

Planning Committee Meeting

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

Thursday, 17 June 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>.

Audio Recording, Streaming, Mobile phones and other devices

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

Access

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

Facilities

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

Evacuation Procedures

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

www.colchester.gov.uk

Covid 19

Please could attendees note the following:-

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

COLCHESTER BOROUGH COUNCIL
Planning Committee
Thursday, 17 June 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

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.

2 Substitutions

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

3 Urgent Items

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

4 Declarations of Interest

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

5 Have Your Say(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

6 Minutes of Previous Meetings

9 - 26

The Councillors will be asked to confirm that the minutes of the meetings held on 26 May 2021 and 27 May 2021 are a correct record.

7 Planning Applications

When the members of the Committee consider the planning applications listed below, they may decide to agree, all at the same time, the recommendations in the reports for any applications which no member of the Committee or member of the public wishes to address the Committee.

7.1	202771	Turner Rise Retail Park, Petrolea Close, Colchester	27 - 46
		Alterations to car park with the erection of a freestanding restaurant with drive-thru facility, car parking, landscaping and associated works, including Customer Order Displays (COD), Goal Post Height Restrictor and Play Frame.	
7.2	210787	87 Colchester Road, West Bergholt	47 - 62
		Part Change of Use to Takeaway (Fish & Chip Shop). Change of Shopfront; installation of extractor hood & fan & external cold rooms	
7.3	210763	Mary Barron Building, Colchester General Hospital, Turner Road, Colchester	63 - 90
		Erection of building to provide an Elective Orthopaedic Centre comprising 8283sqm internal floor area; Demolition of Mary Barron building & removal of Cardiac Catheterisation Unit, administrative block & part removal of Elmstead Day Unit (Endoscopy only), relocation of clinical services; New service loop road including drop off parking, delivery area & ambulance bays; Provision of an external link corridor to the existing Elmstead Day Unit; Landscaping & ancillary works.	
7.4	190335	Land at rear of The Colchester Centre, Hawkins Road, Colchester	91 - 120
		Redevelopment of site to provide 282 student bedrooms (sui generis) in an 8 storey building with ancillary ground floor space combining cafe, meeting space, bin store, cycle store, laundry, reception/office, plant rooms and car parking.	
7.5	210822	2 Woodview Close Colchester	121 - 130
		Single storey rear extension and log cabin type summer House	
7.6	210384	Box Cottage, The Avenue, West Bergholt	131 - 144
		Proposed first floor rear extension & alterations & detached annex for carer.	

Exclusion of the Public (not Scrutiny or Executive)

In accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972).

Planning Committee Information Pages	145 - 156
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Part B (not open to the public including the press)

PLANNING COMMITTEE
26 May 2021

<i>Present: -</i>	Councillors Barton, Chuah, Davidson, Hazell, Lilley, Maclean, Mannion, B.Oxford and Warnes
<i>Apologies</i>	
<i>Substitutes: -</i>	
<i>Also, in attendance:</i>	

833 Appointment of Chairman

RESOLVED that Councillor Hazell be appointed Chairman for the forthcoming Municipal Year.

834 Appointment of Deputy Chairman

RESOLVED that Councillor Davidson be appointed Deputy Chairman for the forthcoming Municipal Year

PLANNING COMMITTEE
27 May 2021

<i>Present: -</i>	Councillors Barton, Chuah, Davidson, Hazell, Lilley, Maclean, Mannion, G. Oxford and Warnes
<i>Substitutes: -</i>	Councillor G Oxford for Cllr B Oxford
<i>Also, in attendance:</i>	Councillor Dundas, Harris and Scott-Boutell

835 Minutes of Previous Meetings

The minutes of the meeting held on 1 April 2021 were approved as a correct record.

836 Land east of Plummers Road, Fordham

Councillor Davidson (by reason of acquaintance with the applicant) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).

Councillor Maclean (by reason of acquaintance with the applicant) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered an Outline application for for the erection of 17 dwellings. A report setting out information about the application was before the committee.

The Committee members had been provided with films and photographs of the site taken by the Planning Officer to assist in their assessment of the impact and suitability of the proposals.

Annabel Cooper, the Planning Officer, presented the report and assisted the Committee in its deliberations.

The Planning Officer shared a presentation with members including plans, aerial views, photographs of the site and drawings to illustrate the outline application and reminded members that consideration was of the principles of the outline application at this stage.

She explained that the proposal was a departure from the Adopted Local Plan but was allocated in the Emerging Local Plan. The inspector's response to Section 2 of the Emerging Local Plan was awaited. The proposal was consistent with the National Planning Policy Framework.

The site was situated opposite existing residential development with a narrow connecting path to existing affordable housing. A further footpath was planned including a connection to help lead pedestrians south, this was indicated in the plans.

There would be some loss of hedgerow and the Landscape Officer had had no objections as the hedge had not been deemed important under the Hedgerows' Regulations. Replanting of a hedge was proposed and this could be further explored and resolved at the Reserved Matters stage.

Access points to the development were along Plummers Road and Highways had made a technical assessment and had no objections.

In terms of archaeology, trial trenches had been dug and the view of archaeological consultant was that no further works at the site were necessary.

The Planning Officer stated that there would be 30% affordable housing and that the application would be subject to a contribution to the Essex Coast Recreational Disturbance Avoidance Mitigation Strategy (RAMS).

The Planning Officer considered the outline application appropriate and recommended approval with conditions.

Stephen Foster addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application expressing residents' concerns.

Mr Foster felt that the consultation referred to in paragraph 10 of the report had not been specific enough to this proposal so was not completely relevant. The scheme was ill thought out and no measurements had been provided for the outline consent requested.

He stated that the site was a greenfield one that was part of a working farm not an appropriate settlement site; it was outside SP1. The archaeological investigation had found evidence of the bronze age ring works and a pit and pottery from the Middle Ages.

He also highlighted that there were traffic problems in Plummers Road and that the pavement/footpath proposed would only cater for the southern end of the road

meaning pedestrians at the northern end of Plummers Road would need to step into the road.

Mr Foster, in conclusion, said that the target for new houses had already been met with the approval of 150 homes in Eight Ash Green.

Charlotte Powell, Arbora Design addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application

Ms Powell stressed that the applicant had worked with Colchester Borough Council's Policy Team and that the allocation in the Emerging Local Plan had been consulted on. As requested an archeological evaluation had been undertaken.

She explained that site fronted Plummers Road and access had been agreed by Highways. The proposed public footpath would increase connectivity in the village. The size and type of homes had been agreed with the Housing Team with the aim of 17 dwellings being delivered and occupied by 2023. More detail would be considered under reserved matters. The proposal was a small development in the village that would secure a legal agreement and RAMS payment.

Councillor Chapman submitted comments under the Have Your Say provisions which, with the consent of the Chairman, were read out by the Democratic Services Officer:

"I have been a Councillor for Fordham for nearly 20 years and one of the longstanding issues that both the County Councillor and I have regularly been challenged on is that of road safety for pedestrians along Plummers Road. A development some years ago had included a landscape path along some of it but, following much discussion with the Highway authority, it was clear that there was nothing they could offer to improve the situation along the remaining stretch of the road.

A desire by the Village Hall Committee to improve facilities was also apparent. So, following the call for sites for the new Borough Plan a few years ago, the Parish Council, County Councillor Anne Brown and myself met with the Borough Council's planners to see if a scheme could be developed to improve the footway and provide some S106 money to support the village hall. The present application is the result. Road safety is one of the major issues in most villages, and I have always worked to find ways and means to improve it. As Councillors on this Committee will appreciate, that isn't easy. So, an opportunity such as this prospective development will always be welcomed by me."

The first issue raised by the Committee was that of the footpath and a suggestion to site the footpath inside the hedge was made, so as to shield pedestrians from any fast flowing traffic as there was concern that pedestrians would be too close to the road . Pedestrian safety was a concern as was pollution. Resiting of the footpath would also mean that the hedge may be retained.

Secondly concern was expressed over the speed of traffic using the road and the issue of cars' access and egress: vehicles pulling out of the development needing good side splays and signage. It was acknowledged that any effect on visual splays had been considered from a Highways' perspective.

The lack of infrastructure in the village was also raised in particular in respect of oversubscribed schools, it would not be sufficient to support any additional residents.

The Committee had seen that only one trench had been dug but were assured by the Planning Officer that the Archeological Consultant/officer had overseen the activity and no further work was needed.

The Committee welcomed the provision of 30% affordable housing particularly as there would be 3 and 4 bedroom properties which were harder to find in the Social Housing sector.

The Committee recognised that the issues raised would be addressed at the reserved matters stage and suggested an addition to the informatives.

RESOLVED (UNANIMOUSLY) that the application be approved subject to the conditions and informatives as set out in the report with the addition of an informative about the footpath and boundary hedge.

837 Junction of Tollgate Road & Church Lane, Stanway

The Committee considered an application for prior notification of proposed development by telecommunications code systems operators. Cabinet and an 18-metre mast. A report setting out information about the application was before the Committee.

The Committee members had been provided with a short video of the site taken by the Principal Planning Officer to assist in their assessment of the impact and suitability of the proposals.

James Ryan, the Principal Planning Officer, presented the report and assisted the Committee in its deliberations. He reminded members that this was not a Planning Application as the development was Permitted Development and were it not to be

determined or to be deferred at the meeting it would gain deemed consent. The applicant had made their site selection and submitted this to be considered as is. Siting and appearance were the only matters the Committee could consider.

The Principal Planning Officer shared a presentation with members including plans, images and drawings to illustrate in particular the positioning and height of the mast which emerges from a rectangular cabinet.

The Principal Planning Officer explained that the mast was of utilitarian design, located on Highway land with pedestrian clearance, 3.7 metres footway remained. Some residents supported this proposal given the benefits of the provision of 5G, others were against and a balance needed to be struck. He clarified that the mast was a long way from properties, there were relatively spacious grass banks and other sites were closer to dwellings. He pointed out that for installation on Highway land the Street Team in Essex County Council would have looked at the location.

Cllr Dundas attended and, with the consent of the Chairman, addressed the Committee.

He explained that he had called the item in for the Committee to discuss, highlighting that as the planning report says this is a balanced decision which has submissions of both support and objection from nearby residents.

As many submissions point out good 5G coverage is vital for the long-term economic future of Stanway and the Lakelands area. With more people working from home advanced broadband, both wired and wireless is vital. There are currently several 4G bad patches in Stanway and no one wants to see that repeated with 5G.

The aerial map shown in the planning documents shows the area before recent building and the mast site proposed is close to a number of houses and close to the road so quite prominent in appearance.

The Lakelands area consists of a fairly large residential zone with a similarly large retail and industrial zone to the north. The mast would surely be more appropriate sited in the commercial area where, amongst many already utilitarian buildings where it would probably be almost unnoticeable.

He pointed out that on Page 10 of the Background planning papers the applicant shows a map of sites they have considered. Some, correctly, are identified as being even worse in terms of proximity to residential properties but there is one on the Western by-pass closer to the commercial areas which is discounted due to "insufficient pavement width". This implied, that there is no specific technical reason in terms of coverage why the mast needs to be on the of Church Lane and coverage could be obtained from siting it to the north of the the residential area.

