposes. This report identified no on-site sources of potential contamination and one potential off-site source - a nearby former fuel filling station (29m to the south of the application site).
- 8.9 It has been concluded that overall, the site is considered to be of low risk with respect to ground contamination and is in a generally low risk environmental setting.
- 8.10 It will be necessary for record of a contemporary site reconnaissance to be provided, to allow for any on-site sources of contamination not obvious from online resources. Based on the information provided, and assuming that completion of further risk assessments, it would appear that this site could be made suitable for the proposed use, with remaining contamination matters dealt with by way of planning condition. Conditions and an informative have been recommended.

Environmental Protection

- 8.11 No objections. Recommended conditions to provide electric vehicle charging points, submission of a construction method statement, hours of works, controls for retaining acceptable internal noise levels in proposed dwellings.

Essex Police - Secure by Design

- 8.12 No objection. Essex Police would like to see this developer seek to achieve a nationally accredited Secured by Design award in respect of this development.

Highways Authority

- 8.13 No objections on highway and transportation grounds subject to conditions. Conditions required for details to be submitted, approved and in accordance with Highways specification for the creation of a bellmouth junction on to Colchester Road, visibility splays, estate roads and footways, the bridging or piping of the drainage ditch/watercourse, vehicular turning facilities for service and delivery vehicles, Construction Management Plan as well as vehicle and cycle parking for the development.
- 8.14 Recommended conditions also specify that the width of carriageways are to be in accordance with Highways specifications, all footways should be no less than 2.0m in width, hedges to be an appropriate distance from highways and visibility splays, the footpath for the sites frontage to Colchester Road shall be extended to a minimum of 2.0m and Residential Travel Information Packs for sustainable transport shall be distributed. Recommended informatives regarding Highway Authority requirements and standards have also been included.

Landscape Officer

- 8.15 Regarding the landscape content/aspect of the outline application proposals submitted principally under drawing(s) A1853_001A, 004A, 005A, D2870_FAB_XX_XX_DR_L_101 and Landscape Visual Appraisal with Impact Statement (LVAIS) dated July 2020 all lodged on 18/08/20; the following points should be considered:
- 8.16 The design layout points made in the Landscape Consultation Comments doc 526/20/CON, lodged 08/12/20, remain valid to this application, however it is understood these can be addressed as reserved matters.
- 8.17 In conclusion, there are no objections to this Outline application, in principle, on landscape grounds.

Natural England

- 8.18 It has been identified that this development falls within the 'Zone of Influence' (Zoi) for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The Borough Council is to undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation.

Planning Policy

- 8.19 Detailed response provided setting out adopted policy and emerging policy position. The assessment of the planning policy position will be set out in the main body of this report.
- 8.20 The Planning Policy teams conclusion is that, after thorough assessment and judgement it is considered that it can be afforded policy support in principle as a result of the significant weight to be afforded to the Emerging Local Plan and allocation of the site in the adopted Neighbourhood Plan, based on the tests in paragraph 48 of the NPPF. In respect of the scheme proposed, the principle of development of 18 dwellings is supported. Though the site is not entirely within the allocated site the Planning Policy team considered the justification for this divergence to be acceptable.

SUD's

- 8.21 Having reviewed the Drainage Assessment and the associated documents which accompanied the planning application, no objection is raised to the granting of planning permission.

Urban Design Officer

- 8.22 It is not considered that the design detail provided within this application justifies this departure from the Neighbourhood Plan as adopted with regards to the site boundary.
- 8.23 The piecemeal development of the emerging allocation is not considered acceptable in design terms.
- 8.24 An additional access onto Colchester Road for the same allocation site is not desirable. However, the specifics of the access are acceptable in design terms.
- 8.25 Indicative layout does not respond to the local vernacular and does not deliver a functional open space. There is a lack of permeability with the surrounding land uses.

Planning Officer comments:

- 8.26 *Matters raised by the Urban Designer has been discussed with the applicant. An informative will be included to ensure that during the Reserved Matters there is some form of permeability to the neighbouring site within the same allocation. The justification for the departure from the adopted neighbourhood plan site allocation has been sent to the Urban Designer. It is acknowledged that the emerging allocation has been split into separate parcels to be pursued by different developers, therefore there will not be a truly comprehensive scheme which is unfortunate. At this stage this does not appear to be a way to resolve the matter and there does not appear to be an open line of communication between the two developers despite the Council's encouragement.*

9.0 Parish Council Response

- 9.1 The Council support the amended plans and the inclusion of the wildlife protection area so long as the boundary is now defined as indicated on Drawing No. 1853_015A in the document list.

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 11 letters of objection have been received:
- Development of green field site
 - Facilities and services within West Bergholt would do not have enough capacity i.e., school, doctors.
 - Creations of additional traffic, pollution, light and noise
 - Disturbance during construction period

- New access to result in danger to highways users
- Adverse impact on ecology and habitats
- Lack of provisions within the proposed development for amendments to improve the safety of Colchester road as required by Neighbourhood Plan
- Two new accesses close together
- Concerns that the proposed would result in on street parking on Colchester Road

10.3 1 general comment has been received:

- Comment with regards to new highway access proposed and safety for pedestrians.

11.0 Accessibility

11.1 In terms of the Equality Act, the proposal would be able to provide a variety of house size types that would be provide flexible choice for different lifestyle requirements.

11.2 The indicative scheme proposes three two-bed bungalows. Two of which will meet building regulations Part M4 Cat 3 and one bungalow that will be part of the affordable housing provision would M4 Cat 3 (2).

12.0 Open Space Provisions

12.1 Development Plan policy DP16 requires new residential development to provide at least 10% of the site area as public open space. Whilst this is an outline application, it is clear from the submitted illustrative plan that there is space to meet this requirement.

13.0 Air Quality

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

14.0 Planning Obligations

As a “Major” application, there was a requirement for the scheme to be considered by the Development Team. It was considered that planning obligations should be sought. The obligations that would be agreed as part of any planning permission are set out below.

15.0 Report

15.1 The main issues in this case are:

- Principle of Development
- Highways and Parking
- Wildlife (Badgers and RAMS)
- Layout and Landscape

- Amenity
- Amenity Space Provisions
- Flood Risk and Sustainable drainage
- Developer obligations and contributions
- Other matters (Contamination, Archaeology & Heritage)

Principle of Development

- 15.2 The relevant policy context includes the adopted Local Plan, the emerging Local Plan and the West Bergholt Neighbourhood Plan. The Neighbourhood Plan provides the most up to date element of the Development Plan.
- 15.3 The proposed is in accordance with the adopted Local Plan as the site is allocated for residential development within the adopted West Bergholt Neighbourhood Plan. Core Strategy Policy SD1 states that planning applications that accord with policies in Neighbourhood Plans will be approved without delay unless material considerations indicate otherwise.
- 15.4 The approach of Policy SD1 is consistent with the National Planning Policy Framework (NPPF), which seeks to deliver sustainable development as set out in paragraphs 7 and 8. It also accords with paragraph 23 which indicates that: *“Strategic Policies should provide a clear strategy for bringing sufficient land forward, and at a sufficient rate to address objectively assessed needs over the plan period, in line with the presumption in favour of sustainable development. This should include planning for and allocating sufficient sites to deliver the strategic priorities of the area”*. It is considered that Policy SD1 seeks to achieve these requirements and therefore fundamentally accords with the NPPF.
- 15.5 West Bergholt is identified as a Settlement and Key Development Area within the Settlement Hierarchy of the adopted Local Plan.
- 15.6 The emerging Local Plan seeks to allocate additional land to meet the housing targets up to 2033 of 920 homes per year on sites which are in accordance with the revised Spatial Strategy (SG1). Weight can be given to the emerging Local Plan as it is at an advanced stage in accordance with the provisions of the revised National Planning Policy Framework (NPPF).
- 15.7 West Bergholt has a variety of services and facilities including a public house, shop, village hall, preschool and primary school. The Village also has a regular bus service into Colchester. West Bergholt is identified as a Sustainable Settlement and thus is considered to have the potential to accommodate further proportionate growth.
- 15.8 The West Bergholt Neighbourhood Plan was “made” on 16th October 2019. It provides the policy context for West Bergholt, including provision for housing growth through the allocation of two sites to accommodate 120 dwellings. This is in line with the emerging Local Plan which identifies the housing requirements for the plan period up to 2033 and the spatial strategy for delivering this. The provision at West Bergholt contributes to the overall

Borough wide requirement for 920 houses a year based on the Objectively Assessed Need.

- 15.9 The proposed outline application is for up to 18 dwellings is on land which under Policies SG8 & SS15 of the Emerging Local Plan, has been allocated in the West Bergholt Neighbourhood Plan Policy PP9.
- 15.10 The application site is part of one of the allocated sites (Site B) included in the Neighbourhood Plan as indicated in Policy PP9 and Map PP9/2. The adjacent field which forms the remainder of Site B has recently been granted approval for 41 dwelling reference 191997.
- 15.11 The site is largely within the settlement boundary as defined in the Neighbourhood Plan and allocated as part of one of the housing sites in the Neighbourhood Plan. However, there is some divergence from the area as define on Map PP9/2.
- 15.12 The Neighbourhood Plan Examiner's report stated that there is:
... some flexibility to deliver the housing quota of 120 dwellings within the Plan period in the event that the site location boundaries struggle to deliver this quantum of housing due to the site layout and design matters (paragraph 5.92).
- 15.13 The reason that the site area does not match exactly with the area defined in the Neighbourhood Plan Map is because of the presence of an active badger sett and the need to provide wildlife buffer zone. The North East Essex Badger Group agreed that the best solution would be to retain the badger sett with a wildlife buffer zone. The zone defined is considered to be adequate. Due to the radius of the buffer zone this reduces the developable land within the allocated parcel as shown on Map PP9/2. As a result, the site boundary proposed is amended to provide the same amount of developable area as define in Policy PP9 whilst retaining the wildlife buffer zone.
- 15.14 Furthermore, the wildlife buffer zone extends outside of the red lined application site plan to include other land within the control of the applicant. Allowing the Council to impose 'Grampian'-style conditions and legal covenants to ensure that all of the wildlife buffer zone within the applicant's ownership is properly retained and managed.
- 15.15 It is therefore considered that the red line application site area proposed is acceptable and that the proposed site is compliant with Policy PP9 of the Neighbourhood Plan.
- 15.16 In conclusion, having regard to the above detailed policy issues, the proposal is considered acceptable in principle. The site proposed for residential development is allocated in the West Bergholt Neighbourhood Plan. Accordingly, it is considered that the principle of development of the site accords with the relevant policies in the adopted Local Plan and in the emerging Local Plan, policies which are compliant with the NPPF and support approval of residential development on sites that accord

with adopted Neighbourhood Plans. Therefore, the proposed is acceptable in principle and should be judged on its planning merits as follows.

Highways and Parking Issues

- 15.17 Core Strategy policy TA4 seeks to make the best use of the existing highway network and manage demand for road traffic. The policy makes it clear that new development will need to contribute towards transport infrastructure improvements to support the development itself and to enhance the broader network to mitigate impacts on existing communities. Development Plan policy DP17 requires all development to maintain the right and safe passage of all highways users.
- 15.18 There is a single proposed vehicular access point into the site from Colchester Road. The Highway Authority has confirmed that the proposed access is acceptable in principle and that the required visibility splays can be achieved. Several conditions relating to highways safety have been recommended.
- 15.19 The Neighbourhood Plan states that the allocated sites should secure speed reduction measures and accessibility improvements to be funded by the developers, where appropriate. As such a planning obligation will be secured by a S106 agreement. The S106 will secure a contribution for the installation of a Zebra Crossing on Colchester Road. Contributions towards the Zebra Crossing has already been secured for the other two sites that make up the WBNP allocations.
- 15.20 The proposal is acceptable with regard to its impact on the local traffic network and highways safety whilst the proposed development would also result in the improvement of infrastructure that would encourage the use of more sustainable modes of transport to access village facilities.
- 15.21 In accordance with Policy DP19, the adopted 2009 Essex County Council Parking Standards require at least 2 parking spaces for dwellings with 2 or more bedrooms (measured at 2.9m by 5.5m). A garage space would need to have an internal minimum measurement of 3m by 7m. The development has the space to comfortably meet these standards and appropriate conditions can be applied. There is also room to provide visitor spaces. Policy DP1 could therefore be met which aims to create a safe environment.
- 15.22 A condition will be imposed to ensure that infrastructure for electric vehicle charging is installed.

Wildlife

- 15.23 An active badger sett has been identified to the east of the site. An assessment has been undertaken and the most suitable mitigation was to provide a wildlife buffer zone. This low impact approach includes retaining a buffer of at least 30m from all sett entrances. This will be secured as a planning obligation within the S106 agreement and by planning condition.

- 15.24 The buffer area will need to retain connectivity between all sett entrances. The buffer will also need to retain good connectivity to foraging habitat to the north of the site in order for it to remain a viable sett. Buffer areas will need to be fenced in a way to deter public access. There is an outlier sett adjacent to Colchester Road (sett entrance 5) which will likely be required to be closed under licence, due to its location close to the proposed site access road. Mitigation for the outlier sett closure is unlikely to be a requirement of the licence.
- 15.25 There will also be wildlife enhancements that will be secured including management and infilling of the retained boundary hedgerows to increase density; native planting within the retained grassland areas and ongoing management.
- 15.26 With the mitigation proposed it is considered that the proposed development is acceptable and is in accordance policy DP21 in that satisfactory prevention and mitigation measures are to be provided.
- 15.27 A Protected Species Report was submitted in support of the application, it concluded that there is a population of common lizard and seven bat species were recorded commuting and foraging on the sites. It concluded that the proposed development would be acceptable should the mitigation and enhancement measures recommended in the report be undertaken. A condition is recommended to ensure that an Ecological Mitigation Strategy and Habitat Management Plan is provided.
- 15.28 It is necessary to assess the application in accordance with the Habitats and Species Regulations 2017 (as amended). The whole of Colchester Borough is within the zone of influence of a European designated site and it is anticipated that the development is likely to have a significant effect upon the interest features of relevant habitat sites through increased recreational pressure, when considered either alone or in-combination with other plans and projects. An appropriate assessment was therefore required to assess recreational disturbance impacts as part of the draft Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS). As required by the draft RAMS, a financial contribution is required in order to mitigate impacts from the development. Provided that this contribution is secured, the proposed development is not considered to have a detrimental impact on designated sites. The applicants have agreed to provide the financial contribution to be secured by S106 agreement.

Layout and Landscape

- 15.29 Policy DP1 of the Local Plan requires all development to respect and enhance the character of the site, its context and surroundings. Core Strategy Policy ENV1 seeks to conserve and enhance Colchester's natural and historic environment, countryside and coastline.
- 15.30 Whilst the submitted layout plan is purely for illustrative purposes only, it shows that 18 dwellings on the site could be accommodated without appearing cramped or overdeveloped.

- 15.31 Development of the site would undoubtedly affect its existing character as the site will change from being greenfield to built development, but this should not preclude development in principle. Such changes are inherent to all undeveloped sites and are unavoidable.
- 15.32 As the application is for outline permission, with landscape being a reserved matter, it is considered that these details can be submitted at reserved matters stage. It is however, considered that the detail of the existing illustrative layout is not acceptable and that an improved layout would be required to be submitted at Reserved Matters stage. To ensure that a scheme of the highest quality possible is achieved.
- 15.33 Overall, there is the potential for a development of 18 dwellings on this site to respect the character of the site and surroundings (Policy DP1) and to secure a high-quality design that is in keeping with its context (Policy UR2) and conserve the landscape and townscape (Policy ENV1).

Amenity

- 15.34 Development Plan policy DP1 requires all development to be designed to a high standard that protects existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, and daylight and sunlight.
- 15.35 The application site lies opposite properties situated on Manor Road and Colchester Road. At this stage, only illustrative/indicative layouts have been submitted. These details show that development can be accommodated without adverse impacts on existing development in terms of privacy, outlook and loss of light.
- 15.36 Residents have expressed concerns with regards to the potential impact on amenity as a result on the construction period as well as the disturbance as a result of additional vehicle movement that would occur as a result of the development. The Environmental Protection team have recommended conditions to reduce the impact of the construction period. It is noted that this would be a short-lived impact. There is scope to position access drives and parking areas in locations that would not lead to significant noise and disturbance to neighbouring residents. The impact of this relatively small number of new dwellings should not have a detrimental impact with regard to light pollution.
- 15.37 It is therefore considered there it will be possible to achieve a scheme that would preserve a satisfactory level of neighbouring residential amenity and accord with Policy DP1.