All of the sites considered are on pavements adjoining the highway. There

had been no consideration to siting it on private land or even mounted on existing commercial buildings. He asked that the Committee enquire why this is the case? Whether this might be because of costs that the company do not want to pay (rent or land purchase) and whether landowners such as the Tollgate Partnership or British Land been approached?

People in Stanway are not being “NIMBYs” on this. They want good coverage and understand that means masts. They just want to be sure all alternatives which are a compromise between technical effectiveness and visual impact have been considered.

In summary Cllr Dundas stated that it was clear from the documents the mast could be sited almost 1Km away and still give coverage. There must be one site somewhere in amongst a large commercial development which includes several tall buildings which would work.

He urged the committee to question why only sites on the public highways have been considered and to be sure that the mast could not be sited in the commercial area before considering approval.

Cllr Scott-Boutell attended and, with the consent of the Chairman, addressed the Committee. She highlighted that the Parish Council had objected and there had been a number of residents who had also objected. Her concerns were around location and visual impact.

Cllr Scott-Boutell pointed out that indicators of the site had already been marked up on the street itself. The mast would be too prominent and close to a residential area if this site were to be used. She asked if officers had been provided with evidence to show why the mast could not be sited to the North at the nearby retail parks for example, alternative siting in a commercial area would be more appropriate.

In discussion, members felt the height of the mast, particularly in comparison to the streetlights was an issue, along with the proximity of the mast to residents' properties. It was suggested that the greensward behind the proposed site might in future be allocated for a Housing Development. Concern was expressed about EMF radar frequencies. In response the Senior Planning Officer informed members that that the applicant had provided a certificate that certified safety, and that the only issues that the Committee could consider were siting and design.

There was discussion around the design and how the mast tower might be painted to minimise its impact through camouflage. It was noted that the triangular design had been proposed to make the tower as slimline as possible. Siting near signage was raised but it was confirmed that this was a Highways issue.

Reference was also made by Committee members to the siting obstructing the footway for the visually impaired and pedestrians such as families with pushchairs.

RESOLVED (SIX voted FOR, THREE voted AGAINST) that the application for for prior notification of proposed development by telecommunications code systems operators be refused for the following reasons:-:

The proposal is unacceptable in term of its appearance. The mast is a stark and utilitarian structure that is proposed to be located in a wholly residential area. It is not proposed to be disguised or camouflaged in any way and is considerably taller than any of the other street furniture in the vicinity. It will be the dominant feature of this part of Lakelands and is therefore demonstrably harmful to the character of the area by reason of its alien character and industrialising effect in this suburban residential location.

The proposal is unacceptable in terms of its siting. The location proposed is highly prominent in the street scene and this results to further harm to the character of the area. The submitted justification for not using other sites of a more appropriate character able to host the mast without the adverse impacts identified and suitably distanced from residential dwellings has not been fully explored or justified. The proposed location will force pedestrians (and especially the visually impaired) onto the block paved area of the footway to the detriment of their efficient use of the footway at the expense of the siting of this telecommunications equipment which is not held to be reasonable. It also sits adjacent to a vacant piece of land that may be used for development in the future and this scheme would adversely impact upon the developable area.

The scheme therefore fails to accord with Adopted Development Policies Policy DP1 that requires design to take the opportunities available to it and to ensure development is well designed and does not harm the character of an area. It also fails to accord with the requirements of the NPPF 2019 that states at paragraph 113: "where new sites are required (such as for new 5G networks, or for connected transport and smart city applications), equipment should be sympathetically designed and camouflaged where appropriate.

838 P G Rix (Farms) Ltd, Lodge Farm, Boxted Road, Great Horkesley

Councillor Davidson (by reason of acquaintance with the applicant) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).

Councillor Maclean (by reason of acquaintance with the applicant) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered a proposed agricultural steel portal framed grading building and relocation of existing gas tanks.

A report setting out information about the application was before the Committee.

The Committee members had been provided with photographs of the site taken by the Principal Planning Officer to assist in their assessment of the impact and suitability of the proposals.

RESOLVED (UNANIMOUSLY) that the application be approved subject to the conditions and informatives as set out in the report following confirmation from the Essex County Council SUDs team that they have no objection to the application and including any conditions recommended by them;

In the event that the Essex County Council SUDs team object to the application, allow delegated authority to the Planning, Housing and Economic Growth Lead to seek amendments to address the objection and negotiate any related planning conditions as necessary;

In the event that the Essex County Council SUDs team objection to the application and their objection cannot be resolved, to refuse the application as per the Essex County Council recommendation.

839 Land opposite Magpie Chase, Stanway

Councillor Warnes (by reason of membership of the Board of Colchester Commercial Holdings Ltd) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).

Councillor G. Oxford (by reason of the same architect working on the design of a Community Centre in Highwoods) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered the proposed construction of a new 2-storey community centre with associated parking and landscaping which was a resubmission of application 201365.

A report setting out information about the application was before the Committee.

The Committee members had been provided with a video of the site taken by the Senior Planning Officer to assist in their assessment of the impact and suitability of the proposals.

Lucy Mondon, the Principal Planning Officer, presented the report and assisted the Committee in its deliberations sharing a presentation with members including plans, aerial views, photographs of the site and drawings.

She explained that although the application was similar to the one approved in 2020 there were some changes beyond what could be dealt with as non material amendment. The Committee were able to see the approved scheme plans and the current proposal including floor plans. The mezzanine had been extended and rearranged, roof light added and fenestration amended. Planning considerations were outlined in the report and the applicant had submitted additional information which had been included in the amendment sheet but there had subsequently been no changes to the conditions proposed.

Roger Gilles addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application

Mr Gilles explained that the architects had been appointed in 2019 to design the Community Facility adjacent to the Country Park. Public consultation had taken place and feedback had been taken into account, including the requirements of Stanway Parish Council. Some revisions as outlined in the report were before the Committee, but they were not fundamental; there were measures to restrict noise, addition of offices and an outside area for possible sports use. The proposal promoted the use of existing land.

The Committee raised the issue of the number of car parking spaces provided and whether these would prove sufficient for large events as otherwise there may be an impact on residents living nearby. There was no bus layby /public transport adjacent to the proposed centre.

The Principal Planning Officer clarified that the parking provision was close to the SPD maximum standard of 25 spaces. Cycle spaces were provided.

Members suggested to ameliorate the situation at large events temporary parking might be provided on the Country Park.

The other concern of the Committee was the need for safe and adequate access across the road to make it safe to walk to the building. Traffic was fast moving on the bypass with no crossing points and whilst it was acknowledged that a toucan

crossing was being considered by Essex County Council the need to ensure that ECC were encouraged to provide this was stressed.

The Committee agreed that the Community Centre would be a good asset for Stanway.

RESOLVED (UNANIMOUSLY) that the application be approved subject to the conditions and informatives as set out in the report with the addition of an informative concerning the need for a crossing on the Western Bypass to encourage walking and cycling given the reduced parking available.

840 23 Creffield Road, Colchester

The Committee considered an application for the demolition of a chalet bungalow and the construction of two new dwellings.

A report setting out information about the application was before the Committee.

The Committee members had been provided with a film and photographs of the site taken by the Senior Planning Officer to assist in their assessment of the impact and suitability of the proposals.

Eleanor Moss, the Senior Planning Officer, presented the report and assisted the Committee in its deliberations sharing a presentation with members including plans, aerial views, photographs of the site and drawings.

She explained that the whole site was in a conservation area and the design of the proposed dwellings reflected those of the 19th century buildings in Creffield Road. Detailed elevations of the proposals were shown and it was confirmed that two lime trees would be retained in the scheme. Garden space was in compliance and samples would be required of building materials/bricks. The impact on neighbouring properties was acceptable.

Tim Oxtan addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application.

Mr Oxtan explained that he was a local resident, living almost directly opposite the site in question and represented only his wife and himself. They had lived in Creffield Road for almost 40 years and wished, as far as possible, to protect the amenity of the neighbourhood.

3 Creffield Road was one of two houses in the road with an intact garden; a haven for wildlife and a welcome contrast to the bleakness of front gardens converted into car parks.

In the front garden there was a magnificent magnolia tree which, when in full bloom, as it was last month, gives joy to the whole neighbourhood. The "Arboricultural Impact Assessment" categorises this tree as C1, meaning that it does not add significantly to the tree-based amenity or character of the surrounding area". This is manifestly untrue of the magnolia, which is in a healthy condition and should be allowed to stand.

Although an unremarkable chalet/bungalow, typical of its period, there are now not many bungalows close to the centre of Colchester. Surviving bungalows close to the town centre should be retained, as these are attractive to elderly folk who seldom use their cars, or do not have a car at all, and thus do not add to traffic congestion and pollution.

The two detached houses proposed by the applicant were, architecturally, equally unremarkable. Their bulk will reduce the amenity value of the garden around them, being detached, they have scarcely any space between them and the houses on either side, nos. 21 and 25.

When new homes are built, they should provide the highest possible standard of energy efficiency, ideally according to "Passivhaus" standards. Nothing in the application suggested that there was any intention to achieve this goal.

Mr. Oxton urged the Committee to reject the planning application, given that, for environmental and social reasons, it is good to preserve bungalows close to the town centre.

If, however, the Committee was minded to grant approval he suggested that the proposed two detached houses should be replaced by a pair of semi-detached houses, allowing more space between them and their neighbours on either side. He requested that the highest standards of construction be specified, to reduce impact on the climate.

Committee members had some concerns over overlooking and noted obscure glazing was required to the proposed second floor rear window.

The Committee also asked if the Magnolia tree could be retained or moved and reinstalled.

The Development Manger clarified that Magnolias do not move well and resent disturbance. A replacement tree would enable new residents to enjoy it for 40 – 50 years. A landscaping condition could secure this.

RESOLVED (EIGHT voted FOR, ONE abstained) that the application be approved subject to an informative concerning landscaping condition and the need for a robust magnolia replacement to form part of the proposals.

841 2 Gladstone Road, Colchester

The Committee considered an application for the erection of a Timber Shed to provide a separate collection / Rapid Testing Centre for Colchester Borough Council's COVID-19 Rapid Response Team designated to solely provide Care to COVID-19 positive individuals in communities from Tendering, Colchester to Chelmsford.

A report setting out information about the application was before the Committee.

The Committee members had been provided with photographs of the site taken by the Senior Planning Officer to assist in their assessment of the impact and suitability of the proposals.

RESOLVED (UNANIMOUSLY) that the application be approved subject to the conditions and informatives as set out in the report (temporary permission).

842 Shrub End Depot (refuse), Shrub End Road, Colchester

The Committee considered the Installation of 4 no. Coniston 35 canopies.

A report setting out information about the application was before the Committee.

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

843 9 Mayberry Walk, Colchester

The Committee considered an application for a Lawful Development Certificate for existing use: residential dwelling converted to include 4 beds, 1 communal breakfast room, bathroom, WC, kitchen, and living room/dining room to be shared with 4 residents.

A report setting out information about the application was before the Committee.

Eleanor Moss, the Senior Planning Officer, presented the report and assisted the Committee in its deliberations.

She explained that a Certificate of Lawful Use was being sought to confirm the use of the property as a house in multiple occupation under use class C4, which allows for 3 – 6 non related people occupying the property at any one time. Consideration should be given to lawfulness of the existing use.