Amenity Space Provisions

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

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

15.39 There is sufficient space within the development site to meet these amenity space standards.

Flood Risk and Sustainable drainage

15.40 The site is located in Flood Zone 1, below a hectare in area and beneath the threshold for which a Full Flood Risk Assessment is required.

15.41 Essex County Council as the Local Lead Flood Authority have reviewed the Drainage Statement following the completion of infiltration testing. Essex have recommended a number of conditions which include the requirement to provide a detailed surface water drainage scheme, a scheme to minimise the risk of offsite flooding during construction and details with regards to long term maintenance and management. In terms of sustainable drainage the proposed is considered to be acceptable.

15.42 Anglian Water have confirmed that there is sufficient wastewater treatment capacity and the sewerage system has available capacity.

Planning Obligations and Contributions

15.43 The following contributions have been requested and agreed by Development Team as policy compliant:

15.44 *Archaeology:*

£17,553 contingent on finds.

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

15.45 *Parks & Recreation:*

Developer to provide on-site play and sport facilities (play area & gym equipment) or off-site contribution of £68,592.12 to be used for projects as identified in the adopted West Bergholt Neighbourhood Plan.

If adopted maintenance of on-site play and sports facilities £5,479.65.

15.46 *Community:*

Contributions of £36,695.13 toward Orpen Memorial Hall and Scout Hut.

15.47 Highways Crossing:

£14,994 - £833/per dwelling for the installation of a Zebra Crossing on Colchester Road, West Bergholt.

15.48 Recreational disturbance Avoidance and Mitigation Strategy (RAMS):

£2,260.11 to be paid prior to the commencement of development and to be used for off-site habitat mitigation.

Other Provisions

15.49 Affordable Housing

The proposal includes 30% affordable housing provision in line with Emerging Local Plan policy DM8. Five dwelling are proposed as Affordable Housing. It is proposed these would be 2 x 1-bed dwellings 1 x 2-bed dwelling, 2x 3-bed dwellings.

15.50 Wildlife Buffer

The wildlife buffer marked in green on the location plan to be implemented prior to the commencement of the development and to be managed and maintained in perpetuity.

Other matters

- 15.51 The site is considered to be of low risk with respect to ground contamination and is in a generally low risk environmental setting. Conditions have been recommended. There are no concerns with regards to built heritage. Planning conditions to record archaeology are recommended.

Planning Balance

- 15.52 West Bergholt is considered a sustainable settlement, the proposed scheme is in conformity with Neighbourhood Plan Policy PP9 which allocates the site for residential development. Accordingly, it is considered that the principle of development of the site accords with the relevant policies in the adopted Local Plan and in the emerging Local Plan, policies which are compliant with the NPPF and support approval of residential development on sites that accord with adopted Neighbourhood Plans. Therefore, the proposed is acceptable in principle.
- 15.53 The National Planning Policy Framework (the Framework) makes it plain that the purpose of the planning system is to contribute to the achievement of sustainable development and identifies three dimensions to sustainable development: economic, social and environmental.
- 15.54 In respect of the first of these, the current proposal would provide economic benefits, for example in respect of employment during the construction phase,

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as well as support for existing and future businesses, services, and facilities by introducing additional residents that would make use of them and provide future spend in the local economy.

- 15.55 The social role of sustainable development is described as supporting strong, vibrant and healthy communities by providing the supply of housing required to meet the needs of present and future generations and by creating a high-quality built environment with accessible local services that reflect the community's needs and support its health, social and cultural well-being. It is considered that the proposed would have a significant social benefits including the provision of policy compliant affordable homes to sustain balanced communities.
- 15.56 There is also sufficient evidence to be confident that the development would not cause significant harm to the amenity of nearby residents or have an adverse impact upon the highway network. While the development would provide an upgrade to the highways infrastructure with the introduction of a zebra crossing.
- 15.57 With regards to impact on the environment the impact on the badger sett and other protected species can be sufficiently mitigated. Furthermore, there are no concerns with regards to flooding and a sustainable drainage strategy will be possible.
- 15.58 The proposed would undoubtedly affect the site's existing character as the site will change from being greenfield agricultural land to a housing development. However, the positive economic and social effects, as well as the sustainability of the proposal are judged to outweigh the shortcomings identified. In particular, given the weight afforded to the supply of new homes in the Framework and the possible design mitigation that could be secured as part of any future reserved matters application, it is considered that any harm is convincingly outweighed by the public benefits.

16.0 Conclusion

- 16.1 To summarise, it is considered that the benefits of the scheme outweigh any adverse impacts identified and the proposal is considered to be acceptable on this basis.

17.0 Recommendation to the Committee

- 17.1 The Officer recommendation to the Committee is for:

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

1. Time limit for outline permission (1/3)

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

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

2. Time limit for outline permission (2/3)

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

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

3. Time limit for outline permission (3/3)

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. Approved plans

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

1853_001 rev B 'Location Plan' dated 05.01.2021;
1853_016 rev A 'Parameter Plan (30m wildlife buffer)' dated 05.01.2021;
000101 - PL01 'New Access Junction' dated May 2020 &
Interim Protected Species Report dated November 2020.

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

5. Contaminated Land (1/4)

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

- (i) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos;
- (ii) an assessment of the potential risks to:

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

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

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

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

6. Contaminated Land (2/4)

No works shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been prepared and then submitted to and agreed, in writing, by the Local Planning Authority.

The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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

7. Contaminated Land (3/4)

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

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

8. Contaminated Land (4/4)

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 5, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 6, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 7.

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

9. Contaminated Land Validation Certificate

Prior to the first OCCUPATION of the development, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 6.

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

10. Limited hours of work

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

Weekdays: 08.00 – 18.00

Saturdays: 08.00 – 13.00

Sundays and Bank Holidays: none

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

11. External noise (units fronting Colchester Road)

Where the internal noise levels exceed those stated in the current version of BS8233 with windows open, enhanced passive ventilation with appropriate sound insulating properties shall be provided to ensure compliance with the current version of BS8233 with windows closed and that maximum internal noise levels at night do not exceed 45dBA on more than 10 occasions a night. Where exposure exceeds the noise levels of 60dBLAeq 16 hours (daytime, 07:00-23:00, outside), 55dBLAeq 8 hours (night, 23:00-07:00, outside) significantly enhanced ventilation will be required.

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

12. Highways (1/13)

Prior to the first occupation of the development, the proposed estate road, at its bellmouth junction with Colchester Road shall be provided with 10.5m. radius kerbs returned to an access road carriageway width of 5.5m straight for the first 12m within the site and flanking footways 2m. in width returned around the radius kerbs which shall connect to the existing footway in both directions. The new road junction shall be constructed at least to binder course prior to the commencement of any other development including the delivery of materials.

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

13. Highways (2/13)

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 have 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.

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

14. Highways (3/13)

Prior to the proposed access being brought into use, vehicular visibility splays of 90m by 2.4m by 90m as measured along, from and along the nearside edge of the carriageway, shall be provided on both sides of the centre line of the access and shall be retained and maintained free from obstruction clear to ground thereafter.

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

15. Highways (4/13)

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.

16. Highways (5/13)

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.

17. Highways (6/13)

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.

18. Highways (7/13)

Prior to commencement of the proposed development, vehicular turning facilities for service and delivery vehicles of at least size 3 dimensions and of a design which shall be approved in writing by the Local Planning Authority, shall be provided within the site which shall be retained and maintained free from obstruction thereafter.

Reason: To ensure that vehicles using the site access may enter and leave the highway in a forward gear, in the interests of highway safety.

19. Highways (8/13)

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

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. Highways (9/13)

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

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

21. Highways (10/13)

Prior to the occupation of the proposed development, details of the provision for the storage of bicycles sufficient for all occupants of that development, of a design that 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.

22. Highways (11/13)

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

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

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

23. Highways (12/13)

Prior to the occupation of any of the proposed dwellings the footway across the entire sites frontage to Colchester Road shall be extended to a minimum of 2.0m

in width and shall connect to the flanking footways around the kerbed radii at the new access and being provided entirely at the Applicant/Developer's expense including new kerbing, surfacing, drainage, any adjustments in levels and any accommodation works to the footway and carriageway channel and making an appropriate connection in both directions to the existing footway to the specifications of the Highway Authority.

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

24. Highways (13/13)

Prior to first occupation of the proposed development, 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, 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.

25. 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.

26. Landscaping

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

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

27. Archaeology

No works shall take place until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation that has been submitted to and approved, in writing, by the Local Planning Authority. The scheme shall include an assessment of significance and research questions; and:

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

The site investigation shall thereafter be completed prior to development, or in such other phased arrangement, as agreed, in writing, by the Local Planning Authority.

The development shall not be occupied or brought into use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

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

28. Badger Buffer Zone

No works shall take place until a Wildlife Buffer Zone Mitigation & Enhancement Strategy and Management Plan (including an implementation timetable and responsibilities) has been submitted to and agreed in writing by the Local Planning Authority. The wildlife buffer zone shall include all of the land marked in green on the approved location plan. The development shall subsequently be carried out in accordance with the agreed details unless otherwise agreed in writing by the Local Planning Authority. The management of the wildlife buffer zone shall be in perpetuity.

Reason: To protect the active badger sett and the badgers habitat, in the interest of safeguarding wildlife.

29. Sustainable Procurement

Prior to commencement of the development, a Sustainable Procurement Plan shall be submitted to, and agreed in writing by the Local Planning Authority.

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

30. EV Charging Points

Prior to the occupation of the development 1 electric vehicle charging point shall be provided to each dwelling with dedicated off-road parking or allocated parking spaces and 1 charging point provided per 10 spaces where off-road parking is unallocated. These electric charging points shall be maintained in good working order at all times.

Reason: To ensure that the completed development is sustainable and can facilitate low carbon personal vehicle usage.

31 SUDS (1/4)

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

Limiting discharge rates to 1:1 Greenfield runoff rates for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change. 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.

Detailed engineering drawings of each component of the drainage scheme.

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A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.

A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

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

Reason: In order to mitigate prevent flooding from surface water. 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.

32 SUDS (2/4)

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

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

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

Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

33 SUDS (3/4)

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

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

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

34 SUDS (4/4)

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.

35 Ecology

No works shall take place until an Ecological Mitigation Strategy and Habitat Management Plan (including an implementation timetable and responsibilities) has been submitted to and agreed in writing by the Local Planning Authority. The Ecological Mitigation Strategy and Habitat Management Plan shall be substantial in accordance with the mitigation and enhancements set out in the Interim Protected Species Report. The development shall subsequently be carried out in accordance with the agreed details unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interest of safeguarding wildlife and their habitat.

INFORMATIVES

1. Reserved Matters:

All effort should be made to ensure that there is permeability between the site and the neighbouring site. The permeability between the two parcels is fundamental to be able to achieve good design.

2. Contaminated Land Informative:

A site visit was not undertaken as part of the original contamination risk assessment and it will be necessary for record of a contemporary site reconnaissance to be undertaken and the assumed initial conceptual model to be confirmed prior to undertaking any intrusive works, with full details provided as a part of the reporting of the proposed 'Phase 2' intrusive investigations. Risks from the current and historic agricultural uses of the site should also be assessed (e.g. uses of pesticides, fungicides etc. on the field and orchard).

Reason because insufficient information was provided with the application 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

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contamination. The applicant is responsible for the safe development and safe occupancy of the site.

3. Highways Informative 1

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

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

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

4. Highways Informative 2

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.

5. SuDS Informative

- Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to suds@essex.gov.uk.
- Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.
- Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note.
- It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.

6. Landscape Informative

'Detailed landscape proposals, if/when submitted in order to discharge landscape conditions should first be cross-checked against the Council's Landscape Guidance Note LIS/C (this available on this CBC landscape webpage under Landscape Consultancy by clicking the 'read our guidance' link)'.

7. Archaeology Informative

PLEASE NOTE The submitted scheme of archaeological investigation should be in

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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>

8.Anglian Water Informative 1

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

9.Anglian Water Informative 2

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

10.Anglian Water Informative 3

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

11.Anglian Water Informative 4

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 the sewer adoption agreement with Anglian Water (under Section 104 of the Water Industry Act 1991), they should contact our Development Service Team at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Sewers Adoptions guide for developers, as supplemented by Anglian Water's requirements.

12.Ecology Informative

The badger setts are protected under the Wildlife & Countryside Act 1981(As amended) and the The Protection of Badgers Act 1992.

13.S106 Informative

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.

14. Advisory Note on Construction & Demolition

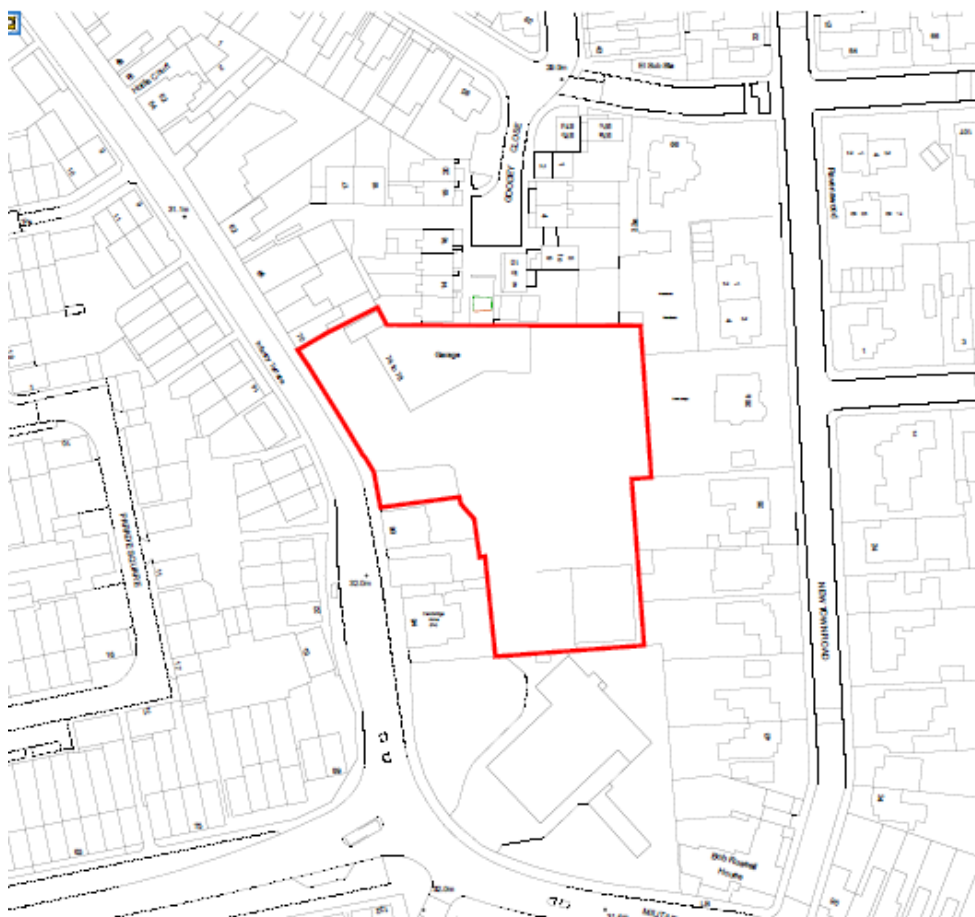
The developer is referred to the attached advisory note Advisory Notes for the Control of Pollution during Construction & Demolition Works for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental Control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

15. Informative on Conditions Stating Prior to Commencement/Occupation

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

16. Informative on Any Application With a Site Notice

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



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Item No: 7.3

Application: 201882

Applicant: Co Agent

Agent: Miss Serena Harris, Turner Jackson Day Associates

Proposal: Demolition of existing car showroom buildings and construction of a sheltered housing facility, comprising 44no. 1 and 2 bedroom apartments, and the construction of a residential apartment building, comprising 10no. 1 and 2 bedroom dwellings, together with associated access, basement and above ground parking and landscaping

Location: Former Lookers Renault, 72-78, Military Road, Colchester, CO1 2AN

Ward: New Town & Christ Church

Officer: John Miles

Recommendation: Approval Subject to prior execution of a Section 106 Agreement

1.0 Reason for Referral to the Planning Committee

- 1.1 The application has also been called in by Cllr. Nick Hope for the following reason:

“The size and impact of the proposed development necessitates committee involvement. Inadequate parking for 54 units. Lack of facilities for disabled residents.”

In addition to this the application constitutes a major application and is the subject of a S106 legal agreement under the Town and Country Planning Act 1990.