She pointed out that there had been no change to the footprint of the property and no changes to the exterior of the property. Two parking spaces were provided. She made clear that there was no requirement for the applicant to seek a Certificate of Lawfulness, but should an owner want to sell the property in the future this was useful. Permitted Development allowed for this change of use from a dwelling house to a house in multiple occupation (HMO).

Daniel Crellin addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application

Mr Crellin highlighted that the application was retrospective and that the property had materially changed and was a house in multiple occupation. He stated this should fall under development not permitted.

He queried the validity of the application which in Section 3 referred to 8 Mayberry Walk, and the report which in paragraph 17.1 referred to 11 Mayberry Walk.

He pointed out that the property was being run as a business and that there had been issues since the changes were made to accommodate multi occupation. Problems with drainage had ensued from the bathroom, a kitchen had been installed upstairs and he had concerns around safety, fearing a possible gas explosion. He sought assurance that Building Regulations had been followed.

Mr Crellin also reported that there had been a data breach in respect of the objection he had made which had been posted on the Council's website.

Cllr Harris attended and, with the consent of the Chairman, addressed the Committee.

Cllr Harris first asked that steps be put in place to ensure General Data Protection Regulation (GDPR) breaches do not happen again.

He explained that he had called the application in as many residents in Mayberry Walk and the Willows had concerns.

He said the Certificate of Lawfulness was retrospective but should be treated as a fresh application taking into consideration parking and health and wellbeing.

Cllr Harris pointed out that paragraph 17.1 mentioned 11 Mayberry Walk not number 9.

He noted that 8.3 stated that 4 occupants were acceptable, but would there be a guarantee that over 4 would not be permitted? He queried whether checks had been made and what may happen going forward in some years' time. Also, there was concern for the safety of the people in the house; 8.3 stated that a safety and management check was underway. Any decision should be deferred until this was complete.

Residents were concerned about overlooking from the upper storey.

He urged the Committee to listen to residents' concerns.

The Senior Planning Officer said that GDPR breach would be taken seriously and investigated. She also apologised for the typographical error in paragraph 17.1 concerning the address of the application site which was No.9 Mayberry Walk not No.11 as stated.

It was suggested that the GDPR breach should be declared to the Information Commissioner.

The Committee understood the concerns of the residents and that there may be management issues and antisocial behaviour issues which would affect the quality of life of residents. There were safety concerns, and it was proposed that a fire assessment should be made.

The Development Manager clarified that a change from a single family dwelling to an HMO was permitted, it was what the legislation states and up to 6 occupants were allowed. The Committee had no discretion; the request was for application of the legislation. Officers were respectful of the comments from local residents, but the areas of concern raised were not planning matters and were dealt with under other legislation. Referrals could be made to other services to investigate further.

The Committee acknowledged the legislative position but were empathetic to residents' and Ward Councillors' concerns.

RESOLVED (EIGHT voted FOR, ONE voted AGAINST) that the application be approved and that referrals be made by the Senior Planning Officer to Private Sector Housing, Building Control, and the Fire Service to ensure the safety of residents plus

an informative reminding of the need to comply with relevant legislation concerning HMOs.

844 Town Hall, High Street

The Committee considered the removal of existing wooden library shelving within the former court's law library room within the Town Hall. Existing boxing out above the shelving would be retained so as not to affect or alter the moulded plaster covering around the ceiling, meaning the existing sign would also be retained in-situ. Removal of the shelving would enable installation of new fixtures and fittings to the walls within the room to be carried out.

A report setting out information about the application was before the Committee.

The Committee members had been provided with photographs to assist in their assessment of the impact and suitability of the proposals.

Eirini Dimerouki, the Historic Buildings and Areas Officer, assisted the Committee in its deliberations, sharing a presentation with members including plans and photographs.

She explained that this had been the subject of a former application that had been first deferred then withdrawn. The proposal was now resubmitted with the aim of improving the functionality and availability of the room. Removal of the shelving was proposed and the books that had been stored there had been removed from the building and were no longer available. The historic sign would be retained and Historic England were satisfied.

Sir Bob Russell addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application

Sir Bob Russell firstly remarked that the Council was excluding residents by not providing paper copies of Agendas for the public as not everyone had access to digital devices.

He raised the issue of safeguards for the protection of Victorian buildings and that the Town Hall was Grade 1 listed. A valid case had not been made for the removal of the original fittings in the Law Library, there would be costs involved in doing this and this should not override the Grade 1 status of the building which should be protected.

The Committee concurred with Sir Bob, saying that they were the custodians of the town's heritage. The room should be restored to its original purpose with books located and reinstated or replaced. The room had a sense of history and was a heritage asset. One suggestion for its use that would be more appropriate was for wedding guests signing the register.

RESOLVED (UNANIMOUSLY) that the application be refused as the Local Planning Authority has a duty to preserve this grade I listed building to maintain its external and internal integrity. The removal of the historic fittings as proposed would harm the special interest of the building and no justification has been provided as the proposed use is considered inappropriate and incompatible with the statutory aim of preserving the special historic features of the listed building.

845 Applications Determined in Accordance with Officer Scheme of Delegation

The Committee considered a report on those applications which had been determined under the interim arrangements since the last update which was provided at the meeting on 18th March 2021

RESOLVED (UNANIMOUSLY) that the applications which had been determined under the revised scheme of delegation (listed in the Appendix) be noted.



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Item No: 7.1

Application: 202771

Applicant: Schroder Uk Real Estate Fund

Agent: Mr Benjamin Fox, Planware Ltd

Proposal: Alterations to car park with the erection of a freestanding restaurant with drive-thru facility, car parking, landscaping and associated works, including Customer Order Displays (COD), Goal Post Height Restrictor and Play Frame.

Location: Turner Rise Retail Park, Petrolea Close, Colchester, CO4 5TU

Ward: Mile End

Officer: Annabel Cooper

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the application has been call-in by Cllr Goss. The reasons for call-in:

“Concerns over increased car congestion, parking issues and environmental impact on the local area especially given this area of Colchester and in particular the retail park is a huge issue with vehicle gridlock along with North Station.”

2.0 Synopsis

- 2.1 The key issues for consideration are the principle of the development, impact on highways, environmental protection and public health.
- 2.2 The proposal would provide economic and social benefits resulting in new employment opportunities for over 65 staff. In addition, wider positive impact on the local economy are identified from the construction phase to business rates to supply chain. The proposed will also result in improvements to the public realm.
- 2.3 It is acknowledged that the application would result in more traffic generation. However, the Highways Authority has deemed this increase to be acceptable in terms of network capacity and highways safety. Therefore, there would be an increase in vehicle emissions however the applicant has taken measures to reduce this impact. There will be the loss of existing trees on the site yet this would be mitigated in part by a new landscaping scheme which would deliver replanting of trees. The proposal would introduce a new restaurant to the retail park and has the potential to facilitate the public making unhealthy choices; however the application has provided evidence on what they are doing to mitigate this potential adverse impact on public health.
- 2.4 It is considered that the benefits of the scheme outweigh any adverse impacts and the proposal is considered to be acceptable on this basis. The application is subsequently recommended for approval.

3.0 Site Description and Context

- 3.1 The site is located on the Turner Rise Retail Park which includes an ASDA supermarket, Dunelm, Go Outdoors and other retail units, plus a small detached unit occupied by Pizza Hut. The ASDA store occupies a site close to the A134/ North Station roundabout with the other units are further to the east; these units are arranged in a “U” shape and enclose a central car park. The retail units can currently be accessed via a roundabout from Petrolea Close providing both access to and egress from the retail park. There is a second access further along the road which also provides both access and egress.

4.0 Description of the Proposal

4.1 The proposal comprises a freestanding restaurant with drive thru on land close to the retail park's second access, located between Pizza Hut and units 6/7. The scheme also proposes changes to nearest existing site access, including the introduction of a pedestrian and cycle path. There are also proposed wider changes to the site's central parking area.

4.2 The application is supported by the following documents and assessments:

- Design and Access Statement
- Supporting Statement
- Litter Management Plan
- Drainage Strategy
- Landscape Management Plan
- Noise Assessment
- Odour Control Assessment
- Contaminated Land Assessments
- Transport Statement
- Travel Plan
- Energy Strategy Report
- Public Health Briefing Note

5.0 Land Use Allocation

5.1 Commercial – retail park

6.0 Relevant Planning History

6.1 144667 - Development consisting of two new Retail Units (Use Class A1); two new food and drink pod units (Use Class A1 and/or A3); relocation of external display area for Unit 6/7; provision of new shared space for use for markets and other community events; alterations to vehicular access arrangements; alterations to car park layout and servicing arrangements; provision of new cycle parking and improved pedestrian and cycle links; public realm and landscaping improvements and associated works.

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
CE1 - Centres and Employment Classification and Hierarchy
CE2 - Mixed Use Centres
CE2b - District Centres
UR1 - Regeneration Areas
UR2 - Built Design and Character
TA1 - Accessibility and Changing Travel Behaviour
TA2 – Walking and Cycling
TA5 - Parking

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

DP1 Design and Amenity
DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses
DP7 Local Centres and Individual Shops
DP17 Accessibility and Access
DP19 Parking Standards

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

SA TC1 Appropriate Uses within the Town Centre and North Station Regeneration Area
SA NGA1 Appropriate Uses within the North Growth Area
SA NGA3 Employment Uses in the North Growth Area
SA NGA4 Transport measures in North Growth Area

- 7.5 The Neighbourhood Plan for Myland & Braiswick is also relevant. This forms part of the Development Plan in this area of the Borough.

- 7.6 Submission Colchester Borough Local Plan 2017-2033:

The Council is developing a new Local Plan that has been submitted to the Planning Inspectorate (October 2017). An Inspector was appointed and the formal examination commenced in January 2018. The examination is now completed for Parts 1 and 2 of the plan. Part one of the plan has been found sound by the Inspector and has now been formally adopted. The examination of Part 2 of the ELP was undertaken in April 2021, the Council is now awaiting the Planning Inspectors comments.

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

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

The Emerging Local Plan is at an advanced stage with Part 1 adopted and carrying full weight whilst Part 2 has completed its EIP but the Inspectors report is awaited. The policies in Part 2 therefore carry some weight in the consideration of the application, The degree of weight to be afforded needs to be assessed in the light of para.48 of the Framework and, in particular, the extent of unresolved issues and the materiality of these issues.

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

The Essex Design Guide
Sustainable Construction

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

Vehicle Parking Standards
Sustainable Design and Construction
The Essex Design Guide
External Materials in New Developments
Shopfront Design Guide
Myland Neighbourhood Plan

8.0 Consultations

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

8.2 Highways Authority:

The planning application is accompanied by a Transport Statement, the content of which has been considered by the Highway Authority in conjunction with its own knowledge of the local highway network as well as information and data available to it. The Highway Authority's overall assessment of the planning application and accompanying Transport Statement was undertaken with reference to the National Planning Policy Framework 2019. As is its remit, the Highway Authority has considered the likely impact of the proposal on the local highway network in terms of safety and capacity as well as whether it would be accessible by more sustainable modes of transport such as public transport, cycling and walking.

The Highway Authority is content the proposal would not have a detrimental impact on highway safety. In terms of highway capacity, the Highway Authority recognises the proposal is likely to generate additional new trips on the local highway network however is content the impact of these is unlikely to be severe. Given the surrounding land uses, there are opportunities for linked trips between these and the proposal site.

Given the close proximity of Colchester railway station and numerous bus services as well as the nearby cycleway, footway and Public Rights of Way network, subject to the below requirements, the Highway Authority is content there are opportunities for those working at and/or visiting the proposal site to do so using public transport, cycling and walking.

Therefore, from a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to the recommended conditions.

8.3 Transport and Sustainability:

Transport statement: The document does not have any mention made of the traffic congestion in this area. Considered the estimation of 31 additional vehicles will access the site on a Saturday peak, is an under estimation.

Travel Plan: Travel Plan will be acceptable subject to the inclusion of the final points (full comments online). *Planning Officer comment: This will be secured via a planning condition.*

Cycling: The 12 spaces proposed. Approved of the separate of customer and staff parking.

Colchester Travel Plan Club: Membership of the Colchester Travel Plan should be considered.

Drive Thru: There is potential for conflict from inconsiderate drivers blocking the exit route onto Petrolea Close as they try to enter the Drive Thru, and parking across the pedestrian crossing immediately inside the barrier of the Drive Thru.

8.4 Environmental Protection:

The Council's Environmental Protection team have not objected to the proposed and have recommended a number of conditions should planning permission be granted, these include conditions to control Site Boundary Noise Levels, Fumes and Odours and Limits to Hours of Work.

8.5 Landscape Officer:

The landscape content/aspect of the strategic proposals would appear satisfactory for the most part. Landscape specifications and tree pit details can be addressed under condition as part of the detail landscape proposals.

8.6 Contaminated Land:

Previous investigative works at the site have found Chrysotile asbestos, high levels of gas and hydrocarbon. Conditions have been recommended to further assess the site, to provide a remediation scheme, implementation of the scheme and procedure for reporting unexpected contamination.

8.7 Environmental Agency

No comments received.

8.8 *Natural England*

No comments.

8.9 Network Rail

Provided guidance to the developer.

8.10 Colchester Cycling Campaign

Concerns raised: The shared cycle/pedestrian crossing, and cycleway/footway are too narrow and will lead to conflict between users. The route of the path puts cyclists and pedestrians at risk of collisions with cars at the drive-through entrance. The 90-degree bend in the path northeast of the proposed McDonald's does not meet LTN 1/20 and is virtually uncyclable.

8.11 NHS:

There are concerns as there are already existing branches of the franchise in Colchester. We do not support the application.

9.0 **Parish Council Response**

9.1 The Parish Council have objected stated the following:

A drive-through restaurant is inconsistent with a strategy of sustainable reduction in car use, and in fact could be seen as encouragement of more use of vehicles.

At the time of considering this application, MCC noted that the Highways Authority had not yet commented and MCC would be interested to see their comments. There are already two other McDonalds restaurants within close driving distance of this site (Cowdray Avenue and the A12 J28 services). MCC

have concerns regarding health of residents with provision of another fast-food restaurant and the litter problems that have been seen at other similar outlets. MCC note the loss of car parking spaces both for the surrounding shops and the Country Park (an entrance to which is in close proximity). MCC also have concerns about the control of odour from the restaurant creating a problem for nearby residents.

10.0 Representations from Notified Parties

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

10.2 231 objections have been received. A summary of the objections:

- Increased traffic
- 5th McDonalds in Colchester
- Adverse impact on public health
- No S106 agreement for contributions
- Litter and waste
- Highways safety (existing road conditions)
- Adverse impact of noise and disturbance
- Encourage anti-social behaviour
- Adverse impact of smell
- Parking
- Opening hours
- Vehicle emissions – air pollution & climate change

10.3 Objection from Cllr Oxford summary:

Removal of two trees.

10.4 Objection from Cllr Goss summary:

- Operating hours will result in disturbance to residential neighbours
- Exacerbate anti-social behavior at night
- Increased traffic
- Increased pollution
- Lack of sufficient parking
- Litter
- Public health

10.5 164 supporting comments have been received. A summary of the comments:

- Support Colchester's economy
- Employment opportunity
- Business rates

11.0 Accessibility

11.1 The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. The proposal does not give rise to any concerns regarding discrimination or accessibility.

12.0 Air Quality

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

13.0 Planning Obligations

13.1 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.

14.0 Report

14.1 The main issues in this case are:

- The Principle of Development
- Access and Highways Safety
- Environmental Protection
- Design, Scale and Form
- Public Health
- Planning Balance

Principle of Development

14.2 Turner Rise Retail Park is an Urban District Centre and also within a regeneration area. Policy CE2b of the Core Strategy sets out the Council's intended approach towards the development of the Borough's District Centres. The policy seeks to broaden the range and nature of uses within these designated centres providing they would meet local needs and would not prejudice the town centre. The policy suggests that Urban District Centres should provide a more diverse mix of uses. The policy also states that the intensification of centres will be supported where developments can enhance the quality of the public realm and the built environment.

14.3 Policy UR1 sets out the objectives for Colchester's Regeneration Areas, the aim of the Council is to enhance Colchester as a prestigious regional centre. The Borough Council is committed to regeneration in key centres, with the purpose of building successful and sustainable communities. Development will be supported that promotes sustainable urban living, enhances the public realm and improves accessibility. The design and scale of development will need to be sympathetic to the character of the area.

- 14.4 The development of mixed uses at the retail park is supported by the Council's policies and there has previously been permission granted for a Pizza Hut restaurant which is also a stand-alone building.
- 14.5 Planning permission has previously been granted for development of this site within the retail park; including the provision of food and drink units.
- 14.6 The proposed restaurant will provide over 65 jobs.
- 14.7 The proposed will also result in improvements to the public realm including defined pedestrian routes, a cycle/ footpath along the western part of the site, disable and parent and child spaces closer to the retail units and modifications to one of the existing accesses to the retail park.
- 14.8 Therefore, the proposed is supported in principle and complies with the Local Development Plan policies.

Access and Highways Safety

- 14.9 Development Plan policy DP17 requires all development to maintain the right and safe passage of all highways users. Development Plan policy DP19 refers to the Vehicle Parking Standards which is an adopted Supplementary Planning Document. Core Strategy Policy TA4 states the demand for car travel will be managed to prevent adverse impacts on sustainable transportation, air quality, local amenity and built character. Streets and junctions should be designed to provide people-friendly street environments and to give priority to sustainable transport.
- 14.10 Many of the objections received cite traffic generation and highway safety as primary concerns.
- 14.11 The planning application is accompanied by a Transport Statement, the content of which has been considered by the Highway Authority in conjunction with its own knowledge of the local highway network as well as information and data available to it. The Highway Authority's overall assessment of the planning application and accompanying Transport Statement was undertaken with reference to the National Planning Policy Framework 2019. As is its remit, the Highway Authority has considered the likely impact of the proposal on the local highway network in terms of safety and capacity as well as whether it would be accessible by more sustainable modes of transport such as public transport, cycling and walking.
- 14.12 The Highway Authority is content the proposal would not have a detrimental impact on highway safety. In terms of highway capacity, the Highway Authority recognises the proposal is likely to generate additional new trips on the local highway network however is content the impact of these is unlikely to be severe. Given the surrounding land uses, there are opportunities for linked trips between these and the proposal site.

- 14.13 Given the close proximity of Colchester railway station and numerous bus services as well as the nearby cycleway, footway and Public Rights of Way network, the Highway Authority is content there are opportunities for those working at and/or visiting the proposal site to do so using public transport, cycling and walking.
- 14.14 Therefore, from a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority, as the relevant statutory consultees and experts on this matter their comments consequently hold significant weight.
- 14.15 The proposal requires a wider change to the central parking area, there will be an additional 4 parking spaces for the retail park and a total of 394 spaces overall. It is considered sufficient parking provision for the site having regard to our adopted standards (maximum with no minimum) and the highly accessible location of the site.
- 14.16 The site is highly accessible by walking, cycling and public transport. A Travel Plan has been submitted with the suggested amendments this will be acceptable; the Travel Plan will be secured by planning condition. There would be 8 cycle parking spaces provided for staff and customers within covered stands and a further 4 spaces in two secure cycle lockers. The proposals also includes a new east to west pedestrian/cycle link around the southern side of the car park with new crossing facilities to improve pedestrian access to the Pizza Hut and proposed McDonald's unit.
- 14.17 The restaurant would be accessed via the modified priority junction Retail Park Access from Petrolea Close. A new raised zebra crossing facility would be provided to provide a link to the existing footway/cycleway on the southern side of Petrolea Close.
- 14.18 The proposal is thus considered acceptable in terms of traffic generation, parking, access and highway safety as such the development complies with relevant Local Development Plan Policies.

Environmental Protection

- 14.19 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, daylight and sunlight.
- 14.20 Several of the objections received cite opening hours, odour and fumes, noise and disturbance, litter and waste as primary concerns.
- 14.21 The Environmental Protection team have reviewed the proposal and have recommended conditions to reduce the impact of the development to an acceptable level.

- 14.22 A litter management plan has been submitted in support of the application; this would become an approved document. The management of the restaurant will be responsible for routinely reviewing and updating the litter plan.
- 14.23 An Environmental Noise Assessment has been submitted in support of the application. It confirmed the closest residential properties to the proposed McDonalds would be at Peto Avenue to the north east, and in Clarendon Way to the south west. In addition, the assessment also considers the future receptors at the Cowdray Centre, Mason Road to the south east of the proposed McDonalds site (application reference 180045). All of these receptors are at significant distance from the proposed site. The assessment concluded that the proposal would not adversely affect the amenity of the existing (and future) residents. Noise from both the 'drive-thru' and from customer car parking activity would comply with daytime and night time WHO guidance values and is generally well below the existing noise climate. Noise emitted from the site will be control by a condition recommended by the Environmental Protection team.
- 14.24 An Odour Risk Assessment has been undertaken it concluded that whilst the size of restaurant and nature of cooking dictate a high level of odour control, in this particular situation there are no sensitive receptors likely to experience nuisance from the kitchen extract discharge. A condition has been recommended to approve suitable control measures.
- 14.25 The Environmental Protection team have recommended a condition to restrict the hours of deliveries that would be controlled by condition. No operating hours have been proposed therefore the restaurant could operate unrestricted.
- 14.26 It is accepted that the proposed would result in an increase in traffic trip generation to the site, though it is anticipated that many of the journey will be linked trips with customers visiting the wider retail park. A drive through encourages car use. Therefore, the development would result in an increase in vehicle emissions from the retail park. The applicants have mitigated this impact by the provision of a Travel Plan, provision of bike storage and no idling signs. The site is also in a highly sustainable location and there will be an improvement of the pedestrian and cycle links.
- 14.27 It is therefore considered that with the proposed conditions and mitigation the development would preserve a satisfactory level of amenity for existing residents and would accord with relevant Local Development Plan Policies.

Design, Scale and Form

- 14.28 The proposed development is a modern freestanding 2 storey building that is very much in the house style of a McDonald's restaurant and would be recognizable as such. It is considered that the design, scale and form is acceptable in its locations within the retail park adjacent to the existing free-standing Pizza Hut restaurant.