2.0 Synopsis

- 2.1 The key issues for consideration are the principle of the proposal, the design, scale and form, as well as its impact on neighbouring amenity in terms of outlook, light and privacy. These matters have been considered alongside planning policy requirements and other material matters, leading to the application being subsequently recommended for approval.
- 2.2 The report describes the site and its context, the proposal itself, and the consultation responses received. Material planning considerations are then reviewed together with issues raised in representations.
- 2.3 The planning merits of the case are assessed leading to the conclusion that the proposal is acceptable and consequently a conditional approval is recommended subject to the completion of an agreement under section 106 of the Act.

3.0 Site Description and Context

- 3.1 The site is situated to the south-east of Colchester town centre and contains two buildings and a large area of hard standing. The main building is a disused car sales showroom, with offices above and a 6-bay workshop to the rear. The second building to the south of the site is understood to have been used in connection with vehicle parts sales and distribution. The hard standing across the site is understood to be capable of facilitating the display and storage of circa 170 cars.
- 3.2 The site lies within a predominantly residential area, with buildings typically in the form of two or three-storey, mostly terraced properties, of predominantly traditional architectural styles.
- 3.3 A small section of the southern part of the site is within the designated New Town Conservation Area.

4.0 Description of the Proposal

- 4.1 The proposal is for the redevelopment of the site to include two buildings accommodating 44 No. C2 sheltered housing apartments and 10 No. C3

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residential apartments, together with associated access, parking and landscaping.

- 4.2 The Class C2 premises, where all residents will be over 60 years old, will be staffed at all times, with an office provided in the reception area and food and refreshments available within the communal lounge. A treatment room and physiotherapy suit has also been incorporated as well as a large buggy store. The scheme will provide a nurse call / alarm system to each apartment and care will be provided through an off-site CQC registered domiciliary care agency, alongside an on-site care manager. The scheme provides communal day space facilities which would not normally be provided in a C3 development.
- 4.3 The building to the site frontage is 3 storey, matching the adjoining development, with the 10 apartments in a two-storey block located towards the rear (south) of the site.

5.0 Land Use Allocation

- 5.1 Mixed use/ Predominantly Residential

6.0 Relevant Planning History

- 6.1 F/COL/05/0861 - Demolition of existing dealership buildings and construction of new dealership buildings and ancillary works – Withdrawn 20/07/2005

7.0 Principal Policies

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.
- 7.2 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations
SD2 - Delivering Facilities and Infrastructure
H1 - Housing Delivery
H2 - Housing Density
H3 - Housing Diversity
H4 - Affordable Housing
UR2 - Built Design and Character
PR1 - Open Space
PR2 - People-friendly Streets
TA1 - Accessibility and Changing Travel Behaviour
TA2 - Walking and Cycling
TA3 - Public Transport

TA4 - Roads and Traffic
TA5 - Parking
ENV1 - Environment
ER1 - Energy, Resources, Waste, Water and Recycling

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

DP1 Design and Amenity
DP2 Health Assessments
DP3 Planning Obligations and the Community Infrastructure Levy
DP4 Community Facilities
DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses
DP10 Tourism, Leisure and Culture
DP12 Dwelling Standards
DP13 Dwelling Alterations, Extensions and Replacement Dwellings
DP14 Historic Environment Assets
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP17 Accessibility and Access
DP19 Parking Standards
DP20 Flood Risk and Management of Surface Water Drainage
DP21 Nature Conservation and Protected Lanes

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

SA H1 Housing Allocations

- 7.5 The area does not have a neighbourhood plan.

- 7.6 Submission Colchester Borough Local Plan 2017-2033:

Adopted Local Plan and Emerging Local Plan Status – March 2021

Overview

The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The Section 2 Emerging Local Plan was Examined in Public in hearing sessions in April 2021. Section 2 policies must be assessed on a case by case basis in accordance with NPPF paragraph 48 to determine the weight which can be attributed to each policy.

Core Strategy Policy SD1 is fully superseded by policies SP5 and SP6 of the Section 1 Local Plan. Policies SD1, H1 and CE1 are partially superseded by policies SP3, SP4 and SP5 in relation to the overall housing and employment requirement figures. The remaining elements of policies SD1, H1 and CE1 are relevant for decision making purposes.

The Council can demonstrate a five year housing land supply.

Adopted Section 1 Local Plan

On 1st February 2021, Full Council resolved to adopt the modified Section 1 Local Plan in accordance with Section 23(2)(b) of the Planning and Compulsory Purchase Act 2004. The final version of the Adopted North Essex Authorities' Shared Strategic Section 1 Local Plan is on the council's website.

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. Section 2 of each plan contains policies and allocations addressing authority-specific issues.

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. Page 94 of 156 DC0901MWeV9.3

Emerging Section 2 Local Plan

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

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

The Emerging Local Plan submitted in October 2017 is at an advanced stage, with Section 1 now adopted and Section 2 awaiting the Inspectors findings. Section 1 of the plan therefore carries full weight.

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

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

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

- 7.8 The National Design Guide - Planning practice guidance for beautiful, enduring and successful places is also a material consideration.

8.0 Consultations

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

8.2 Anglian Water

No objections – condition covering surface water drainage recommended.

Officer Comment: It is considered the condition recommended by Anglia Water is superfluous as it covers matters which will be addressed through the conditions recommended by the LLFA.

8.3 Archaeological Advisor

This application is located in an area of archaeological interest, defined in the Colchester Historic Environment Record (HER). Important archaeological remains were defined to the west in the area of the Garrison redevelopment (Area 1A, former Meeanee & Hyderabad Barracks) during investigations in 2011. Consequently, there is high potential for encountering buried archaeological remains at this location. Groundworks relating to the proposed development would cause significant ground disturbance that has potential to damage any archaeological deposits that exist.

There are no grounds to consider refusal of permission in order to achieve preservation in situ of any important heritage assets. However, in accordance

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with the National Planning Policy Framework (Paragraph 199), any permission granted should be the subject of a planning condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed.

8.4 Contaminated Land Officer

Based on the information provided to date, it would appear that this site could be made suitable for the proposed use, with the remaining matters dealt with by way of conditions attached to any approval.

8.5 Environmental Protection

No objections – conditions suggested.

8.6 Essex Police

No objections.

8.7 Highway Authority

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

8.8 Historic Buildings and Areas Officer

No objections raised.

8.9 Landscape Advisor

Concerns raised regarding conflict between proposed natural features and built form, and a lack of adequate boundary enclosure to the site's frontage.

Officer comments: A brick boundary wall has been added to the site's frontage and it is considered remaining matters can be dealt with at discharge of condition stage, with the inclusion of a condition covering landscape details.

8.10 Lead Local Flood Authority/SuDS

No objections – conditions requested.

8.11 NHS

A developer contribution will be required to mitigate the impacts of this proposal.

8.12 Urban Design Officer

Concerns raised regarding the quantum of development proposed, preservation of neighbouring amenity, the plan form of the proposed buildings, a lack of articulation and rhythm, lack of detailing and reinforcement of the Military Road

facing building line. The concerns raised were communicated with the applicant and revisions subsequently received. The following comments from the Council's Urban Design Officer were received in relation to the amended proposals (July 2021).

Revisions to the proposal relate to the treatment of the western elevation, fronting Military Road, and the addition of a brick boundary treatment along the road frontage. The latter of which is welcomed.

The western elevation now has a more stripped back aesthetic as a result of the consistent application of materials and openings. The two projecting gables break down the mass of the façade into elements with proportions not dissimilar to the surrounding built environment. This articulation of the elevation also provides a stronger rhythm which is reinforced by the more consistent fenestration. That said, though the form and proportions of this elevation are now more responsive to sites context, the fenestration size and materials (weatherboarding) lack synergy with the site's context. Additionally, the structure continues to lack substantive detailing that responds to the site's context or provides visual interest. As a result, the majority of the previous comments remain relevant.

It is noted that some modelling has been submitted regarding loss of light to adjacent properties. It is evident from this that there will be a loss of light to some properties, though this will vary at different times of the day and year.

The proposed development is not considered to be sympathetic to the character and historic context of the site, including the surrounding built environment. As a result, the proposal fails to enhance the character of the area or to add to the overall quality of the area. The proposed development would therefore be contrary to the above outlined national and local planning policies and guidance.

Some of the issues raised above and within the historic comments may prove redundant when the planning balance of the proposal is weighed up as a whole, however a number of issues raised are fundamental design quality issues and as such the proposal cannot currently be supported in design terms. Revisions should seek to enhance the quality and appearance of the proposed built form, primarily (but not limited to) the western elevation, to ensure it responds appropriately to its context. The case officer will need to be satisfied that there is no unacceptable harm to neighbouring amenity in terms of loss of light.

9.0 Parish Council Response

9.1 The site is non-parished.

10.0 Representations from Notified Parties

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

10.2 The consultation exercised resulted in 3 general observations and 1 objection. One objection and one general observation were received in respect of the revised proposal. All representations received are available to be read in full on the Council's website, however a summary of the issues raised is included below.

10.3 The objection received in respect of the revised proposal raised the cited the following reasons for the objection:

- Insufficient parking
- Highway's safety
- No EV charging points
- Lack of jobs and facilities to serve residents

10.4 Other representations raised the following matters:

- Concerns surrounding damage to shared walls and fences, and trees.
- Restoration of the urban street scene is welcomed.
- Concerns greater attention could be paid to the surviving 19th Century buildings in the locality.
- Additional parking desirable.

11.0 Parking Provision

11.1 The proposed apartments are served by a total of 10 spaces, including 1 disabled space. The sheltered housing facility is proposed to be served by 45 car parking spaces, including 4 formal disabled spaces.

12.0 Accessibility and Equality

12.1 The sheltered housing accommodation includes wheelchair accessible units (to meet Part M4(3)) and all floors of the sheltered housing are served by a lift. The proposed apartment building is also served by a lift.

12.2 In considering the application due regard has been given to the Local Planning Authorities duties under the Equality Act 2010. Representations received have not identified any specific equality implications potentially arising from the proposed development and requiring additional consideration.

13.0 Open Space Provisions

13.1 The proposal does not include any on site open space provisions however approval would be subject to a legal agreement, including financial contributions towards recreation facilities across both the ward and borough, to mitigate the impact of the proposed development in this regard.

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. A condition covering the inclusion of electric

vehicle charging points to promote low emission vehicles in the interests of sustainability is also recommended.

15.0 Environmental and Carbon Implications

15.1 The Council has declared a Climate Emergency and has committed to being carbon neutral by 2030. The purpose of the planning system is to contribute to the achievement of sustainable development as defined in the Framework. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are economic, social and environmental objectives. Consideration of this application has taken into account the Climate Emergency and the sustainable development objectives set out in the Framework. It is considered that, on balance, the application represents sustainable development

16.0 Planning Obligations

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

NHS: £23,619.20

Community Facilities: £63,347.46

Parks and Recreation: £149,960.80

Affordable Housing: £117,113

Highways: Distribution of Residential Travel Information Packs and display of details of public transport facilities.

Also, to be secured by the LA is RAMS at a tariff of £127.30 per residential unit.

The recommendation of approval is made subject to the above financial contributions being secured through a legal agreement, which is currently in the early stages of production. The requests made by the Highway Authority can be secured by way of condition.

17.0 Report

17.1 The main issues in this case are considered in turn below:

Principle of Development

17.2 The application site is within the settlement boundary of Colchester, in a highly sustainable location, close to both public transport links, shops and other facilities.

17.3 In terms of the principle of development Core Strategy Policy SD1 (in so far as it remains relevant) seeks to locate growth at the most accessible and sustainable locations, in accordance with the settlement hierarchy. Section 1 Policy SP3 states existing settlements will be the principal focus for additional growth across the North Essex Authorities area within the Local Plan period and development will be accommodated within or adjoining settlements according to their scale, sustainability and existing role both within each individual district and, where relevant, across the wider strategic area.

17.4 The site is also previously developed land with the remaining buildings on site proposed to be demolished. Paragraph 85 of the National Planning Policy Framework (NPPF) states use of previously developed land, should be encouraged where suitable opportunities exist. The Local Development Plan states that Colchester will seek to provide over 80% of housing on previously development land this is to stimulate regeneration, improve accessibility and protect the countryside. Section 1 Policy SP3 also identified the important role of previously developed land in accommodating new development in sustainable locations.

17.5 While the site was previously under an employment generating use, the site does not have a formal employment land designation and the former car dealership has now been vacant for some time, with the site's appearance deteriorating as a result.

17.6 Taking into account the above, with the proposed development to provide new open market housing and sheltered accommodation on previously developed land and in a sustainable location, the scheme is considered acceptable in principle.

Design, scale, form and layout

17.7 The NPPF places great importance on the achievement of high quality and inclusive design in all developments. In respect of design, the NPPF states that development should: establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit; optimise the potential of the site to create and sustain an appropriate mix of uses; respond to local character and history, and reflect the identity of local surroundings and materials. Core Strategy Policy UR2 seeks to promote and secure high quality design. Core Strategy Policy ENV1 also requires development to be appropriate in terms of its scale, siting and design. Development Plan Policy DP1 sets out design criteria that new development

must meet. These require new developments to respect the character of the site and its context in terms of detailed design. Core Strategy Policies H2 and H3 require developments to make efficient use of land and relate to their context. Section 1 Policy SP7 requires all new development to meet high standards of urban and architectural design. The Council's Supplementary Planning Document on Backland and Infill Sites also applies to this site and requires development such as that proposed to response to the surrounding context and that proposals that lead to the over-development of a site or the appearance of cramming will be resisted.

- 17.8 The design of the proposed development has undergone several iterations, informed by both pre-application discussions, and negotiation over the course of the application's formal determination.
- 17.9 The proposed sheltered housing building includes a frontage facing Military Road, infilling the existing building line along the road. The existing building line along Military Road is proposed to be re-enforced with a feature brick boundary wall. It is considered that the height and massing of the proposed sheltered housing relates satisfactory to the surrounding buildings and the proposed development will integrate successfully into the street scene. The form and proportions of the openings to this building have been revised over the course of the application's determination to better relate to surrounding built form, and two projecting gables have been incorporated to the front elevation of the sheltered housing building to break down the mass of the façade.
- 17.10 The proposed apartment building to the south of the site is also considered to achieve an appropriate mass and scale, taking into account its location. While its plan form is not particularly traditional it is not considered this issue will result in harm to the character and appearance of the area, not least given its position within the site, surrounding existing built form, and subsequent limited anticipated visibility from public vantage points.
- 17.11 It is noted that some concerns remain regarding the grouping of the fenestration to the front elevation of the sheltered housing block, the proposed materials and detailing remain at the time of writing. Revised drawings to address these issues are however expected to be received before the application is to be considered by Committee and any amendments made to the proposed scheme will be identified on the amendment sheet, in addition to any supplementary comments from the Council's Urban Design Officer.
- 17.12 Subject to the above identified matters being suitably resolved it is considered that the design, scale, form and layout of the proposal is, on balance, acceptable. The proposed scheme makes use of a currently underutilized and unattractive site and it is considered the infilling/reinstatement of the building line fronting Military Road represents a positive contribution to the area, in the form proposed.

Heritage Considerations

- 17.13 Both Core Strategy Policy ENV1 and Development Policy DP14 reflect the statutory obligations as set out in S66(1) of the Listed Building and Conservation Area Act to have special regard to the desirability of preserving a listed building or its setting and S72 of the same Act that requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. Section 1 Policy SP7 requires development to protect and enhance assets of historical value. In a similar vein, the Framework gives great weight to the conservation of designated heritage assets, noting that the more important the asset, the greater the weight should be. This is irrespective of the level of harm. The Framework also states that any harm should also require clear and convincing justification.
- 17.14 The south of the site is within the Colchester New Town Conservation Area and to the west and the south of the site is the former Cambridge Arms and Garrison Church, which are listed at Grade II and Grade II*, respectively.
- 17.15 The existing building to the south of the site is utilitarian in appearance and not particularly attractive. Having said this, it is largely shielded from view from public vantage points by the existing surrounding form and its impact on the character and appearance of the Conservation Area is limited. The proposed new apartment building is of a comparable footprint and position to the building to be demolished and while its scale and massing is more significant, its detailed design is considered far more sympathetic to the wider context than the existing former garage building. While the apartment building will be taller than the existing garage building it is also still anticipated to be of limited wider visibility from public vantage points, considering existing built form.
- 17.16 Taken as a whole it is considered the proposed development would have a neutral to minor positive impact on the character and appearance of the conservation area and a neutral effect on the special architectural and historic interest of neighbouring listed buildings, including their settings. Consequently, there would not be no harm to, or loss of, the significance of these heritage assets. The scheme is therefore held to meet the statutory test for the preservation or enhancement of the conservation area, listed buildings, and their settings.

Impacts on Neighbouring Properties

- 17.17 Policy UR2 of the Core Strategy and Development Policies DP1 and DP13 state that any development must respect existing and proposed residential amenity with regards to privacy, overlooking, security, noise, disturbance, pollution, daylight and sunlight. The adopted Essex Design Guide also provides guidance on the protection of residential private amenity.
- 17.18 The proposal has been carefully considered with regard to retaining the privacy of neighbouring properties and it is not considered the proposed development includes any windows which will offer unsatisfactory angles of overlooking, when considered in isolation, or in combination.

- 17.19 In terms of proposed openings to the sheltered housing it is considered that all windows are a sufficient distance from, and/or at an angle relative to any neighbouring properties, such that they will not offer any angles of overlooking that is materially harmful in the context, with it noted that mutual overlooking between properties in the area is already experienced, and it is considered is to be reasonably expected, to a degree, given the site is in a dense, urban area.
- 17.20 Specific attention has also been given to avoiding overlooking in the design of a number of windows serving the sheltered housing. A form of oriel windows is adopted to several north and east facing windows to ensure any angles of overlooking are concentrated away from the most sensitive areas, including neighbouring properties' protected sitting out areas. The proposal also includes obscure glazing to several windows in the most sensitive locations.
- 17.21 With regards to the openings to the east elevation of the sheltered housing building and those to the apartment block it is considered that sufficient distance is retained between any proposed openings facing neighbouring dwellings such that any angle of overlooking would not be materially harmful in the context.
- 17.22 Concerns were initially raised by Officers in relation to the potential for a loss of light to neighbouring properties, particularly those to the north as a result of the proposed sheltered housing building. Subsequently shading models were produced to examine existing levels of overshadowing between buildings and anticipated levels of overshadowing from the buildings proposed. Taking into account these models officers are satisfied that the proposed development will not result in a materially harmful impact on neighbouring amenity with regards to loss of light and/or overshadowing, when due regard is given to the existing built form on and adjacent to the site. It is also not considered the proposed development will be materially harmful to the outlook of neighbours, taking into account the position of existing windows to neighbouring dwellings, and the existing built form on site.
- 17.23 The proposed development is also not anticipated to give rise to any adverse impacts on neighbouring amenity by virtue of undue noise and/or disturbance. Neighbouring amenity throughout the construction phase can be protected through the imposition of conditions covering the production of a construction method statement and limits to the hours of work.
- 17.24 Taking into account the above it is considered that the proposed is therefore acceptable with regards to impact on neighbouring amenity.

Private Amenity Space

- 17.25 The proposed sheltered housing is not a C3 residential use and therefore the amenity standard for dwellings is not applicable. The units will however be served by communal garden areas to the north and east of the building, with a further terrace to the south. In this case, although these areas are relatively modest, they do provide a usable, safe and secure environment for residents in conformity with policy DP1 and DP12 (dwellings).

- 17.26 In relation to the C3 apartment block Development Policy DP16 states that for flats a minimum space requirement of 25m² per flat should be provided communally. It is considered that the site provides around 150m² of functional communal outdoor amenity space, serving the proposed apartments.
- 17.27 While this is below the standard set by Policy DP16, in dense urban town locations it is not unusual for residential properties to have smaller areas of private amenity space. Given this, and in view of the types of units proposed (apartments as opposed to family dwellings) the proposed provision of private amenity space is considered, on balance, to be acceptable and mitigated by the contributions requested.

Trees and Landscaping

- 17.28 Development Plan Policy DP1 requires development proposals demonstrate that it will respect and enhance the character of the site, context and surroundings including its landscape setting.
- 17.29 It is considered that through the imposition of appropriate conditions it can be ensured natural features of note, both on and adjacent to the site, are adequately protected during construction works.
- 17.30 A landscape strategy has also been submitted with the application which includes the planting of native hedging within the site and new tree lines, anticipated to be visible from Military Road, with Officers broadly in agreement with the contents of the landscaping proposal, although exact details are proposed to be controlled by way of condition.
- 17.31 It is noted that concerns have been raised about the potential for conflict between the proposed natural form to the site's Military Road boundary and the proposed built form, with this boundary also forming an important element of the proposal. It is however considered such matters can be suitably addressed at discharge of condition stage.

Transport and Accessibility

- 17.32 The NPPF focuses on the importance of providing new development in accessible and sustainable locations so that it minimizes reliance on the private car. The NPPF advises that development proposals should only be refused on transport grounds where the residual cumulative impacts of development are severe upon the network or there would be an unacceptable impact on highway safety. Core Strategy Policies TA1, TA2, TA3 and TA4 address transport strategy and promote accessibility and changing travel behaviour. These policies seek to strike a balance between improving accessibility through land-use planning, managing traffic flows and growth and seek to encourage a change in travel behaviour and where appropriate give priority to walking, cycling and public transport. These policies are closely linked to Core Strategy policies PR2 (People Friendly Streets) and UR1 (Urban Regeneration). Policy DP17 provides guidance on ensuring accessibility for sustainable modes of transport as well as requirements for Travel Plans and Transport Assessment

and the requirements for incorporation of satisfactory and appropriate provision for pedestrians and cyclists.

- 17.33 A Transport Statement accompanies the application which has been informed by pre-application discussions with Essex County Highways. The scope of TS includes a review of site accessibility, Local Road Network including Personal Injury Accident (PIA) data, car and cycle parking requirements, visibility and access arrangements, servicing arrangements, trip assessments and traffic impact on the local road network. This assessment finds that none of the recorded accidents in the area have occurred in proximity to the site's existing vehicular access and egress points (which are to be retained), and the proposal is expected to result in an overall trip reduction (when compared with the most recent use), presenting a highways betterment in terms of traffic capacity and safety. The development is also considered to make suitable provisions for different means of access to the site, including, but not limited to, by foot, car and bicycle. It also noted that the Highway Authority as statutory consultees have raised no objections to the scheme.
- 17.34 Given the above, it is considered that the proposed development would accord with relevant development plan policies, national planning policy guidance set out in the Framework and there will not be an unacceptable impact on highway safety or the capacity of the surrounding road network.

Parking Provisions

- 17.35 Core Strategy Policy TA5 refers to parking and states that development proposals should manage parking to accord with the accessibility of the location and to ensure people friendly street environments. Development Policy DP19 states that the Council will refer developers to the Essex Planning Officers Association (EPOA) Vehicle Parking Standards which was adopted by Colchester Borough Council as a Supplementary Planning Document (SPD) in November 2009. Emerging Policy DM22 reflects the adopted local plan requirements.
- 17.36 In terms of parking provisions the Councils' adopted parking standards for a C2 sheltered housing is notably maximum, while the parking standards for C3 dwellings are a minimum. The EPOA Parking Standards Documents set a maximum standard of care homes of 1 space per full time equivalent staff and 1 visitor space per 3 beds, while adopted standards set for a C3 use a minimum of 1 parking space per one bedroom unit, a minimum of 2 spaces per two-bedroom unit and 0.25 visitor parking spaces per dwelling.

- 17.37 Whilst the proposed parking provisions for the sheltered housing exceeds minimum standards and conversely the parking for the C3 is below adopted standards, it is considered the provisions provided are acceptable in the circumstances.
- 17.38 It is accepted by officers that in this instance the proposed sheltered housing falls within a C2 use. Having said this it is considered residents will likely enjoy a greater level of mobility and independence than in a more conventional care home, on which the C2 maximum standard is based. Taking this into account it is considered the level of parking provisions proposed for the sheltered housing are more appropriate than the maximum standards identified. Furthermore, in light of the site's highly sustainable location it is not considered any technical overprovision of parking will hinder wider sustainable objectives, with sustainable transport remaining a very accessible and desirable option in the context of the application site.
- 17.39 With regards to the proposed C3 parking provisions it is important to note that Policy DP19 also states that a lower standard of parking provision may be acceptable where it can be demonstrated that there is a high level of access to services. It is considered that the application site is within a highly sustainable area with a high level of access to services and in these circumstances it is considered the 10 parking spaces proposed to serve the C3 units provide adequate levels of vehicle parking for residents and visitors.
- 17.40 Secure bike storage has been proposed and the provisions of safe and secure cycle parking in accord with Policy DP19 can be ensured by way of an appropriately worded condition requiring exact details to be submitted, and provisions thereafter made in accordance with details agreed.
- 17.41 Taking into the account the above, while some conflict with adopted standards has been identified, it is considered the proposal accords with adopted policy in that it provides suitable levels of vehicle parking taking into account the accessibility of the location and the specifics of the application. In addition to this the proposal incorporates appropriate cycle parking provisions to encourage and facilitate modal shifts to more sustainable forms of transport.

Ecology and Biodiversity

- 17.42 Core Strategy policy ENV1 and Development Policy DP21 seek to conserve or enhance biodiversity of the Borough. The NPPF states that the planning system should contribute to and enhance the natural and local environment by minimizing impacts on biodiversity.
- 17.43 The application is supported by a standalone ecological appraisal. It is noted that this survey is now slightly over a year old, although it is not considered there has been a material change in the site's condition or wider circumstances that bring into doubt the conclusions of the appraisal. The appraisal concludes that the site is of relatively limited ecological potential,

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there are no Habitats of Principal Importance within the Site, no further ecological survey work is required, and the scheme will not cause material harm to protected species. Precautionary mitigation is however recommended for foraging bats, hedgehogs and nesting birds. It is recommended that a condition is imposed to secure ecological enhancement measures, in line with the recommendations of the ecological appraisal.

Off Site Ecological Impacts

- 17.44 Under the Conservation of Habitats and Species Regulations 2017 (commonly referred to as the Habitat Regulations) a Habitat Regulations Assessment (HRA) is required for land use plans and for planning applications, which are likely to have significant effects on a Habitat Site. Residential development has an impact and therefore this scheme must be assessed on that basis. Habitat Sites are protected at the highest level and are of international importance. They are designated through the EU Birds Directive and EU Habitats Directive, and these Directives are transposed into UK law. In Colchester we have the Colne Estuary Special Protection Area (SPA), the Blackwater Estuary Special Protection Area (SPA), Abberton Reservoir Estuary Special Protection Area (SPA) and the Essex Estuaries Special Area of Conservation (SAC). The three SPAs are also Ramsar sites, which are wetlands of international importance. The Essex Estuaries SAC includes the Colne and Blackwater estuaries. Due to the close proximity of the River Stour, the southern shore of the Stour and Orwell Estuaries Special Protection Area (SPA) is also likely to be affected by development in Colchester.
- 17.45 Population growth in Essex is likely to significantly affect Habitat Sites through increased recreational disturbance in-combination with other Local Plans. Consequently, in partnership with Natural England, the governments advisor on the natural environment, and other LPAs in Essex, Colchester Borough Council is preparing a Recreational disturbance Avoidance and Mitigation Strategy (RAMS) for the Essex Coast. The RAMS identifies necessary measures to avoid and mitigate likely significant effects from recreational disturbance in-combination with other plans and projects. The RAMS sets out a tariff of £127.30, which applies to all residential development within the Zone of Influence (Zol). The whole of Colchester Borough is within the Zol. All residential proposals within the borough should make a contribution towards the measures in the RAMS to avoid and mitigate adverse effects from increased recreational disturbance to ensure that Habitat Sites are not adversely affected and the proposal complies with the Habitat Regulations. Proportionate financial contributions in line with the Essex Coast RAMS will be secured in the legal agreement.

Drainage and Flood Risk

- 17.46 Core Strategy policy ENV1 seeks to direct development away from areas of flood risk (both fluvial and coastal), towards sites with the lowest risk from flooding. Development Policy DP20 seeks to promote flood mitigation and defense measures as well as the use of appropriate sustainable drainage.

- 17.47 The application site is in Flood Zone 1 and therefore has a low probability of flooding and is considered suitable for all types of development from a flood risk perspective. In addition to this the proposed development will not increase the risk of flooding elsewhere and provides opportunities for the incorporation of a sustainable urban drainage scheme, some of which are identified in a submitted drainage strategy, while exact details to be controlled by way of conditions - in the form of those recommended by Essex County Council in their role as Lead Local Flood Authority

Climate Emergency

- 17.48 The Council has declared a Climate Emergency and has committed to being carbon neutral by 2030.
- 17.49 The purpose of the planning system is to contribute to the achievement of sustainable development as defined in the National Planning Policy Framework. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are economic, social and environmental objectives. This report has taken into account the Climate Emergency and the sustainable development objectives set out in the NPPF.
- 17.50 It is important to consider how this application will contribute to a low carbon future for the area. The site is in a highly accessible location, in a position ideal for walking and cycling be that to local shops and services. The scheme also provides a good level of cycle parking, and the provision of EV charging points to facilitate the uptake of ultra-low emission vehicles can be controlled by way of condition. Taken as a whole it is considered the scheme contributes towards the Council's low carbon aims and the development comprises sustainable development.

Fire Safety

- 17.51 Essex Country Fire and Rescue have noted the benefit of going beyond the building control requirements in terms of fire safety. Whilst we have no planning policy requirement for the installation of a sprinkler system, it will be suggested as best practice via an informative so the future operators know the Council would strongly support use of the sprinklers.

Contamination

- 17.52 Development Plan policy DP1 requires new development to undertake appropriate remediation of contaminated land. The NPPF requires planning decisions to give weight and support to opportunities to remediate contaminated land and it should be ensured that sites are made suitable for their proposed use, taking into account ground conditions and any risks arising from contamination.

17.53 The application is supported by detailed land contamination studies, investigating the condition of the site and the requirement for remediation works. Following a detailed review of this material the Council's Contaminated Land Officer is satisfied that the site can be made suitable for the proposed use, with the remaining contaminated land matters dealt with by way of conditions attached to any approval.

18.0 Conclusion and planning balance

18.1 To summarise, the scheme would bring a currently underutilized brownfield site in a prominent and highly accessible town centre location into an alternative sustainable use, for the betterment of the appearance of the site and the character and appearance of the surrounding area. The proposal would also make a contribution to the Council's Housing Stock, through the delivery of new homes. While it is accepted some areas of concern with the proposed design have been raised by internal consultees, it is considered the issues raised are either satisfactorily addressed through the revisions that have been made to the scheme, are anticipated to be addressed through forthcoming revisions, or otherwise fall away in the overall planning balance, taking into account the overall benefits of the scheme. It is considered the proposal will, on balance, suitably preserve existing neighbouring amenity and the proposal does not give rise to concern with regards to any other material planning considerations. The scheme is also held to meet the statutory test for the preservation or enhancement of the conservation area, listed buildings, and their settings.

18.2 Taking into account the matters raised above and in the main body of the report it is considered the proposal ultimately represents sustainable development and the planning balance tips in favour of approval in this instance.

19.0 Recommendation to the Committee

19.1 The Officer recommendation to the Committee is for:

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

1. ZAA - Time Limit for Full Permissions

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

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

2. ZAM – Approved Plans

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

(final drawing numbers to be added when known)

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

3. ZBC – Materials TBA

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

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

4. ZMM – Additional Details

Prior to the commencement of any works above slab level, additional drawings that show details of any proposed new windows, doors, eaves, verges, cills and arches to be used, by section and elevation, at scales between 1:20 and 1:1, as appropriate, shall be submitted to and approved, in writing, by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved additional drawings.

Reason: Inadequate details have been submitted as part of the application having regard to the prominence of the site and scale of the proposed built form, in close proximity to the New Town Conservation Area.

5. Non-Standard Condition - Rainwater Goods

All new rainwater goods shall be coloured black, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the proposed development is visually satisfactory and enhances the appearance of the locality.

6. Non-Standard Condition – Restriction on Occupation

The Sheltered Housing (Use Class C2) accommodation shall not be used otherwise than as a private place of residence for a person or persons of whom at least one must be a “qualified person” (defined below) at the date of his or her first occupation of the unit in question’. For the purposes of this schedule “a qualified person” means a person who is or has attained the age of 60 years and thereby in need of personal care by reason of old age or by reason of disablement. (whether or not such person suffers from a registered disability under the terms of the Chronically Sick and Disabled Persons Act 1970). An occupier of one of the individual units of residential accommodation who is not a “qualified person” but who shares or previously shared the accommodation with a “qualified person” (e.g. a spouse or surviving spouse) must also have attained the age of at least 60 years.’

Reason: The proposed development is unsuited to use as unrestricted residential dwellings (Use Class C3) as the amenity space and parking provision would likely be inadequate for such a use in accordance with adopted Colchester local plan (2008,2010, 2014) policies PR1, TA5, DP12, DP16.