Public Health

- 14.29 A large number of the objections cite that there are already several McDonalds outlets in Colchester and that there should not be a further one because of the public health crisis with regard to obesity. The applicants have provided a Public Health and Wellbeing document which sets out the steps it has made as a business: providing people with a range of food that allows them to make a choice, providing information to help customers understand what they are eating, reformulating products to reduce saturated fat, sugar and salt. At present there is no adopted guidance, national or local policies that would prohibit certain commercial ventures because of potential impact on public health. This is a lifestyle choice for the consumer not a land use issue per se.

Trees and Landscape

- 14.30 There will be the loss of trees at the site. However, the development will facilitate a wider landscaping scheme that will replant trees. A number of the trees on the site are failing and this proposal presents an opportunity to optimise conditions for new tree establishment.

Other

- 14.31 It is understood that a new business can bring the fear of anti-social behaviour and this is an existing issue. However, conversely having a unit operating during the evening with staff present may serve to enhance the surveillance of the site and reduce anti-social behaviour.
- 14.32 Officers note that some contamination requiring remediation has been identified. It is proposed that contamination matters are to be dealt with by way of planning condition.
- 14.33 The site is within flood zone 1, the EA have not provided a comment. The site falls within the lowest risk area for flooding with less than 0.1% risk of occurrence in 100 year incidence of flood event.

Planning Balance

- 14.34 The National Planning Policy 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.
- 14.35 The current proposal would provide economic and social benefits, the proposed would result in new employment opportunities for over 65 staff. As well as having a wider impact on the economy from the construction phase to business rates to supply chain.

14.36 It is also considered that the proposed would be in a sustainable location and would serve the customers visiting the retail park as part of linked trips as well as those making a specific journey.

14.37 The proposed will also result in improvements to the public realm.

14.38 The application has received a large number of objections. It is acknowledged that the application would result in more traffic generation. However, the Highways Authority has deemed this to be acceptable in terms of network capacity and highway safety. The increase vehicle movements will increase air pollution however the applicant has taken measures to reduce this impact. There will be the loss of existing trees on the site yet there will be a new landscaping scheme in mitigation. The proposal would introduce a new restaurant and has the potential to facilitate the public making unhealthy food choices. However the application has provided evidence on what they propose to mitigate this potential adverse impact.

14.39 The positive economic and social impacts of the proposal are judged to outweigh the negative impacts identified (trip generation, public health).

15.0 Conclusion

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

16.0 Recommendation to the Committee

16.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1. Time Limit for Full Permissions

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

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

2. Premises Only for a Specific Use

The premises shall be used as a drive through restaurant, restaurant and hot food take-away only purposes only and for no other purpose.

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

3. 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:

1921-DT-LP01 'Location Plan' dated 21.07.20;
1921-DT-P02-B 'Proposed Site Plan' dated 30.10.2020;
1 921-DT-P07 'PROPOSED GR, 1st & ROOF PLAN' dated 24.11.20;
1921-DT-P08 'Proposed Elevation and Section' dated 24.11.20;
1921-DT-P04-B 'Block Plan' dated 21.07.2021;
815.19.04 rev B 'Main Car Park Planting Layout' dated March 2021;
815.19.07 rev B 'Restaurant Area Planting Layout' dated March 2021;
E11-003-V01-S 'Play Of The Future';
1921-DT-P03-B 'Proposed Public Realm Improvements Plan' dated 21.07.20;
Turner Rise Retail Park, McDonalds Drive Through Drainage Strategy Rev A (1st Issue) – 2nd June 2020;
McDonald's Litter Management Plan;
Standard Patio Area Supporting Specifications&
Goal Post Height Restrictor and COD/Canopy Digital Drive Thru Lane.

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

4. Materials as Stated in Application

The external facing and roofing materials to be used shall be those specified on the submitted application form and drawings.

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

5. Construction Management Plan

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.

6. Travel Plan

No occupation of the development shall take place until a travel plan, in accordance with Essex County Council guidance, has been submitted to and agreed in writing by the lpa. The agreed travel plan shall thereafter be implemented in accordance with the plan details. The travel plan shall require membership of the Colchester Travel Plan Club to be undertaken and active measures and initiatives made to promote sustainable modes of transport to and from the site.

Reason: To ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking.

7. Site Boundary Noise Levels

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

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

8. Food Premises (Control of Fumes and Odours)

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

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

9. Limits to Hours of Work

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

Weekdays: 08.00 – 18.00

Saturdays: 08.00 – 13.00

Sundays and Bank Holidays: none

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

10. Litter

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

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

11. Grease Traps Required

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

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

12. 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.

13. Details of all landscape works

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.
- Tree pits, this including sustainable urban drainage based tree pit irrigation systems and self-binding stone surfacing to the tree pits in hard landscape.
- Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.), this including bollard protection to trees in hard landscape.
- Planting plans.
- Written specifications.
- Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.

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

14. 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.

15. 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.

16. 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.

17. 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 14, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 15, 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 16.

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. Validation Certificate

Prior to the first 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 15.

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. Bike storage

Prior to the development hereby permitted coming in to use, design details of cycle parking facilities shall be submitted to and approved, in writing, by the Local Planning Authority. The approved facility shall be secure, convenient and covered and shall be provided prior to occupation and maintained/retained for that purpose at all times thereafter.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and sustainable transport.

INFORMATIVES

1. Colchester Travel Plan

Note: Membership of the Colchester Travel Plan should be sought.

2. Advisory Note on Construction & Demolition

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

3. Landscape Informative

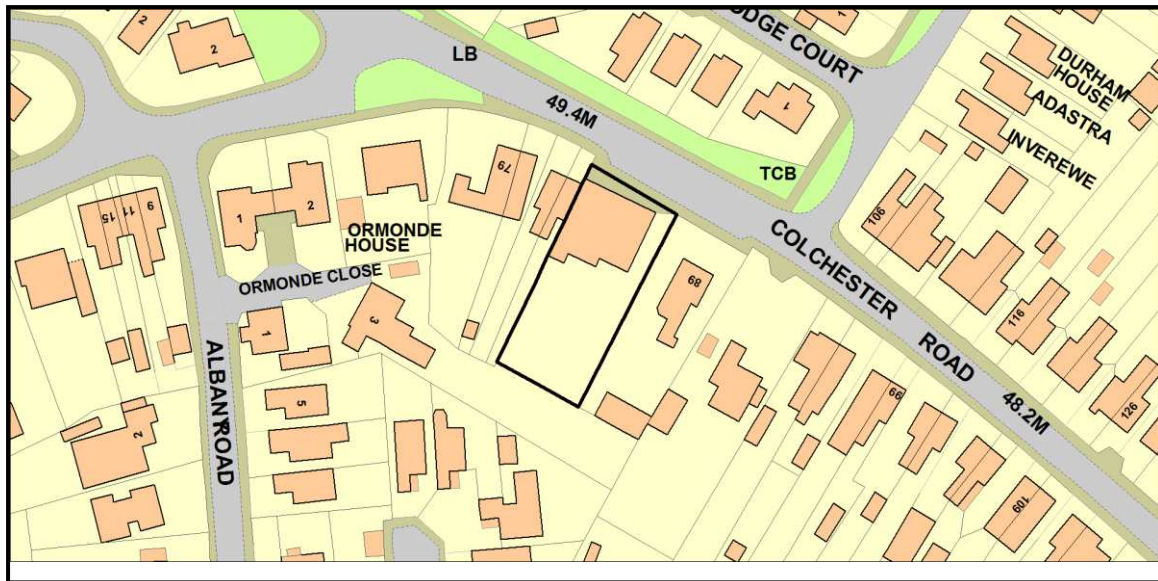
IMPORTANT: 'Detailed landscape proposals, if/when submitted in order to discharge landscape conditions should first be cross-checked against the Council's Landscape Guidance Note, in this case LIS/C (this available on this CBC landscape [webpage](#) under Landscape Consultancy by clicking the 'read our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

4. 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. 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: 7.2

Application: 210787

Applicant: Mr M Anbarasan

Agent: Mr Tony Fisk, Chruley & Associates

Proposal: Part Change of Use to Takeaway (Fish & Chip Shop) Change of Shopfront; installation of extractor Hood & Fan & External Cold Rooms

Location: 87 Colchester Road, West Bergholt, Colchester, CO6 3JU

Ward: Lexden & Braiswick

Officer: Annabel Cooper

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee as Cllr Willetts called-in the application, the reasons for call-in being: 'the application fails to show the location, type and size of equipment needed to ensure that odours do not pervade the local neighbourhood, nor cause malfunction to the sewage system.'
- 1.2 Furthermore, Cllr Barber added further to the reasons for call-in to include: road safety, parking and highways grounds.

2.0 Synopsis

- 2.1 The proposal is for the part change of use of an existing convenience store to a hot food takeaway (Fish & Chip Shop). The key issues for consideration are the principle, impact on neighbouring residential amenity, parking and highways safety.
- 2.2 The proposal would provide economic and social benefits, as the proposed would result in a new business in West Bergholt and provide employment opportunities for 3 full time and 2 part time staff.
- 2.3 It is also considered that the proposed would be in a sustainable location and could serve a population that would be able to access the facility by foot and bicycle.
- 2.4 The application has resulted in a number of objections. It is acknowledged that there would be some impact on neighbouring amenity however it has been judged that these impacts could be suitably controlled by planning conditions which would ensure a satisfactory level of amenity is retained.
- 2.5 Both the Highways Authority and Environmental Protection have been consulted and raise no objection to the proposal. As the experts in their fields their comments hold significant weight.
- 2.6 It is considered that the positive economic and social impacts are sufficient to outweigh any concerns identified and consequently approval is recommended.

3.0 Site Description and Context

- 3.1 The site currently is minor part of a local village convenience store. The proposed change of use only relates to part of the commercial premises.

4.0 Description of the Proposal

- 4.1 Part Change of Use to Takeaway (Fish & Chip Shop), change of shopfront and the installation of extractor hood and fan and external cold rooms.

5.0 Land Use Allocation

5.1 Existing Commercial

6.0 Relevant Planning History

- 6.1 202746: Ash's Convenience Express - Single storey rear extension including raising of existing rear flat roof and new shopfront - Approved - 01/02/2021

7.0 Principal Policies

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

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

SD1 - Sustainable Development Locations
UR2 - Built Design and Character

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

DP1 Design and Amenity
DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses
DP7 Local Centres and Individual Shops
DP17 Accessibility and Access
DP19 Parking Standards

- 7.4 West Bergholt Neighborhood Plans is relevant. Specific to this application are policies:

PP14: Expansion of Employment Sites

- 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 now completed for Part 2 of the plan. Part one of the plan has been found sound by the Inspector and has now been formally adopted. The examination of Part 2 of

the ELP was undertaken in April 2021, the Council is awaiting the Planning Inspectors comments later this summer.

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

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

The Emerging Local Plan is at an advanced stage and is, therefore, considered to carry some weight in the consideration of the application, but as it is yet to undergo a full and final examination of Part Two, it is not considered to outweigh the material considerations assessed above in accordance with up-to-date planning policies and the NPPF. The degree of weight to be afforded needs to be assessed in the light of para.48 of the Framework and, in particular, the extent of unresolved issues and the materiality of these issues.