7. Non-Standard Condition – Use

The proposed Sheltered Housing (Use Class C2) accommodation shall be restricted to a Sheltered Housing use within Class C2 only, as defined in the Use Class Order, and for no other purpose (including any other purpose in Class C2 of the Schedule to the Town and Country Planning (Use Classes) (Amendment) Order 2005, or in any provision equivalent to that class in any statutory instrument revoking or re-enacting that Order, with or without modification.

Reason: For the avoidance of doubt as to the scope of the permission as this is the basis on which the application has been considered and any other use would need to be given further consideration at such a time as it were to be proposed.

8. 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 shall include an assessment of significance and research questions; and:

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

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

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

9. ZDF – Obscure Glazing

Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), the windows in the north elevation of the sheltered housing accommodation labelled on the approved plans as 'OBS' shall be non-opening below 1.7 metres from internal finished floor level and glazed in obscure glass to a minimum of level 4 obscurity before the development hereby permitted is first occupied and shall thereafter be permanently retained in this approved form.

Reason: To avoid the overlooking of neighbouring properties in the interests of the amenities of the occupants of those properties.

10. Non-Standard Condition – CMP

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

- i. the parking of vehicles of site operatives and visitors
- ii. hours of deliveries and hours of work;
- iii. loading and unloading of plant and materials;
- iv. storage of plant and materials used in constructing the development;
- v. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- vi. wheel and under body washing facilities;
- vii. measures to control the emission of dust and dirt during construction; and
- viii. 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, to ensure that amenities of existing residents are protected as far as reasonable and to ensure that on-street parking of vehicles in the adjoining street does not occur, in the interests of highway safety.

11. ZPE – Limits to Hours of Construction Deliveries/Worker Traffic

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

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No deliveries

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.

12.ZPD - Limits to Hours of Work

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

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working

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

13.ZGR – Light Pollution for Minor Development

Any lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) shall fully comply with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note for zone EZ3 SMALL TOWN CENTRES OR URBAN LOCATIONS.

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

14.ZCG – Communal Storage Areas

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

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

15.Non-Standard Condition – EV Charging

Prior to the first occupation of the proposed development EV charging point infrastructure shall be provided to serve the proposed development, in accordance with a scheme which shall have previously been submitted to, and approved in writing by, the Local Planning Authority. Charging point infrastructure shall be provided at a rate of 1 charging point per unit (for a dwelling/unit with dedicated off road parking) and/or 1 charging point per 10 spaces (where off road parking is unallocated).

Reason: In the interests of sustainability and air quality by encouraging the use of ultra-low emission vehicles.

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

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

- (i) a survey of the extent, scale and nature of contamination,

including contamination by soil gas and asbestos;

(ii) an assessment of the potential risks to:

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

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

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

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

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

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

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

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

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

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

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

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 16, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 17, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing

of the Local Planning Authority in accordance with condition 18.

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

20.ZG3 - *Validation Certificate*

Prior to the first OCCUPATION/USE of the development, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 19.

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

21.Non-Standard Condition – SuDS 1/3

No works except demolition shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include 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. If infiltration is found to be viable then water treatment will need to be proposed.
- Limiting discharge rates to 5l/s for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change subject to agreement with the relevant third party. All relevant permissions to discharge from the site into any outfall should be demonstrated.

- 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.
- If the final discharge point is to a combined sewer then silt traps and catchpits will be required to reduce the risk of blockages.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

Reason: To prevent 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.

22. Non-Standard Condition – SuDS 2/3

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

Reason: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk. Failure to provide the above required information prior to occupation may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

23. Non-Standard Condition – SuDS 3/3

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.

24 .Non-Standard Condition – Ecology

No works above slab level shall commence until a scheme of habitat enhancement within the application site, including but not limited to provision for nesting and roosting opportunities for birds, has been submitted to and agreed in writing by local planning authority. The scheme shall include details of the proposed measures together with a programme for implementation and shall incorporate the recommendations outlined in the submitted ecological appraisal (Produced by Native Ecology and dated 28th August 2020). Prior to the beneficial occupancy of any of the development the agreed scheme shall be implemented and thereafter so maintained.

Reason: To ensure that the biodiversity of the site is maintained and enhanced in accordance with the NERC Act 2006 and policy ENV1 of the Adopted Colchester Local Plan.

25.Non-Standard Condition – Adverts not consented

Notwithstanding the details shown on the approved drawings, no consent is granted nor implied for any signage and a subsequent application for advertisement consent to display any advertisements on the buildings or within the application site area.

Reason: For the avoidance of doubt as to the scope of this planning permission in accordance with the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

26.ZFQ – Tree Protection

No works shall take place until all trees, shrubs and other natural features not scheduled for removal on the approved plans have been safeguarded behind protective fencing to a standard that will have previously been submitted to and agreed, in writing, by the Local

Planning Authority (see BS 5837). All agreed protective fencing shall thereafter be maintained during the course of all works on site and no access, works or placement of materials or soil shall take place within the protected area(s) without prior written consent from the Local Planning Authority.

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

27.ZFS – Tree Protection

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

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

28. Non-Standard Condition – Landscaping

No part of the development shall be occupied until a scheme of hard and soft landscape works for the site has been submitted to and agreed, in writing, by the Local Planning Authority. This scheme shall include any significant changes in ground levels and also accurately identify positions and spread of all existing trees, shrubs and hedgerows on the site, proposed planting, details of any hard surface finishes and external works, implementation of which shall comply with the recommendations set out in the relevant British Standards current at the time of submission. The approved landscape scheme shall be carried out in full prior to the end of the first planting and seeding season following the first occupation of the development or in such other phased arrangement as shall have previously been agreed, in writing, by the Local Planning Authority. Any hard or soft landscape works which, within a period of 5 years of being implemented

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fail, are removed or seriously damaged or seriously diseased shall be replaced, like for like, in the next planting season with others of similar specification/size/species, unless the Local Planning Authority agrees, in writing, to a variation of the previously approved details.

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

29. Non-Standard Condition – Implementation and Monitoring Programme required for Landscape

All approved hard and soft landscape works shall be carried out in accordance with the implementation and monitoring programme agreed with the Local Planning Authority and in accordance with the relevant recommendations of the appropriate British Standards. All trees and plants shall be monitored and recorded for at least five years following contractual practical completion of the approved development. In the event that trees and/or plants die, are removed, destroyed, or in the opinion of the Local Planning Authority fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed in writing with the Local Planning Authority.

Reason: To ensure the provision and implementation of a reasonable standard of landscape in accordance with the approved design.

30. Non-Standard Condition – Landscape Management Plan

A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than privately owned domestic gardens, shall be submitted to and approved by the Local Planning Authority prior to any occupation of the development (or any relevant phase of the development) for its permitted use.

Reason: To ensure that due regard is paid to the continuing enhancement and maintenance of amenity afforded by the landscape.

31. ZLZ – Boundary Wall Details

Prior to the commencement of any works above slab level, full details of the new boundary wall fronting Military Road including the bond, mortar mix and joint profile shall be submitted to and approved, in writing, by the Local Planning Authority. The development shall thereafter be implemented in accordance with agreed details.

Reason: There is insufficient detail with regard to this important feature.

32. Non-Standard Condition – Highways 1/6

Prior to the first occupation of the proposed dwellings, the proposed vehicular access, all footways, internal carriageways and visibility splays shall be provided in complete accord with the details shown in T J + D Drawing Numbered 1654-002.

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

33. Non-Standard Condition – Highways 2/6

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

34. Non-Standard Condition – Highways 3/6

The development shall not be occupied until such time as the service, delivery and car parking and turning areas, has been provided in accord with the details shown in the approved drawings. These areas shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

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

35. Non-Standard Condition – Highways 4/6

Prior to the occupation of the proposed development, details of the provision for the storage of bicycles sufficient for all occupants of that development and visitors, of a design that 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.

36. Non-Standard Condition – Highways 5/6

Prior to first occupation of the proposed private apartments development, 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, 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.

37. Non-Standard Condition – Highways 6/6

The development shall not be occupied until such time as details of public transport facilities (timetables and locations of bus stops etc), walking and cycling opportunities being prominently displayed, regularly updated and maintained in perpetuity within the site, which shall be approved by Local Planning Authority.

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

19.0 Informatives

19.1 The following informatives are also recommended:

1.ZTA - Informative on Conditions Stating Prior to Commencement/Occupation

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

2.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.

3. Non Standard Informative – Fire Safety

Water Supplies

The architect or applicant is reminded that additional water supplies for fire fighting may be necessary for this development. The architect or applicant is urged to contact the Water Technical Officer at Service Headquarters, telephone 01376-576344.

Sprinkler Systems

"There is clear evidence that the installation of Automatic Water Suppression Systems (AWSS) can be effective in the rapid suppression of fires. Essex County Fire & Rescue Service (ECFRS) therefore uses every occasion to urge building owners and developers to consider the installation of AWSS. ECFRS are ideally placed to promote a better understanding of how fire protection measures can reduce the risk to life, business continuity and limit the impact of fire on the environment and to the local economy.

5. Non Standard Informative – Environmental Protection

Advisory Notes for the Control of Pollution during Construction & Demolition Works:

The following information is intended as guidance for applicants/developers and construction firms. In order to minimize potential nuisance to nearby existing residents caused by construction and demolition works, Environmental Protection 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 Protection.

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:

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 Holidays.

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.

Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).

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 Protection). 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:

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.

No fires to be lit on site at any time.

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.

All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

All necessary measures shall be taken to minimise dust, including damping down and the use of barriers.

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.

6. Non Standard Informative INS – Archaeology

Informative on Archaeology:

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

<http://www.colchester.gov.uk>

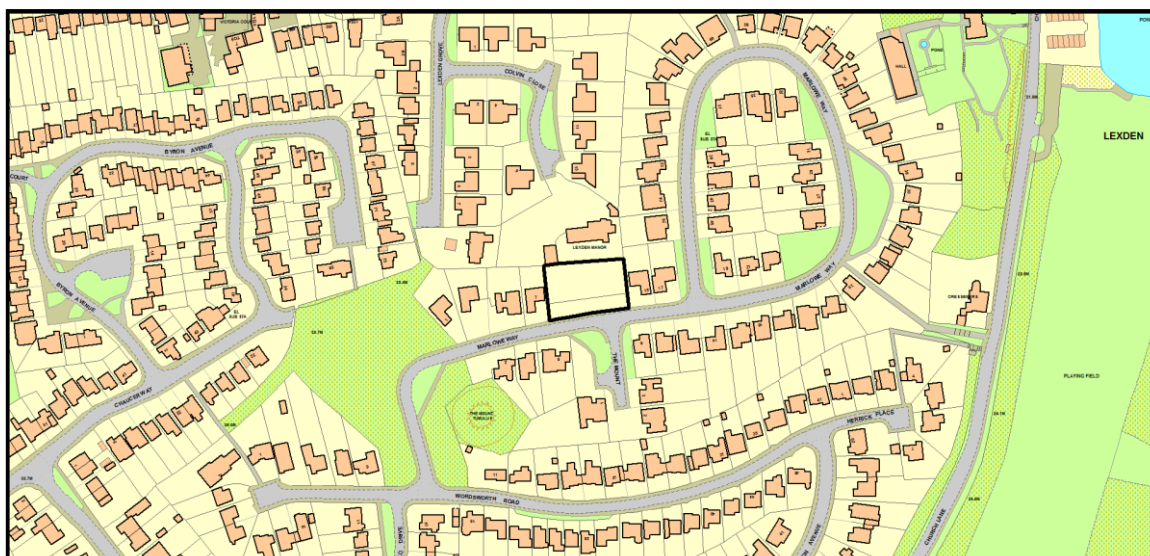
7. Non Standard Informative – Highways

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

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

or by post to:

SMO1 – Development Management
Essex Highways Ardleigh Depot,
Harwich Road,
Ardleigh,
Colchester,
Essex
CO7 7LT



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Item No: 7.4

Application: 210304

Applicant: Mr D Cave

Agent: Mr C Exley, Stanley Bragg Architects Limited

Proposal: Demolition of brick boundary wall to Lexden Manor.
Construction of three 4-bedroom detached houses, each with integral garage, plus individual private driveways connecting to Marlowe Way. Retention of two TPO trees.

Location: Land Between 7 and, 15 Marlowe Way, Colchester, CO3 4JP

Ward: Prettygate

Officer: Chris Harden

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it has been called in by Councillor Sue Lissimore who raises concerns on the grounds of “over development and design of the properties being out of keeping. Three storeys out of character with existing properties. Plot is too tight for deliveries and construction vehicles to be off road.”

2.0 Synopsis

- 2.1 The key issues for consideration are the layout and design, and impact upon neighbouring residential amenity, highway safety and vegetation.
- 2.2 The application is subsequently recommended for approval. In summary, the site is within the settlement limits and is in a sustainable location so accords with Local Plan Policy in principle. It is considered the site can adequately accommodate the three proposed dwellings without them appearing cramped, or being out of keeping with the character of the street scene. It is not considered the proposal represents overdevelopment as the sizes of each plot are comparable with other plots in the vicinity. The design, scale and form of the dwellings is considered acceptable and introduces a sharp, contemporary feel to the location. Their scale relates satisfactorily to the scale of other dwellings in the vicinity, being somewhat taller but not excessively so. The main gables are traditional in width and the dwellings themselves have elements of varying roof heights and appropriate fenestration. They are also adequately spaced and set off each side boundary. They are therefore considered to be visually satisfactory in the street scene.
- 2.3 It is not considered the loss of this currently open area can justify a refusal and there is space for frontage landscaping on the frontage of both plots and the retention of the TPO trees. There are no objections on the grounds of highway safety, with adequate visibility splays in either direction and provision for adequate parking on the site. There is adequate amenity space for each new dwelling. It is not considered there would be a significant impact on neighbouring residential amenity from the proposed dwellings, in terms of overbearing, loss of light or overlooking or in respect of noise and disturbance. No vegetation of significance would be affected and the TPO trees can be adequately protected.

3.0 Site Description and Context

- 3.1 The site lies within the settlement limits and is currently an open grassed area with two TPO trees that lies within a housing estate that dates from the late 60's early 70's. Adjacent are two storey dwellings on either side and to the rear is the property known as Lexden Manor which has had permission for extension works and conversion.

4.0 Description of the Proposal

- 4.1 The proposal is for the erection of three No. 4-bedroom detached houses, each with integral garage, plus individual private driveways connecting to Marlowe Way. It would include the demolition of brick boundary wall to Lexden Manor. The two protected (TPO) trees at the front of the site would be retained.

5.0 Land Use Allocation

- 5.1 Within settlement limits

6.0 Relevant Planning History

- 6.1 210331 land adj Lexden Manor 1.5 bed house. Approved
- 6.2 192337 5 flat conv. Approved
- 6.3 COL/89/1308, Conversion of the main dwelling into flats and additional cottages and apartments in the grounds. Refused. Appeal dismissed

7.0 Principal Policies

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

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

SD1 - Sustainable Development Locations

H1 - Housing Delivery

H2 - Housing Density

H3 - Housing Diversity

UR2 - Built Design and Character

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

DP1 Design and Amenity

DP12 Dwelling Standards

DP13 Dwelling Alterations, Extensions and Replacement Dwellings

DP14 Historic Environment Assets

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

DP17 Accessibility and Access
DP19 Parking Standards
DP20 Flood Risk and Management of Surface Water Drainage
DP21 Nature Conservation and Protected Lanes

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

N/A

- 7.5 Neighbourhood Plan:

N/A

- 7.6 Submission Colchester Borough Local Plan 2017-2033:

Adopted Local Plan and Emerging Local Plan Status – March 2021

Overview

The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The Section 2 Emerging Local Plan remains to complete examination, with hearing sessions having taken place between 20 and 30 April 2021. The examiner’s report is awaited Section 2 policies must be assessed on a case by case basis in accordance with NPPF paragraph 48 to determine the weight which can be attributed to each policy.

Core Strategy Policy SD1 is fully superseded by policies SP5 and SP6 of the Section 1 Local Plan. Policies SD1, H1 and CE1 are partially superseded by policies SP3, SP4 and SP5 in relation to the overall housing and employment requirement figures. The remaining elements of policies SD1, H1 and CE1 are relevant for decision making purposes.

The Council can demonstrate a five year housing land supply.

Adopted Section 1 Local Plan

On 1st February 2021, Full Council resolved to adopt the modified Section 1 Local Plan in accordance with Section 23(2)(b) of the Planning and Compulsory Purchase Act 2004. The final version of the Adopted North Essex Authorities’ Shared Strategic Section 1 Local Plan is on the council’s website [here](#).