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

The Essex Design Guide
Sustainable Construction

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.

8.1 Highways Authority:

The Highway Authority do not object to the proposals and recommended the standard informative with regards to works within the highway.

8.2 Environmental Protection:

The Council's Environmental Protection team have not objected to the proposed and have recommended a number of conditions should planning permission be granted, these include conditions to control of fumes and odours, opening hours as well as restrictions on delivery times, site boundary noise levels and the installation of grease traps.

9.0 Parish Council Response

- 9.1 The Parish Council have stated the following:

The Parish Council objects to this application for a part change of use due to the likely impact on the community in terms of increased traffic, issues with parking, noise, odours and disturbance and litter. The application is not accompanied

with any statement of need for the proposal and lacks any information relating to these concerns. No mitigation is provided to deal with these all too obvious concerns. In addition, the times of operation are unacceptable particularly the late evening operating times which will attract additional traffic and cause disturbance to nearby residential properties. Overall, the application does not comply with PP14 of the CBC adopted West Bergholt Neighbourhood:

PP14: Expansion of Employment Sites - Proposals to upgrade or extend existing employment sites will be supported provided that:

- the impact on the amenities enjoyed by occupants of nearby properties is acceptable; and
- they do not compromise the character of the area or openness of the countryside; and
- where appropriate, they satisfactorily demonstrate expected traffic impact is acceptable in terms of highway safety and the amenity of nearby residents.

This application has not demonstrated any thought or mitigating measures to limit the impact on nearby residents in regard to:

- road safety with the proximity of an already dangerous junction at Armoury Road,
- lack of parking provision for passing trade,
- noise concerns, potential public nuisance from loitering and light pollution caused by the excessive opening hours,
- and increased litter.

The Council would also note that the potential positioning of the large flue is almost adjacent to 85 Colchester Road, whilst there is ample room to move it away from this neighbour and further into the grounds of 87 Colchester Road itself.

10.0 Representations from Notified Parties

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

10.2 71 objections have been received. A summary of the objections is set out below:

- Parking
- Highways safety
- Increased traffic
- Inappropriate opening hours
- Adverse impact of smell
- Adverse impact of noise and disturbance
- Fire hazard
- Litter and waste
- Light pollution

- Encourage anti-social behaviour
- Health Issues (as a result of fast-food)
- Competition of existing businesses
- Impact on drainage and water systems
- Not in keeping with the character of the area

10.2 8 supporting comments have been received. A summary of the comments:

- Employment opportunity
- Would be in walking distance

11.0 Accessibility

11.1 The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. The proposal does not give rise to any concerns regarding discrimination or accessibility.

12.0 Air Quality

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

13.0 Planning Obligations

13.1 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.

14.0 Report

14.1 The main issues in this case are:

- The Principle of Development
- Access and Highways Safety
- Amenity
- Environmental Protection
- Design, Scale and Form
- Planning Balance

Principle of Development

14.2 The existing convenience store is a well-established local business. Development policy DP5 states that sites and premises currently used or allocated for employment purposes will be safeguarded for appropriate employment uses. Development Policy DP7 states individual shops, will be safeguarded for A1 retail purposes. West Bergholt Neighborhood Plan policy PP14 states that proposals to upgrade or extend existing employment sites will be supported provided that the impact on the amenities enjoyed by occupants

of nearby properties is acceptable they do not compromise the character of the area or openness of the countryside; and where appropriate, they satisfactorily demonstrate expected traffic impact is acceptable in terms of highway safety and the amenity of nearby residents.

- 14.3 Only a relatively small section of the existing shop is proposed to be converted to the use as a fish and chip shop. A recent approval for an extension to the shop would ensure that minimal floor space is lost, should this be implemented. It is also considered that the diversification of the unit would see an overall improvement to the appearance of the shopfront. Therefore, it is not considered that the proposed would have an adverse impact on the retail use.
- 14.4 The introduction of a fish and chip take-away would provide additional employment opportunities for local people.
- 14.5 There are no existing fish and chips shops in walking distance the closest is in Eight Ash green. It is not considered that the introduction of a fish and chip shop would have an adverse impact on the existing businesses in West Bergholt.
- 14.6 Impact on the amenity of residential neighbours, character, traffic and highways safety will be addressed in the subsequent report.
- 14.7 It is considered that there is policy support for the expansion of existing businesses and for the creation of new employment opportunities. Therefore, it is considered that the principle of the proposed change of use is acceptable.

Access and Highways Safety

- 14.8 Development Plan policy DP17 requires all development to maintain the right and safe passage of all highways users. Development Plan policy DP19 refers to the Vehicle Parking Standards which is an adopted Supplementary Planning Document.
- 14.9 Several of the objections received cite traffic generation, parking and highways safety as primary concerns.
- 14.10 With regards to traffic generation the proposed does not raise any concerns, the proposed is well located to be able to serve a large population that would be able to travel via sustainable transport modes. It is accepted that some customers may attend by car, but this is likely to have a negligible impact on traffic generation. There have been no concerns raised by the Highways Authority.
- 14.11 The Vehicle Parking Standards sets out the vehicle parking standards across Essex. For hot food takeaways there is a maximum standard, therefore there is no requirement for parking to be provided. There is a large area to the rear of the site which could accommodate parking for staff. There is an existing lay-by which serves the existing business and would be sufficient to accommodate the proposed use.

- 14.12 The Highways Authority are the experts with regards to Highways Safety they have been consulted and have not objected to the proposed, therefore it is considered that the proposed is acceptable.
- 14.13 The proposed is acceptable in terms of traffic generation, parking and highways safety as such the development complies with Development Policies DP17 and DP19 and satisfies these elements of the Neighborhood Plan Policy PP14.

Amenity

- 14.14 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 daylight and sunlight.
- 14.15 Several of the objections received cite opening hours, odour and fumes, noise and disturbance, litter and waste as primary concerns.
- 14.16 The Environmental Protection team have reviewed the proposed and have recommended conditions to reduce the impact of the development to an acceptable level.
- 14.17 The Environmental Protection team has accepted the proposed opening hours as acceptable. The hours would be controlled by planning condition. There are also restrictions for deliveries that would be controlled by condition.
- 14.18 With regards to odours and fumes an extraction system would be required and the application shows the proposed location of the extraction flue. The Environmental Protection team have recommended a condition for further information to be submitted with regards to control measures for fumes, smells and odours. In order to be considered acceptable the measures would need to be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems.
- 14.19 A condition has been recommended to control noise from the proposed takeaway.
- 14.20 A condition would also be imposed for the provision of equipment, facilities and other appropriate arrangements for the disposal and collection of litter. Litter is also controlled by other legislation, including the Environmental Protection Act 1990. The site is already a commercial business therefore there are commercial waste facilities in existence.
- 14.21 The proposed cold store to the rear of the site is set away from the boundary with the neighbouring residential dwelling, it is also a low flat roofed unit. As such there are no concerns with regards to overbearing, light or privacy.

- 14.22 It is therefore considered that with the proposed conditions the development would preserve a satisfactory level of neighbouring residential amenity and accord with Development Policy DP1 and also to comply with the WB Neighborhood Plan Policy PP14.

Design, Scale and Form

- 14.23 The shop front is currently tired and in need of refurbishment. The proposed changes to the shop front are considered to be acceptable and would be a visual improvement on the existing. Therefore, the proposed is considered to be in accordance with Development Policy DP1.
- 14.24 The rear of the site is not visible from the public realm therefore there are no concerns with regards to proposed cold store unit. It is a small free-standing unit that reads as an ancillary subservient addition. The extraction flu is to be located to the rear of the site where it will not be visible from the public realm.

Other

- 14.25 Concerns have been raised with regards to light pollution. As the unit is located with a residential area it is considered that the light spill from the premises would have a negligible impact. Any external illumination for example on adverts would require express permission.
- 14.26 Prior to the first use of the development hereby permitted, any foul water drains serving the kitchen will be fitted with grease traps this will be controlled by condition.
- 14.27 A number of matters have been raised that are not material planning considerations.
- 14.28 Concerns have been raised with regards to fire risk, the proposed business would need to comply with all relevant legislation with regards to fire risk and would be reviewed by Building Control.
- 14.29 It is understood that a new business can bring the fear of anti-social behaviour. However, the proposed is with an established residential area and therefore there is natural surveillance from neighbouring properties and passing cars and pedestrians.
- 14.30 There are no national or local guidance that would prohibit certain commercial ventures because of potential impact on public health.

Planning Balance

- 14.31 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.
- 14.32 The current proposal would provide economic and social benefits, the proposed would result in a new business in West Bergholt and provide employment opportunities, comprising 3 full-time and 2 part-time staff.
- 14.33 It is also considered that the proposed would be in a sustainable location and could serve a population that would be able to access the facility by foot and bicycle.
- 14.34 It is acknowledged that the application has resulted in a number of objections. It is also acknowledged that there would be some impact on neighbouring amenity. However it has been judged that these impacts could be suitably controlled by planning condition to ensure that a satisfactory level of amenity is protected.
- 14.35 It is considered that the positive economic and social benefits are sufficient to warrant recommendation of approval of the scheme.

15.0 Conclusion

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

16.0 Recommendation to the Committee

- 16.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

CONDITIONS

1. Time Limit for Full Permissions

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

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

2. Premises Only for a Specific Use

The premises shall be used for hot food takeaway purposes only and for no other purpose.

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

3. 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:

A9705/10 'Site Location Plan' dated November 2020;
AP705/11 'Proposed Block Plan' dated Nov 2020;
AP705/12 'Ground Floor Plan' dated March 2021;
AP705/13 'Proposed Elevations' dated March 2021
AP705/14 'Proposed Outside Condenser' dated March 2021.

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

4. Materials as Stated in Application

The external facing and roofing materials to be used shall be those specified on the submitted application form and drawings.

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

5. Restriction of Hours of Operation

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

Weekdays: 11:00-23:00

Saturdays: 11:00-23:00

Sundays and Public Holidays: 11:00-18:00

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

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

6. Restricted Hours of Delivery

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

Weekdays: 07:00-19:00

Saturdays: 07:00-19:00

Sundays and Public Holidays: No deliveries.

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

7. Site Boundary Noise Levels (for external refrigeration unit and kitchen odour extract).

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

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

8. Food Premises (Control of Fumes and Odours)

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

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

9. Grease Traps Required

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

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

10. Litter

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

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

INFORMATIVES

1. Highways Informative

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

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

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

2. Advisory Note on Construction & Demolition

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

3. Informative on Advertisements

PLEASE NOTE: A separate consent may be required under the Town and Country Planning (Control of Advertisement) Regulations 2007 in respect of the display of advertisements on these premises. Advice may be sought from the Local Planning Authority.

Advisory Note on Construction & Demolition

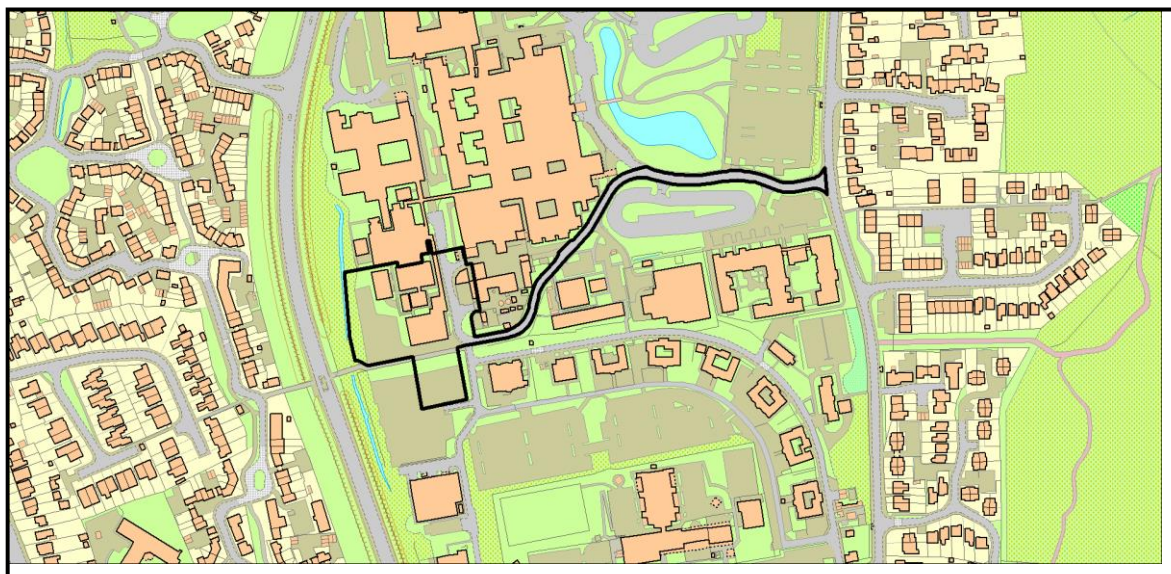
The developer is referred to the attached advisory note *Advisory Notes for the Control of Pollution during Construction & Demolition Works* for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental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

Informative on Conditions Stating Prior to Commencement/Occupation

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

Informative on Any Application With a Site Notice

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



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Item No: 7.3

Application: 210763

Applicant: MTX Contracts Ltd, On Behalf Of ESNEFT

Agent: Mrs Natalie Makepeace

Proposal: Erection of building to provide an Elective Orthopaedic Centre comprising 8283sqm internal floor area; Demolition of Mary Barron building & removal of Cardiac Catheterisation Unit, administrative block & part removal of Elmstead Day Unit (Endoscopy only), relocation of clinical services; New service loop road including drop off parking, delivery area & ambulance bays; Provision of an external link corridor to the existing Elmstead Day Unit; Landscaping & ancillary works.

Location: Mary Barron Building, Colchester General Hospital, Turner Road, Colchester, CO4 5JL

Ward: Mile End

Officer: Lucy Mondon

Recommendation: Approval subject to consultee updates, conditions, and legal agreement.

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it constitutes major development where an objection has been received.

2.0 Synopsis

- 2.1 The application seeks planning permission for the demolition of existing buildings and the erection of a three-storey building (with additional roof top plant) to operate as an Elective Orthopaedic Centre. The proposed development would include a new loop road for ambulances, deliveries, and patient drop-off, as well as landscaping, a dedicated car park and cycle parking.
- 2.2 The key issues for consideration are principle of development, contamination, flood risk and drainage, ecology, highway impact, heritage, landscape and trees, design and appearance, and amenity.
- 2.3 Material planning considerations are taken into account in accordance with National and Local Planning Policy, along with consultation comments and local representations. The proposed development is subsequently recommended for approval subject to further negotiation in respect of landscaping, further comment from the Fire Service, planning conditions, and a legal agreement to secure contributions towards archaeology.

3.0 Site Description and Context

- 3.1 Colchester General Hospital is well established and has been developed and expanded over a number of years so that there is now a complex of buildings on site. The existing buildings are not prominent from wider public vantage points along the Via Urbis Romanae (to the west) and Turner Road (to the east) given changes in levels, landscaping, and boundary treatments.
- 3.2 The application site is located to the western side of the hospital grounds and is currently occupied by several buildings including modular buildings (for office use and a sterilisation unit) and single-storey buildings such as the Mary Barron Suite (previously used as a Cancer Day Care Unit). Part of the site is used for car parking.
- 3.3 Immediately south of the application site is a Public Right of Way (PRoW) which is also identified as a green link in the Local Plan. The ProW gives pedestrian and cycle access to the hospital from the Northern Approach Road (NAR) to the west and runs through the site to Turner Road (to the east).
- 3.4 There is a fall in site levels between the NAR and existing hospital buildings. There is also a well-established landscape bund between the NAR and the hospital site.

- 3.5 Existing hospital buildings vary in terms of their scale, height, and design due to either functional requirements or design rationale at the time they were built. To the south of the application site is a crescent of detached 'villas' which are used by the hospital and are locally listed. There is also a locally listed water tower further south within the hospital grounds.
- 3.6 The application site lies within an SSSI Impact Risk Zone, although the nature of the development does not trigger any requirement for consultation with Natural England.

4.0 Description of the Proposal

- 4.1 The application seeks planning permission for the demolition of existing buildings and the erection of a three-storey building (with additional roof top plant) to operate as an Elective Orthopaedic Centre (EOC). The proposed development would include a new loop road for ambulances, deliveries, and patient drop-off, as well as landscaping, a dedicated car park and cycle parking.
- 4.2 The EOC would be for planned orthopaedic surgery that requires inpatient treatment and would serve the whole of east Suffolk and north east Essex. Orthopaedic trauma surgery and day-case surgery would continue to be available at both hospital sites in Ipswich and Colchester.
- 4.3 The EOC would be three-storeys high (with additional roof top plant) and would provide up to 72 inpatient beds and 6 operating theatres. The building would also have a reception, waiting areas, admissions area, recovery and post-anaesthetic care, staff training and support areas, as well as storage and office space. There would be a link corridor to allow the EOC to connect to the existing Elmstead Day Unit.
- 4.4 It is proposed that the development is constructed in two phases. The first phase would consist of the construction of the EOC and provision of drop-off car parking spaces (including 2 disabled spaces), with the second phase being after occupation and involving demolition of the remaining buildings to provide the loop road and drop-off ambulance bays.
- 4.5 The application is supported by the following plans and documents:
- Site Location Plan
 - Existing Block Plan
 - Proposed Block Plan
 - Proposed Floor Plans (ground floor, first floor, second floor, plant room)
 - Proposed Roof Plan
 - Proposed Elevations
 - Proposed Site Sections
 - Demolition and Phasing Plan (Phase 1 and Phase 2)
 - Proposed Car Parking Plan
 - Landscape Strategy

- Anglian Water Pre-Planning Report
- Archaeology and Heritage Desk Based Assessment
- Construction Management Plan
- Engineering Utility Assessment Statement
- Fire Strategy
- Phase 1 Geoenvironmental Desk Study Report
- Planning Statement (incorporating Design and Access Statement and Health Impact Assessment)
- Preliminary Ecological Appraisal
- Renewable Energy Statement
- Statement of Public Consultation
- Surface and Foul Water Drainage Strategy
- Transport Statement
- Tree Survey and Arboricultural Impact Assessment

5.0 Land Use Allocation

- 5.1 The hospital site is located within the Colchester Northern Growth Area. It is not allocated for development within the current Colchester Borough Council Local Plan but is identified as being a 'large job generator' within the growth area.

6.0 Relevant Planning History

- 6.1 Given the growth and evolution of the General Hospital, there is a great deal of planning history. The hospital has expanded in a piecemeal fashion over the years and there have been many planning permissions to reconfigure certain elements of the hospital.
- 6.2 The application site contains a number of buildings. The recent planning history is as follows:
- Office modular building granted temporary planning permission until May 2009 (ref: F/COL/06/0586);
 - Elective Car Centre and extension to stroke ward approved in November 2010 (ref: 090970), with an extension to the waiting room of the Elective Care Centre approved in December 2011 (ref: 112008); and
 - Endoscopy Sterilisation Unit modular building granted planning permission in October 2017 (ref: 172098). The relocation of this modular building (to an alternative site within the hospital grounds) was granted in May 2021 (ref: 210825).
- 6.3 Additional planning history in the immediate vicinity of the application site includes:
- The replacement building on the site of Villa 7 (to be used for health related, education, training and research) was granted planning permission in 2009 (ref: 090800).
- 6.4 Recent planning permissions for the wider hospital site include:
- Emergency Department extension and new ambulance canopy (ref: 200304);

- Wellness Centre adjacent the main visitor car park (reference: 190779); Emergency Department and Main Entrance Frontage Extension/Works (ref: 182480);
- Cancer Day Care Unit (ref: 182361);
- Aseptic Unit to the south-east of the main hospital building (ref: 181699); and
- Single-deck car park (ref: 192993).

7.0 Principal Policies

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

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

SD1 - Sustainable Development Locations
 UR2 - Built Design and Character
 PR2 - People-friendly Streets
 TA1 - Accessibility and Changing Travel Behaviour
 TA2 - Walking and Cycling
 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
 DP14 Historic Environment Assets
 DP17 Accessibility and Access
 DP19 Parking Standards
 DP20 Flood Risk and Management of Surface Water Drainage
 DP21 Nature Conservation and Protected Lanes

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

SA NGA1 Appropriate Uses within the North Growth Area

7.5 The Neighbourhood Plan for Myland and Braiswick is also relevant. This forms part of the Development Plan in this area of the Borough.

7.6 Adopted Local Plan and Emerging Local Plan Status

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 completed and the Inspector's report is awaited later this summer.

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 completed examination having had 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 the Inspector's report is awaited following the EIP, 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.

7.7 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
Sustainable Construction
Sustainable Drainage Systems Design Guide
Managing Archaeology in Development.
Developing a Landscape for the Future
ECC's Development & Public Rights of Way
Planning Out Crime
North Colchester Growth Area
Myland and Braiswick Neighbourhood Plan

8.0 Consultations

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

8.2 Air Quality Monitor: No comments received.

- 8.3 Anglian Water: Confirmation that the foul drainage from this development is in the catchment of Colchester Water Recycling Centre that will have available capacity for these flows. Comments regarding surface and foul drainage and likely requirements leading to recommended condition for a foul water drainage scheme. Recommended informatives regarding duties under relevant Acts and requirements for Anglian Water adoption.
- 8.4 Arboricultural Officer: The proposal requires the removal of low and moderate value trees on site. Given the benefits of the proposal, and the ability for the loss to be mitigated by additional planting elsewhere on site, the loss of trees is acceptable. Recommended conditions to secure the content of the tree report and for replacement trees elsewhere on site.
- 8.5 Archaeological Adviser: The submitted Archaeological and Heritage Desk-Based Assessment identifies a 'moderate to high potential for Roman period remains on the site' and the proposed works would cause ground disturbance that has potential to damage any archaeological deposits which exist. Trial-trench archaeological evaluation is required to establish the archaeological potential of the site, with further investigation and monitoring required as necessary. Recommended condition for programme of archaeological work.
- 8.6 Building Control: No comments received.
- 8.7 Contaminated Land Officer: The submitted Geoenvironmental report is acceptable for Environmental Protection assessment. There are some potential sources of contamination that could pose a risk to relevant receptors and a limited Phase 2 intrusive investigation is recommended to clarify this. It is unlikely, however, that contamination matters would preclude the proposed development subject to appropriate investigation and remediation which can be secured via conditions.
- 8.8 Environment Agency: No comments received.
- 8.9 Environmental Protection: Note that the acoustic report states that some attenuation may be needed once mechanical equipment is in place. No objection subject to conditions to ensure that site boundary noise levels do not exceed current noise levels, and to control hours of work during demolition and construction.
- 8.10 Essex Bridleways Association: No comments received.
- 8.11 Essex County Fire and Rescue: No objections; advisory comments regarding access, building regulations, water supplies, and sprinkler systems.
- 8.12 Essex Wildlife Trust: No comments received.
- 8.13 Forestry Commission: No comments received.
- 8.14 Health and Safety Executive: The site does not currently lie within the consultation distance of a major hazard site or major accident pipeline.