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. Section 2 of each plan contains policies and allocations addressing authority-specific issues.

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.

Emerging Section 2 Local Plan

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

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

The Emerging Local Plan submitted in October 2017 is at an advanced stage, with Section 1 now adopted and Section 2 hearing sessions in April and the Examiner's report is now awaited. Section 1 of the plan is therefore considered to carry full weight.

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

5 Year Housing Land Supply

Section 1 of the Emerging Local Plan was adopted by the Council on the 1 February 2021 and therefore carries full weight.

Section 1 includes strategic policies covering housing and employment, as well as infrastructure, place shaping and the allocation of a Garden Community. Policy SP4 sets out the annual housing requirement, which for Colchester is 920 units. This equates to a minimum housing requirement across the plan period to 2033 of 18,400 new homes.

Although the Garden Community is allocated in Section 1, all other site allocations are made within Section 2 of the Plan which is still to complete examination. Within Section 2 the Council has allocated adequate sites to deliver against the

requirements set out in the strategic policy within the adopted Section 1. All allocated sites are considered to be deliverable and developable.

Section 1 of the Emerging Local Plan was adopted by the Council on the 1 February 2021 and therefore carries full weight.

Section 1 includes strategic policies covering housing and employment, as well as infrastructure, place shaping and the allocation of a Garden Community. Policy SP4 sets out the annual housing requirement, which for Colchester is 920 units. This equates to a minimum housing requirement across the plan period to 2033 of 18,400 new homes.

Although the Garden Community is allocated in Section 1, all other site allocations are made within Section 2 of the Plan which is still to complete examination. Within Section 2 the Council has allocated adequate sites to deliver against the requirements set out in the strategic policy within the adopted Section 1. All allocated sites are considered to be deliverable and developable.

In addition and in accordance with the NPPF, the Council maintains a sufficient supply of deliverable sites to provide for at least five years' worth of housing, plus an appropriate buffer and will work proactively with applicants to bring forward sites that accord with the overall spatial strategy. The Council has consistently delivered against its requirements which has been demonstrated through the Housing Delivery Test. It is therefore appropriate to add a 5% buffer to the 5-year requirement. This results in a 5 year target of 4,830 dwellings ($5 \times 920 + 5\%$).

The Council's published Annual Housing Position Statement (May 2020) demonstrated a housing supply of 6,108 dwellings which equated to 5.4 years based on an annual target of 1,078 dwellings which was calculated using the Standard Methodology, prior to the Local Plan being adopted. The 5YHLS was tested at appeal and found to be robust, the most recent cases being on Land at Maldon Road, Tiptree (Appeal Ref: APP/A1530/W/20/3248038) and Land at Braiswick (Appeal Ref: APP/A1530/W/20/324575).

This position has been further improved now the Council has an adopted housing requirement of 920. When the 5% buffer is added the annual target is 966. In accordance with paragraph 73 of the NPPF, the adoption of the strategic housing policy in Section 1 of the Local Plan, means that the adopted housing requirement is the basis for determining the 5YHLS, rather than the application of the standard methodology.

The Council has recently updated its Annual Position Statement in relation to 5-year supply. This shows the Council has a supply of 5564 dwellings against a target of 4830 which equates to a 5.75 year supply over the period 2021/22 – 2025/26.

Given the above, it is therefore considered that the Council can demonstrate a five year housing land supply, and that the tilted balance at paragraph 11 of the NPPF does not apply.

Appendix 1 provides further background Policy Detail.

- 7.7 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):
- The Essex Design Guide
 - External Materials in New Developments
 - EPOA Vehicle Parking Standards
 - Backland and Infill
 - Affordable Housing
 - Open Space, Sport and Recreation
 - Sustainable Construction
 - Cycling Delivery Strategy
 - Urban Place Supplement
 - Sustainable Drainage Systems Design Guide
 - Managing Archaeology in Development.
 - Developing a Landscape for the Future

8.0 Consultations

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

- 8.2 Cllr Sue Lissimore raises the following objections:

- Overdevelopment.
- Three storeys out of character with existing properties.
- Plot is too tight for deliveries and construction vehicles to be off road.

- 8.3 Lexden Conservation Group objects on the following grounds:

- Loss of wildlife habitat. This area is rich in wildlife with birds, bats and even the occasional fox and muntjac making their way up from Lexden Park. Wildlife corridor to the woodland at the end to Marlowe Way.
- Gardens of proposed houses very small in relation to the size of the houses.
- Garden of The Manor House has already had the majority of its trees removed before planning permission was sought.
- Overdevelopment of the site.
- Design of the houses is a very different style to others in Marlowe Way having three floors. Do not match the houses either side or opposite. The drawings do not show the three houses in relation to the those either side.
- Strip of land which will become front gardens is a communal piece of land, planted with trees and bulbs, enjoyed by everyone as they walk through Marlowe Way. Losing this could set a precedent for other strips of land, not only in Marlowe Way, but in Poets Corner.
- Losing green spaces at a rapid rate in and around Colchester at a time when we have come to realize how important green spaces are, not only for the planet, but for our mental health.

8.4 Archaeologist states:

“This application affects an area of archaeological interest, being situated some 60m to the north-east of the Lexden Mount Roman burial mound, which is a Scheduled Monument (NHLE No. 1019963). The proposed works would cause ground disturbance that has potential to damage any archaeological deposits which exist.

There are no grounds to consider refusal of permission in order to achieve preservation in situ of any important heritage assets. However, in accordance with the National Planning Policy Framework (Paragraph 199), any permission granted should be the subject of a planning condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed.

In this case, a trial-trenched archaeological evaluation will be required to establish the archaeological potential of the site. Decisions on the need for any further investigation (excavation before any groundworks commence and/or monitoring during groundworks) will be made on the basis of the results of the evaluation.

The following archaeological condition (Z00) is recommended:

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

8.5 Highways Authority states:

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

- Vehicular access 4.5 m width.
- No unbound materials.
- Any new or proposed boundary hedge shall be planted a minimum of 1m back from the highway boundary and 1m behind any visibility splays.
- Car Parking
- Bicycle storage
- Construction Management Plan
- Residential Travel Information Packs.
- Informative1:

8.6 Tree Officer states:

With reference to aforementioned application I would like to make the following comments:

1.0 Survey and Analysis

1.1 Regarding the proposed development and updated AIA:

1.2 I am in agreement with the tree report provided and the development.

1.3 Some minor incursion into root protection areas is shown but this is relatively small and therefore unlikely to create any significant issues.

2.0 Conclusion

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

3.0 Recommendation

3.1 Agreement to the arboricultural aspect of the application subject to condition

4.0 References:

4.1 Local Plan Policies - DP1 & UR2

5.0 Recommended Landscape Conditions:

Make the tree report an approved document.

8.7 Environmental Protection state:

Should planning permission be granted Environmental Protection wish to make the following comments (conditions):-

ZPA – Construction Method Statement

ZPD - Limits to Hours of Work

EV Charging points

9.0 Parish Council Response

9.1 Non-Parished.

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 62 letters of objection have been received which raise concerns on the following points:

- Loss of wildlife.
- Place of historic interest- Lexden Mount close by.

- Noise disturbance.
- Increased traffic, parking problems. Parking inadequate. (DP19).
- Need double yellow lines opposite junction.
- Opposite T junction- highway safety problems.
- Danger to children during construction.
- Why not have access from Colvin Close.
- Design, materials and 3 storey out of keeping.
- Should be amended to two 4 bed houses.
- Contrary to DP1, DP12 & DP14- not enhance site and surroundings.
- Maximum height should be 2 storey.
- Loss of undeveloped open space. Valuable green space.
- Will set precedent for loss of other open spaces.
- Need starter homes.
- Higher density than elsewhere.
- Solar panels not included.
- Ground or air source heat pumps should be mandatory.
- Should be triple glazed.
- Will change complete structure of this road.
- Should not remove trees with TPO.
- Too close to tree and concerned about their future health.
- Overlooking. Side elevations should be frosted glass. Box windows can overlook.
- Loss of light.
- Needs full archaeological investigation.
- Dwellings forward of building line.
- Concerned about demolition of Lexden Manor wall.
- Looks cluttered.
- Consider previous planning history 192337- trees should be retained.
- Many trees already removed.
- Supposed to be communal garden for Lexden flats.
- Space probably left for 3 houses, but they are too high.

10.3 Four letters of support:

- Support the proposal. I do not object to the proposal. The houses look very much taller than the surrounding houses in the area/street and will likely dominate it. But in the position they are they do not have any houses directly opposite and so will not overlook.
- Walk past site daily- wall is harsh and makes property look like a prison.
- 3 nicely designed houses would be far more welcoming than brick wall.
- Additional lighting will make cul-de sac feel more secure.
- Still plenty of green areas in Lexden for wildlife.
- Looked at documents online and am impressed.
- Has always been space for a few more houses here, so this will not look out of place at all.
- Loss of green open space invalid- was always private land.
- Other house's designs in Marlowe are very limited in architectural merit and dated.

- Already many cars parked on street and this will not change that.
- Colchester needs high quality new homes.

10.4 One General letter:

- Fencing at front of houses would not be in keeping.

11.0 Parking Provision

11.1 3 spaces per dwelling

12.0 Accessibility

12.1 With regards to the Equalities Act, the proposal has the potential to comply with the provisions of Policy DP17 (Accessibility and Access) which seeks to enhance accessibility for sustainable modes of transport and access for pedestrians (including the disabled), cyclists, public transport and network linkages.

13.0 Open Space Provisions

13.1 N/A

14.0 Air Quality

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

15.0 Planning Obligations

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

16.0 Report

Principle

16.1 As the site lies within the settlement limits the proposal should be judged on its planning merits in accordance with the hierarchical settlement elements of the adopted Local Plan policies SD1 and H1 of the adopted Local Plan and Policy SP1 of the Emerging Local Plan which aim to direct such development to the most sustainable locations.

16.2 Settlement policies and the NPPF indicate a presumption in favour of sustainable development (which includes this site).

16.3 The Council is able to demonstrate a five year housing land supply and as such paragraph 11(d) of the NPPF is not engaged.

Layout, Loss of open space, Design and Impact on the Surrounding Area

- 16.4 In terms of the planning merits of the proposal, this is considered to be a finely balanced case and careful consideration needs to be given to the layout, design and form of the proposal and its impact in the street scene. It is considered that the proposal represents an acceptable layout that is in keeping with the character of the area and does not represent an overdevelopment of the site. The positioning and layout of the three dwellings is similar to the density of other development in the vicinity and garden sizes comply with the standards outlined in Policy DP16. There will be visible gaps between the dwellings and between the side boundaries so the proposal will not appear cramped or alien. Glimpses of Lexden Manor beyond will also be possible. It should be noted that Lexden Manor is not Listed or Locally Listed and it is not considered that the proposal could be refused on the grounds of the proposal's impact upon its setting, particularly having regard to the presumption in favour of sustainable development embodied in the NPPF.
- 16.5 There will be clearly be some loss of open space although there will still be significant grassed areas retained at the front, punctuated by the driveways. The two TPO trees at the front will also be retained and protected. A condition to ensure the front areas are not fenced off will also be applied and so the site would retain a significant element of open, green spaciousness. It is not considered that the existing open space is of such significance in the street scene in terms of its amenity value or contribution to the character of the area that would warrant its retention in its entirety and the proposal would therefore not conflict with Policies DP1 and DP15 in this respect.
- 16.6 Consideration of the design, scale and form of the dwellings needs particular care given that they differ from the designs of the surrounding properties. Overall the dwellings are considered acceptable in this respect. Whilst the main gables are taller than the neighbouring dwellings by approximately 1.8 metres the other significant element of the roofs is only 0.5 metres higher. The highest part of the gable roof is narrow and so overall it is not considered the dwellings would look over-scaled in their context.
- 16.7 It is clear that the dwellings differ significantly in terms of their design compared to the neighbouring properties. However it is fair to say that, whilst the overall existing environment gives a pleasant visual impression, existing dwellings in the vicinity do not have any particular architectural merit. The proposed dwellings would have a sharp and interesting contemporary appearance whilst retaining a traditional, relatively narrow front gable width and interesting design detailing. With the use of high quality materials it is considered that these dwellings would represent good design that would not detract from the character of the street scene and surroundings. It is considered that one of the dwellings (probably the central one) should have some difference in terms of materials use to introduce an element of variety into the development and this can be conditioned.
- 16.8 Overall, in terms of layout, design and impact on surroundings the proposal it is considered the proposal would therefore comply with Policy UR2 of the Local

Plan Core Strategy which provides that the Borough Council will secure high quality and inclusive design in all developments to make better places for both residents and visitors.

- 16.9 The proposal is considered to comply with Policy DP1 of the Local Plan Development Policies document adopted 2010 (with selected Policies revised July 2014) which provides that all development must be designed to a high standard and respect the character of the site, its context and surroundings including in terms of layout.
- 16.10 The proposal is considered to comply with the provisions of the Backland and Infill SPD and is in general accordance with the Essex Design Guide. It is also considered to comply with the revised NPPF section 12 which promotes well-designed places.
- 16.11 It should be noted that if the scheme is implemented, the previously approved scheme for the conversion of Lexden Manor to flats (192337) could not be implemented as the sites overlap and the required communal garden could not be provided for the flats. However, it is understood that it is the approved dwelling within the grounds (210331) that is being implemented.

Garden space:

- 16.12 Adequate amenity space for the new dwellings has been shown to be provided in accordance with Policy DP16. Indeed, garden space compares favourably with neighbouring properties. Policy DP16 provides that for dwellings with four or more dwellings, a minimum of 100m² should be provided and in this case the dwellings are provided with over 100m² each (ranging from 140-153m²) which further emphasises that this is not an overdevelopment of the site.

Impact on Neighbour Amenities:

- 16.13 It is not considered there would be a significant impact upon neighbouring residential amenity from the proposal. The dwellings are positioned far enough from the boundaries of neighbouring properties to avoid an overbearing impact. The Council policy sets out that a 45 degree angle of outlook from the mid-point of the nearest neighbouring windows should be preserved and it is considered that this proposal satisfies this requirement.
- 16.14 Similarly, there are no concerns regarding loss of light. The combined plan and elevation tests are not breached and the proposal therefore satisfies the Council's standards for assessing this issue as set out in the Essex Design Guide.
- 16.15 Additionally, the proposal does not include any new windows at first floor level that would offer an unsatisfactory angle of overlooking that harmed the privacy of the neighbouring properties, including their protected sitting out areas as identified in the above SPD. With regard to 1st and 2nd floor openings on the side elevations of the dwellings adjacent to existing dwellings, conditions can be applied to ensure that openings, including rooflights, are obscure glazed and non-opening where they are not above 1.7 m above floor level. The same condition can be applied to the

rear openings which have been minimised in any case in order to avoid overlooking the amenity space of Lexden Manor and its rear windows. The residential amenity of the occupants of the new dwellings would still be acceptable with the application of the obscure glazing condition.

- 16.16 The objections received regarding construction works are noted and appropriate conditions can be applied to minimise disruption including a construction management plan and control over hours of working. Environmental Protection have made no objections.
- 16.17 The proposal would thus comply with Policy UR2 (better places for residents and visitors expected) and DP1 which provides that all development should avoid unacceptable impacts upon amenity, including the protection of residential amenity with regard to noise and disturbance and overlooking.

Highway Matters:

- 16.18 The Highway Authority have raised no objection to the scheme subject to conditions which can be applied. Revised plans have been submitted showing the driveway avoiding a lamp post and the trees. The proposal now complies with, and indeed exceeds, Policy DP19, with space for 3 car parking spaces for each dwelling.
- 16.19 Appropriate visibility splays in either direction have been provided for the access points. The neighbour's concerns have been noted. However, given the lack of objection by the Highway Authority it is not considered the proposal could be refused on the grounds of intensification of vehicular activity in this location which it is noted is opposite a junction. The Highway Authority can be advised of the request made about the introduction of double yellow lines and it will be down to the Highway Authority to determine whether this is required.
- 16.20 The Essex Design Guide provides that "The overarching aim is to ensure that in new residential and mixed-use environments, the circulation and movement of people is pleasant, convenient, safe, responds to local context and combines with good place-making. Motorised vehicle movement must efficiently service development without predominating..." It is not considered the proposal contravenes these aims of the Essex Design Guide. It would also not cause a severe impact upon the Highway network, as referred to in the NPPF (para.111).
- 16.21 A Construction Management Plan condition can be applied.

Impact Upon Vegetation:

- 16.22 There was initial concern that the originally submitted scheme would have an unacceptable impact upon the two TPO trees at the front of the site. Accordingly the scheme was revised to move the driveways further from the root protection areas and the dwellings repositioned to avoid future pressure for removal/trimming of the trees. A revised Arboricultural Impact Assessment (AIA) was also submitted and this concludes:

“Tree protection and method statements have been provided within this report to reduce the risk of direct and indirect development related damage that may otherwise occur to the retained trees. In conclusion, assuming the method statements and tree protection are implemented as part of the development, the proposal can be constructed with reduced disturbance to the trees. Following development, the trees will not be obscured by the development and therefore the development is considered to have a low impact upon visual amenity value.”

- 16.23 It is also concluded within the AIA that owing to the nature of the Raywood Ash trees it is “likely that future cyclical works will be required on a 6- 8-year cycle depending on vigour to maintain the structure of the tree” due to inherent structural weakness caused by weak and tight branch unions. The Council’s tree officer has analysed the revised AIA and confirms agreement with the tree report provided and the development. He states that “some minor incursion into root protection areas is shown but this is relatively small and therefore unlikely to create any significant issues.” Accordingly it is recommended that the contents of the AIA are made an approved document. Overall given the above, it is considered that the impact upon the TPO trees will be very limited and that they can be satisfactorily retained within this development. The proposal is therefore considered to comply with Policy DP1 in this respect which aims to respect such natural assets.
- 16.24 No other trees are affected by this development. Some unprotected vegetation was removed previously outside this planning application.

Wildlife issues:

- 16.25 As the site is not overgrown and no older or timber framed buildings would be demolished it is not considered that a phase 1 Ecological survey is required. Whilst the comments about impact upon a wildlife corridor are noted it is not considered there is a justification to refuse the proposal in this respect given the nature of the site and its surroundings, particularly as the site is a mixture of existing garden land and maintained space. Accordingly it is not considered the scheme is contrary to policy DP21 which aims to protect and enhance biodiversity.
- 16.26 In any case, a RAMS wildlife payment has been made as new dwellings would be created in a Zone of Influence for coastal sites subject to national designations as required by the Habitat Regulations to mitigate any adverse impacts. An appropriate Habitat Regulation assessment has been undertaken.

Unilateral Undertaking:

- 16.27 A Unilateral Undertaking is required to be completed in order to secure the required SPD contributions for community facilities and sport & recreation facilities and this has been completed.

Environmental and Carbon Implications

- 16.28 The Council has declared a Climate Emergency and has committed to being carbon neutral by 2030. The purpose of the planning system is to contribute to the achievement of sustainable development as defined in the National Planning Policy Framework. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are economic, social and environmental objectives. The consideration of this application has taken into account the Climate Emergency and the sustainable development objectives set out in the NPPF. It is considered that, on balance, the application can contribute to achieving sustainable development. The site is considered to be in a sustainable location and would minimise carbon emissions from trips generated to access services.

Other

- 16.29 Finally, in terms of other planning considerations, the proposed development does not raise any concerns. An archaeological programme of works condition can be applied. (Policy DP14). The site is not within a flood zone so there is no flood risk issue (DP20). A surface water drainage condition can be applied.

17.0 Conclusion

- 17.1 In conclusion the proposal is considered acceptable for the following reasons:

- The site is within the settlement limits and is in a sustainable location so accords with adopted and emerging Local Plan Policy.
- The site can adequately accommodate the three proposed dwellings without them appearing cramped or being out of keeping with the character of the street scene.
- It is not considered the proposal represents overdevelopment as the sizes of each site are comparable with other sites in the vicinity.
- The design, scale and form of the dwellings is considered acceptable and introduces a sharp, contemporary feel to the location. Their scale relates satisfactorily to the scale of other dwellings in the vicinity, being somewhat taller but not excessively so. The main gables are traditional in width and the dwellings themselves have elements of varying roof heights and appropriate fenestration.
- The dwellings are also adequately spaced and set off each side boundary.

- It is not considered the loss of this currently open area can justify a refusal and there is space for frontage landscaping on the frontage of both plots and the retention of the TPO trees.
- There are no objections on the grounds of highway safety, with adequate visibility splays in either direction and provision for adequate parking on the site.
- There is adequate amenity space for each new dwelling. It is not considered there would be a significant impact on neighbouring residential amenity from the proposed dwellings in terms of overbearing, loss of light or overlooking or in respect of noise and disturbance.
- No vegetation of significance would be affected and the TPO trees can be adequately protected.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions

1. ZAA - Time Limit for Full Permissions

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

2. ZAM – Development In accordance with Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers: 6817-1103B, 1104 Rev A, 1202-C, 1302 Rev E, 1601 E., Arboricultural Impact Assessment (which shall be complied with throughout the lifetime of the development works) Rec'd 21.5.21.

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

3. ZBC- Materials To Be Agreed

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

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

4. Non Standard Condition- Vehicular Access

Prior to first occupation of the proposed development, each of the proposed vehicular accesses shall be constructed at right angles to the highway boundary and to a width of 4.5 metres 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.

5. Non Standard Condition - Visibility Splays

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.

6. Non Standard Condition - Parking/Turning Area

The development shall not be occupied until such time as the car parking areas for each dwelling, indicated on the revised drawings has been hard surfaced and sealed. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

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

7. 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, of a design that 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.

8. Non Standard Condition- Travel Information Packs.

Prior to first occupation of the proposed development, 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, 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.

9. Non Standard condition- No Unbound Materials

No unbound materials shall be used in the surface treatment of the proposed vehicular access throughout.

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

10. 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 and in the interest of highway safety. (see informatives).

11. Non Standard Condition - Construction and Demolition

No demolition or construction work shall take place 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.

12. Non Standard Condition - Refuse and Recycling

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.

13. ZFI- Tree or shrub planting

The development hereby permitted shall not be occupied until details of tree and/or shrub planting and an implementation timetable have been

submitted to and approved, in writing, by the Local Planning Authority. This planting shall be maintained for at least five years following contractual practical completion of the approved development. In the event that trees and/or plants die, are removed, destroyed, or in the opinion of the Local Planning Authority fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed in writing with the Local Planning Authority.

Reason: To ensure an appropriate visual amenity in the local area.

14. Z00 – Electric Charging Points

Prior to first occupation of the dwellings, one electric vehicle charging point shall be provided for each dwelling and thereafter retained as such.

Reason: To encourage the use of sustainable transport.

15. ZDF- Removal of PD- Obscure Glazing.

Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), the 1st and 2nd floor windows and rooflights in the outer side elevations (facing numbers 7 and 15 Marlowe Rd respectively) of plots 1 and 3 shall be non-opening and glazed in obscure glass to a minimum of level 4 obscurity both to a level a minimum of 1.7 m above floor level before the development hereby permitted is first occupied and the same applies to the 1st and 2nd floor windows and rooflights on the rear elevations of plots 1, 2 & 3 and all shall thereafter be permanently retained in this approved form.

Reason: To avoid the overlooking of neighbouring properties in the interests of the amenities of the occupants of those properties.

16. ZNL- Full Archaeological Condition

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

writing, by the Local Planning Authority. The Scheme shall include an assessment of significance and research questions; and:

- a. The Programme and methodology of site investigation and recording
- b. The programme for post investigation assessment
- c. Provision to be made for analysis of the site investigation and recording

- d. Provision to be made for publication and dissemination of the analysis and records of the site investigation
- e. Provision to be made for archive deposition of the analysis and records of the site investigation
- f. Nomination of a competent person or persons/organisation to undertake the works

The site investigation shall thereafter be completed prior to development, or in such other phased arrangement, as agreed, in writing, by the Local Planning Authority. The development shall not be

occupied or brought into use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved and

the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and

timely investigation, recording, reporting and presentation of archaeological assets affected by this development, in accordance with

Policy SD1 and ENV1 of Colchester Borough Council's Core Strategy (2008).

17.ZCL- Surface Water Drainage

No works shall take place until details of surface water drainage shall have been submitted to and approved, in writing, by the Local Planning Authority. No part of the development shall be first occupied or brought into use until the agreed method of surface water drainage has been fully installed and is available for use.

Reason: To minimise the risk of flooding.

18. ZDD- Removal of RD Rights- Frontage.

Notwithstanding the provisions of Article 3, Schedule 2 Part 1 Classes E of the Town and Country Planning (General Permitted Development)

(England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no provision of enclosures or other

structures shall be erected forward of the houses hereby approved except in accordance with drawings showing the design and siting of such enclosures/structures which shall previously have been submitted

to and approved, in writing, by the Local Planning Authority.

Reason: In the interests of preserving the open character of the front of the site.

19.0 Informatives

19.1 The following informatives are also recommended:

1. 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. All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to: SMO1 – Development Management
Essex Highways Ardleigh Depot,
Harwich Road,
Ardleigh,
Colchester,
Essex
CO7 7LT

3. 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.

4.ZTA - Informative on Conditions Stating Prior to Commencement/Occupation

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

5.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.

APPENDIX 1 – Policies Superseded from the Core Strategy Focused Review 2014 by the Shared Strategic Section 1 Local Plan

General Local Plan Status

The Colchester emerging Local Plan (eLP) was submitted to the Planning Inspectorate in October 2017. The Plan is in two parts with Section 1 being a shared Strategic Plan for the North Essex Authorities (Colchester, Braintree, and Tendring). Following Examination in Public (EiP) the Section 1 Local Plan was found sound and Colchester Borough Council adopted the Section 1 Local Plan on 1 February 2021 in accordance with Section 23(2)(b) of the Planning and Compulsory Purchase Act 2004.

Policy SP2 should be referred to when applying the Habitats Regulations requirements to secure RAMs contributions where appropriate. This does not update the approach that the Council have been implementing but the Policy context has updated status with the adoption of Section 1 which includes a specific policy covering this issue.

A few policies in the Core Strategy are superseded in part by the adopted Section 1 Local Plan, and SD2 in full only. This is outlined below in detail and a summary table for all Section1 Policies.

Policy SD2 – Full

~~The Borough Council will work with partners to ensure that facilities and infrastructure are provided to support sustainable communities in Colchester. New facilities and infrastructure must be located and designed so that they are accessible and compatible with the character and needs of the local community.~~

~~New development will be required to provide the necessary community facilities, open space, transport infrastructure and other requirements to meet the community needs arising from the proposal. Development will also be expected to contribute, as appropriate, to strategic projects that support sustainable development and the wider community.~~

~~The Council will seek to ensure that new development makes a reasonable contribution to the provision of related facilities and infrastructure. This will either be through a planning obligation (usually contained within a Section 106 agreement) and/or, if applicable, through a Community Infrastructure Levy (CIL) payment, following adoption of a CIL charging schedule.~~

~~A CIL charging schedule would set a specified charge for each square metre of gross internal floorspace, related to the use class of the development. CIL payments will contribute to the provision of infrastructure to support development. Planning obligations and s278 agreements will continue to be used to make individual applications acceptable. The Council will publish a list of infrastructure to be funded through CIL to ensure developers do not pay twice for the same item of infrastructure. The viability of developments will be considered when determining the extent and priority of development contributions.~~

Is replaced by SP6.

Policy SD2 is no longer relevant.

Policy SD1 – In Part

~~Colchester Borough Council will promote sustainable development and regeneration to deliver at least 14,200 jobs between 2001 and 2021 and at least 19,000 homes between 2001 and 2023.~~

~~When considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work proactively with applicants jointly to find solutions which mean that applications can be approved wherever possible and to secure development that improves the economic, social and environmental conditions in the area.~~

~~Planning applications that accord with the policies in this Local Plan (and, where relevant, with policies in neighbourhood plans) will be approved without delay unless material considerations indicate otherwise.~~

Is replaced by SP1.

All other parts of SD1 remain relevant.

Policy H1 – In Part

~~The Borough Council will plan, monitor and manage the delivery of at least 19,000 new homes in Colchester Borough between 2001 and 2023.~~

Is replaced by SP3 and SP4.

All other parts of H1 remain relevant.

Policy CE1- In part

~~The Borough Council will encourage economic development and will plan for the delivery of at least 14,200 jobs in Colchester between 2001 and 2021.~~

Is replaced by SP5.

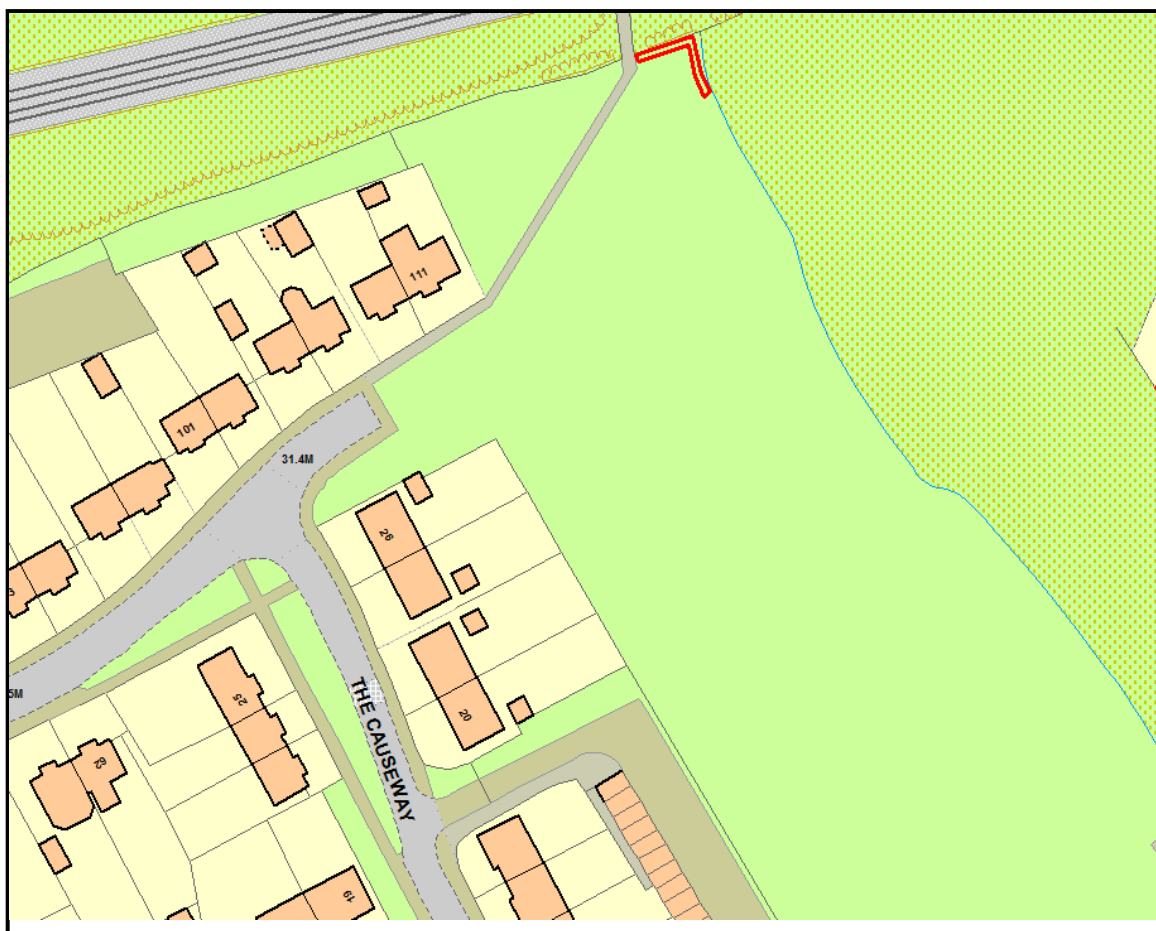
All over parts of CE1 remain relevant.

Section 1 Adopted Policy	Context of Section 1 Policy	Relevant Core Strategy Policy status
Policy SP 1 Presumption in Favour of Sustainable Development	Restates national Policy	Replaces SD1 - in part. Following text of SD1 is replaced by SP1.

		<p><i>Colchester Borough Council will promote sustainable development and regeneration to deliver at least 14,200 jobs between 2001 and 2021 and at least 19,000 homes between 2001 and 2023.</i></p> <p><i>When considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work proactively with applicants jointly to find solutions which mean that applications can be approved wherever possible and to secure development that improves the economic, social and environmental conditions in the area.</i></p> <p><i>Planning applications that accord with the policies in this Local Plan (and, where relevant, with policies in neighbourhood plans) will be approved without delay unless material considerations indicate otherwise.</i></p>
Policy SP 2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)	Statutory requirement under the Habitats Regs- Policy provides a new authorisation for contributions	New policy relevant to confirm approach implementing the Habitats Regulations. Full status for decisions post 1.02.2021
Policy SP 3 Spatial Strategy for North Essex	Strategic – relies on Section 2 eLP for Spatial hierarchy and Colchester strategy	High level N/A
Policy SP 4 Meeting Housing Needs	Sets the housing supply figure for the Plan period at 920 per year. Section to	Replaces H1 - in part.

	allocate sites and determine the spatial distribution	<p>Following text of H1 replaced by SP4.</p> <p><i>The Borough Council will plan, monitor and manage the delivery of at least 19,000 new homes in Colchester Borough between 2001 and 2023.</i></p> <p>All other parts of H1 remain relevant</p>
Policy SP 5 Employment	Strategic target – relies on Section 2 eLP to allocated sites	<p>Replaces CE1 – in part.</p> <p>Following text from CE1 replaced by SP5.</p> <p><i>The Borough Council will encourage economic development and will plan for the delivery of at least 14,200 jobs in Colchester between 2001 and 2021.</i></p> <p>All other parts of CE1 remain relevant.</p>
Policy SP 6 Infrastructure & Connectivity	<p>Strategic and restates national policy</p> <p>Section 2 covers matters specifically</p>	<p>High level/Garden Community – Section A</p> <p>Sections B, C, D and E of policy apply to all allocations and development proposals in the North Essex Authorities area.</p> <p>These sections replace SD2.</p>
Policy SP 7 Place Shaping Principles	Strategic / restates national policy and eLP Section 2 covers matters specifically	High level N/A
Policy SP 8 Development & Delivery of a New Garden Community in North Essex	New- specific to the Garden Community	Garden Community N/A
Policy SP 9 Tendring/Colchester Borders Garden Community	New- specific to the Garden Community	Garden Community N/A

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



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Item No: 7.5

Application: 211821

Applicant: Colchester Borough Council

Agent: Brandon Kirk

Proposal: The proposed fence is 2.4m high palisade fencing and will cover an areas of 20m and placed along side of the existing palisade fence. Second section of fence approximately 4m in width

Location: Open Spaces, Pondfield Road, Colchester, CO4

Ward: St Anne's & St John's

Officer: Mr Daniel Cooper

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the applicant is Borough Council and in the interests of transparency.

2.0 Synopsis

- 2.1 The key issues for consideration are any impact on the surrounding area visually and also any impact on the landscape character of the area.
- 2.2 The application is subsequently recommended for Approval

3.0 Site Description and Context

- 3.1 The site is an open green space/recreation ground within Colchester. The northern section of the site borders the railway line as can be seen in the above site plan. Trees are located to the east and housing to the west and far south.
- 3.2 The location proposed for the new fencing is near a small footpath that leads to a foot bridge over the railway.
- 3.3 The site is not located within a Conservation Area and no listed buildings will be affected.

4.0 Description of the Proposal

- 4.1 This application seeks consent for the installation of a 26m length of fencing 2.4m in height alongside existing palisade fencing in order to prevent public access to the railway line. The proposals are sought in the interests of public safety.
- 4.2 The proposed location is at the far north of the public recreation ground that borders the railway line and contains a small path to a foot bridge over the railway.
- 4.3 There are two locations for the fencing proposed, the first and longest section would be located alongside the existing palisade fencing on the north boundary and the second shorter length would be to the east close to the trees and runs in a north to south direction and where there is a stream.

5.0 Land Use Allocation

- 5.1 The current land use allocation is Open Space.

6.0 Relevant Planning History

- 6.1 There is no planning history relevant to this application however, the most recent on record is the following:
- 6.2 F/COL/06/0673 24/04/2006 - Full

Pondfield Open Space, Harwich Road, Colchester
Multi-use games area (MUGA) with CCTV and floodlights .
Approve Conditional - 19/06/2006

7.0 Principal Policies

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

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

SD1 - Sustainable Development Locations
SD2 - Delivering Facilities and Infrastructure
UR2 - Built Design and Character
PR1 - Open Space
TA3 - Public Transport
ENV1 - Environment

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

DP1 Design and Amenity
DP17 Accessibility and Access
DP18 Transport Infrastructure Proposals

7.4 Submission Colchester Borough Local Plan 2017-2033:
The Council is developing a new Local Plan that has been submitted to the Planning Inspectorate (October 2017). An Inspector has been appointed and the formal examination commenced in January 2018. The examination is ongoing for Section 2 of the plan with Section 1 formally adopted in February 2021.

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

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

The Emerging Local Plan submitted in October 2017 is at an advanced stage, with Section 1 now adopted and Section 2 progressing to examination hearing

sessions in April. Section 1 of the plan is therefore considered to carry full weight.

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

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

The Essex Design Guide
External Materials in New Developments

8.0 Consultations

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

8.2 Network Rail

Recommendation: Approve
Dear Sir/Madam,

Network Rail strongly recommends the developer complies with the following comments and requirements to maintain the safe operation of the railway and protect Network Rail's infrastructure.

The developer must ensure that their proposal, both during construction and after completion does not:

- encroach onto Network Rail land
- affect the safety, operation or integrity of the company's railway and its infrastructure
- undermine its support zone
- damage the company's infrastructure
- place additional load on cuttings
- adversely affect any railway land or structure
- over-sail or encroach upon the air-space of any Network Rail land
- cause to obstruct or interfere with any works or proposed works or Network Rail development both now and in the future

- 8.3 There have been no objections to this proposal.

9.0 Parish Council Response

- 9.1 Non Parish

10.0 Representations from Notified Parties

10.1 The application resulted in a number of notifications to interested third parties including neighboring properties. The full text of all of the representations received is available to view on the Council's website. However, no objections have been received.

11.0 Parking Provision

11.1 N/A

12.0 Accessibility

12.1 N/A

13.0 Open Space Provisions

13.1 N/A

14.0 Air Quality

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

15.0 Planning Obligations

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

16.0 Report

16.1 The main issues in this case are:

- The Principle of Development
- Design and Layout
- Scale, Height and Massing
- Impact on the Surrounding Area
- Impacts on Neighbouring Properties
- Landscape and Trees

16.2 The site location for the new fencing is at the far north of the large recreation ground and in an area of scrub and in close proximity to trees. It is also adjacent to the railway line and the foot bridge over the railway hence the requirement of the high fence for safety reasons.

16.3 Given the location of the proposed fence, the impact on any nearby neighbouring dwellings is considered negligible with minimal impact to their private amenity.

- 16.4 With regards to Landscape Character, Core Strategy ENV1 Environment seeks to conserve and enhance Colchester's natural and historic environment. Core Strategy UR2 Built Design and Character promotes high quality design and better places for residents and visitors. Development Policy DP1 Design and Amenity states that all development must respect and enhance the character of the site, its context and surroundings in terms of, inter alia, landscape setting. Development Policy DP17 Accessibility and Access states that access to all development should be created in a manner which maintains the right and safe passage of all highway users.
- 16.5 With the above policies in mind, it is clear that the proposed fencing is unattractive. However, it is justified for the specific purpose to prevent trespass onto railway land for reasons of public safety. It is also typical in design and height of similar fencing along the railway line Borough wide.
- 16.6 Given the location and context of the site, the proposed fencing would not be out of character with the location of the existing fence and metal foot bridge. It is also located to the far rear of the open space and would not therefore be overly dominant within the street scene.
- 16.7 Although some of the fencing (4m section) is proposed to be close to nearby established trees, these trees are within Council ownership and given their location close to the railway would undergo regular pruning and cutting back or removal in the interests of railway safety. In addition, there are no Tree Protection Orders on any of the trees. Therefore, it is not considered that an Arboricultural Impact Assessment or a Tree Protection Plan is required.
- 16.8 With the above taken into consideration, it is considered that while unsightly, the fencing will serve the important purpose of providing enhanced public safety around the railway line at a well-used crossing point. The proposal is therefore considered to outweigh any concerns regarding impact to the landscape character of the area and/or impact to trees.

17.0 Conclusion

- 17.1 To summarise, the proposal would result in publicly beneficial safety fencing at a high risk location. The design of the fencing is typical of this type of fencing used Borough wide and, given the location, would not be considered out of context or incongruous within the landscape character or wider public realm.

18.0 Recommendation to the Committee

- 18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1. ZAA - Time Limit for Full Permissions

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

2. ZAM - *Development to Accord With Approved Plans*

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawings labelled Site Location Plan dated 13th July 2021, Fence Locations and Fence Elevation received 16th July 2021.

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

3. ZBB - Materials As Stated in Application

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

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

19.1 Informatives

19.1 The following informatives are also recommended:

(1) Non Standard Informative

The applicant's attention is drawn to the letter from Network Rail received 13th August 2021 within the file and stating the following:

Network Rail strongly recommends the developer complies with the following comments and requirements to maintain the safe operation of the railway and protect Network Rail's infrastructure.

The developer must ensure that their proposal, both during construction and after completion does not:

- encroach onto Network Rail land
- affect the safety, operation or integrity of the company's railway and its infrastructure
- undermine its support zone
- damage the company's infrastructure
- place additional load on cuttings
- adversely affect any railway land or structure
- over-sail or encroach upon the air-space of any Network Rail land
- cause to obstruct or interfere with any works or proposed works or Network Rail development both now and in the future

Planning Committee

9 Septmeber 2021

Item
8

Report of	Assistant Director of Policy & Corporate	Author	Nadine Calder ☎ 01206 282424
Title	Discharge of a Section 106 Agreement for The Orchard, Foxes Lane, Eight Ash Green		
Wards affected	Lexden & Braiswick		

This report concerns an application reference 211958 to discharge or revoke an existing Section 106 Agreement

1. Decision(s) Required

- 1.1 Members need to agree to discharge an existing Section 106 Agreement.

2. Reasons for Decision(s)

- 2.1 This report is in respect of a Section 106 Agreement for The Orchard, Foxes Lane, Eight Ash Green.
- 2.2 The Section 106 Agreement applies to planning application COL/98/1681 which granted permission for the erection of an agricultural workers dwelling.
- 2.3 The Section 106 Agreement provides that the dwelling erected under application reference COL/98/1681 shall be occupied only by a stockman (together with his immediate family) employed to supervise the livestock located at Thurgoods Farm.
- 2.4 In April 2021, the Council issued a Certificate of Lawful Existing Use (reference 211311) for the occupation of the dwelling by persons who are **not** solely or mainly working, or last working, in the locality in agriculture or in forestry or a widow or widower of such a person, and to any resident dependents.
- 2.5 Subsequently, in July 2021, the Council granted permission for the removal of condition 5 of application COL/98/1681 (reference 210547) which restricted the occupation of the dwelling to persons who are solely or mainly working, or last working, in the locality in agriculture or in forestry or a widow or widower of such a person, and to any resident dependents.
- 2.6 Application COL/98/1681 is therefore no longer the subject of any occupancy restrictions. The Section 106 Agreement is therefore considered no longer relevant.

3. Alternative Options

- 3.1 The Committee could resolve not to revoke the now redundant Section 106 Agreement, in such circumstances the applicant would have right to appeal.

4. Supporting Information

- 4.1 By way of issuing a Certificate of Lawfulness and the removal of condition 5, as set out above, the dwelling which was granted permission under reference COL/98/1681 is no longer the subject of any occupancy restrictions but represents a normal market house. The Section 106 Agreement, which provides that the dwelling shall be occupied only by a stockman (together with his immediate family) employed to supervise the livestock located at Thurgoods Farm is therefore no longer relevant. The applicant therefore seeks to discharge the existing Section 106 Agreement.

5. Proposals

- 5.1 N/A

6. Strategic Plan References

- 6.1 There are no Strategic Plan references of direct relevance.

7. Consultation

- 7.1 Neighbouring properties, Ward Councillors and the Parish Council have been notified. The consultation is still ongoing at the time of writing this report. Any comments that may be received before the Planning Committee will be forwarded to Members on the Amendment Sheet.

8. Publicity Considerations

- 8.1 N/A

9. Financial Implications

- 9.1 N/A

10. Equality, Diversity and Human Rights Implications

- 10.1 There are no Equality, Diversity and Human Rights Implications.

11. Community Safety Implications

- 11.1 There are no Community Safety Implications.

12. Health and Safety Implications

- 12.1 There are no Health and Safety Implications.

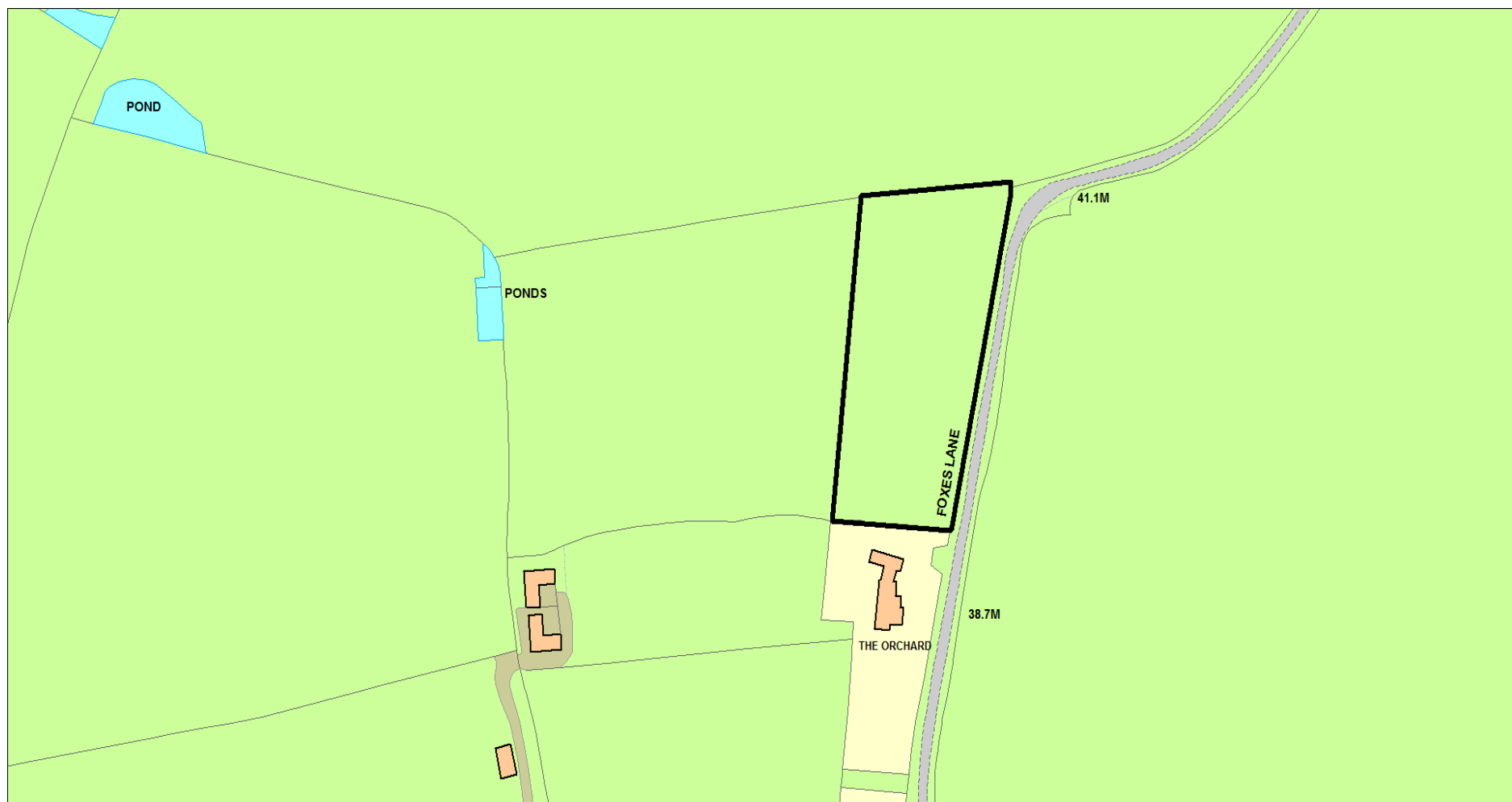
13. Risk Management Implications

- 13.1 There are no Risk Management Implications.

Background Papers

Application references:

- COL/98/1681 together with Section 106 Agreement dated 21 August 2000;
- 211311; and
- 210547



Site Location Plan

© Crown copyright and database rights 2014 Ordnance Survey 100023706.

Application Reference: 211958
Site Location Address: The Orchard, Foxes Lane, Eight Ash Green, Colchester, CO3 8NG
Date Produced: 1 September 2021

(Map Not to Scale)

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.