- 8.15 Highway Authority: The proposal is acceptable from a highway and transportation perspective subject to conditions to secure bicycle parking facilities, travel plan, and wheel/underbody cleaning of vehicles during demolitions and construction. Recommended informatives regarding promotion of sustainable modes of transport, changes to road layout within the site, and contact details.
- 8.16 Historic Buildings and Areas Officer: No objection on heritage grounds.
- 8.17 Housing Strategy: No comments received.
- 8.18 Landscape Officer: Amendments required to landscape strategy in the interests of the future character and amenity of the site.
- 8.19 Natural England: No comments.
- 8.20 NHS: No comments received.
- 8.21 Parks and Recreation: No comments received.
- 8.22 SUDs: No objection subject to conditions to agree a detailed surface water drainage scheme and maintenance plan.
- 8.23 The Ramblers Association: No comments received.
- 8.24 Transport and Sustainability: No objection. Comments regarding improving the walking route from the car park to the proposed building, standards for cycle parking, and requirements for a travel plan.
- 8.25 Urban Designer: Critique of massing and design: lack of visual articulation, visual interest, and pedestrian scale. Recommended revisions.

[Case Officer update: Revisions have now been received in response to the Urban Designer's comments.]

- 8.26 Waste Services: No comments received.
- 8.27 The Woodland Trust: No comments received.

9.0 Parish Council Response

- 9.1 Myland Community Council have confirmed support for the application, but have asked that consideration is given to management of the site (vehicles, pedestrians, and cyclists) and that consideration is given to parking requirements.

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 One comment of support has been received stating that the proposed development would be an asset for Colchester, although the Trust must ensure landscaping softens the visual impact of the building and that the latest cycle path standards should be used.
- 10.3 One comment of objection has been received which expressed concern that the proposed development will intensify an existing issue with hospital staff and patients parking in residential roads.
- 10.4 One general comment has been received welcoming the cycle parking provision for visitors and staff (noting that the site is not well served by pedestrian and cycle routes) and commenting on future access proposals on the Northern Approach Road.

11.0 Parking Provision

- 11.1 The Vehicle Parking Standards generally require parking for hospitals to be considered on a case by case basis. Minimum standards relate solely to cycle and motorcycle parking as per the below:

Cycle parking: 1 space per 4 staff

PTW: 1 space + 1 per 20 car spaces (for 1st 100 car spaces)

- 11.2 The proposed development would be built on an existing car parking area so it would result in an overall deficit of 71 car parking spaces. The development would be served by the following:

20 car parking spaces (plus 3 drop off spaces close to entrance)

2 disabled parking spaces (close to entrance)

10 cycle spaces for visitors (close to entrance)

30 cycle spaces for staff (to south of building)

- 11.3 The minimum parking standards for cycle parking and motorcycle parking would equate to 9 cycle spaces and 2-3 motorcycle spaces. The proposed development exceeds the cycle parking requirements, but does not meet motorcycle parking requirements. An assessment of highway matters (including parking) is included in the main body of the report.

12.0 Accessibility

12.1 The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. The proposed development does not raise any issues of discrimination; the site is accessible by a number of modes of transport (car, bus, cycle, foot) and accessible car parking would be provided. There would be level access into the building.

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

14.1 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 for archaeology as follows:

- Contribution of £348 will be required if no archaeological remains are affected by the development, to integrate the information from the archaeological resource remains into the HER.
- In the event that archaeological remains are affected by the development, contributions of:
 - £14,400 for museum quality display case, design, and display material
 - £2,400 for an interpretation panel
 - £753 for enhancement of the Colchester HER

14.2 The contributions can be secured via a s106 Agreement or Unilateral Undertaking.

15.0 Report

15.1 The main issues in this case are principle of development, contamination, flood risk and drainage, ecology, highway impact, heritage, landscape and trees, design and appearance, and amenity.

Principle of Development

15.2 The application site is part of established hospital grounds, located within the settlement boundary of Colchester and within an identified growth area. The expansion of Colchester General Hospital is identified in Core Strategy Policy SD3 as a key community facility with which to support the Sustainable Community Strategy and to develop Colchester as a prestigious regional centre.

15.3 Further development of the hospital is therefore supported in principle subject to other material planning considerations.

Contamination

- 15.4 Development Plan policy DP1 requires new development to undertake appropriate remediation of contaminated land.
- 15.5 A Geoenvironmental Desk Top Study Report has been submitted with the application which identifies some potential sources of contamination on site that could pose a risk to relevant receptors. The Council's Contaminated Land Officer has concluded that further investigation would be required, but that this would not preclude the proposed development provided that conditions were imposed to secure investigation, risk assessment, and subsequent remediation.

Flood Risk and Drainage

- 15.6 Core Strategy Policy SD1 and Development Plan Policy DP20 require proposals to promote sustainability by minimising and/or mitigating pressure on (inter alia) areas at risk of flooding. Policy DP20 also requires all development proposals to incorporate measures for the conservation and sustainable use of water, including the appropriate use of SUDs for managing surface water runoff.
- 15.7 The site is located within Flood Zone 1 which means that there is low probability of flooding (less than 0.1%). The development itself is, therefore, unlikely to be susceptible to flooding. It is still important, however, to assess whether/how the development could affect flood risk elsewhere.
- 15.8 Essex County Council SUDs team have considered the submitted Surface and Foul Water Drainage Strategy and have confirmed that they have no objection to the proposals subject to conditions to secure a detailed surface water drainage scheme and future management and maintenance of the surface water drainage. The proposed development is not therefore considered to increase flood risk subject to the conditions recommended by Essex County Council (as Lead Local Flood Authority).
- 15.9 The proposals also take into account the sustainable use of water. A Renewable Energy Statement has been submitted which sets out some energy conservation measures that would be incorporated as part of the scheme. The measures include water consumption being assessed with a target of 25 % improvement, and the use of low water use fittings. These measures are considered to comply with policy DP20.

Ecology

- 15.10 Section 40 of the Natural Environment and rural Communities Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity and a core principle of the NPPF is that planning should contribute to conserving and enhancing the natural environment. Development Plan policy DP21 seeks to conserve or enhance biodiversity and geodiversity in the Borough. New developments are required to be supported by ecological surveys where appropriate, minimise the fragmentation of habitats, and maximise opportunities for the restoration, enhancement and connection of natural habitats.
- 15.11 Whilst the site is within an SSSI Impact Risk Zone, it does not trigger the need for consultation with Natural England. It should be noted however that Natural England have been consulted on the application in any case and have confirmed that they do not have any comments.
- 15.12 A preliminary Ecological Appraisal have been submitted with the application and this concludes that the site has a low value in terms of existing habitat, being largely developed with a limited range of common habitats in small patches within the predominant areas of bare ground. There is a lack of evidence of protected species being present on site. Ultimately, the site is considered to be of low ecological value.
- 15.13 The Appraisal identifies that there is opportunity for the proposed development to deliver biodiversity net gain through the implementation of a wildlife friendly soft landscaping scheme. Proposed enhancements could include native tree and hedgerow planting, sowing of wildflower mixes within areas of Public Open Space, and incorporation of bat boxes and bird boxes within the built development. These measures are considered to mitigate any negative impacts from the proposed development on biodiversity, as well as provide biodiversity net gain (given the low value currently) and are a benefit of the scheme. The ecological mitigation and enhancement measures can be secured by condition.

Highway Impact

- 15.14 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.

- 15.15 In terms of impact, the proposed development would provide increased and enhanced facilities what would result in approximately 5 additional inpatients each day (Monday to Saturday), with the overall number of visiting patients being 24 taking into account those that would already be visiting the hospital site. There would be 37 additional staff members, working in shift patterns. As described earlier in the report, the development would be provided with a drop-off point for cars and ambulances, as well as car parking. In addition, the proposed development includes generous cycle parking for both staff and visitors, in excess of the minimum standards set out in the Vehicle Parking Standards SPD.
- 15.16 Both the Highway Authority and the Council's Transport and Sustainability team have confirmed that they have no objections to the proposals, subject to various measures to promote and ensure sustainable modes of transport. It is recommended that conditions secure the provision of cycle parking, an updated Travel Plan, and that way finding signage is installed for motorists, cyclists, and pedestrians.
- 15.17 Local representations have expressed concern regarding existing issues with staff and visitors parking in residential streets. The proposed development is not considered to give rise to significant car parking demand given the low numbers of additional visitors and measures to encourage sustainable modes of transport. The submitted Transport Statement does provide some further information to explain that a 2019 parking study has shown that approximately 32 spare staff parking spaces were available at peak times on a weekday at the hospital and that 64 staff spaces would be required to meet a deficit of spaces. This deficit is being partially addressed by reallocating 23 spaces in visitor Car Park 2 to staff spaces. The remaining deficit of 41 staff parking spaces would be addressed by actively seeking to discourage staff car use and encourage walking, cycling, and bus travel where possible. These measures would be incorporated into the Hospital Travel Plan, which would be conditioned for approval. In addition, the Transport Statement comments that there are various changes in work practices at the hospital that would reduce travel and parking pressure, such as office staff working from home and virtual outpatient appointments. The proposed development is not considered to give rise to significant parking pressure and existing deficits are being actively managed by the hospital.

Heritage

- 15.18 Both Core Strategy Policy ENV1 and Development Plan Policy DP14 seek to conserve and enhance Colchester's historic Environment. Development Plan Policy DP14 makes it clear that development will not be permitted that will adversely affect a listed building, conservation area, historic park or garden, or important archaeological remains.

- 15.19 The Council's Historic Building and Areas Officer has commented that the interest of the application from a heritage perspective involves the impact of the proposed development on the Crescent of the Villas to the south-east of the site, as locally listed buildings. The Local List also includes the Water Tower to the South-west of the site and the Gate Lodges to the south-east, but the area of the proposed development is at a greater distance from these buildings and is screened by intervening development; the proposed development is less likely to have any significant impact on the setting of these heritage assets and the main consideration therefore relates to the historic Villas.
- 15.20 The submitted section drawings illustrate the visual relationship of the proposed EOC building and the locally listed Villas. The sections suggest that the new building would appear quite imposing within the setting of Villa 8 which is located closer to the site. The impact on the remaining villas would gradually diminish in respect of each villa by virtue of the increasingly greater degree of separation between them and the proposed development.
- 15.21 The Historic Building and Areas Officer goes on to advise that the proposed building would be grouped together with the existing Hospital facilities to the north of the Crescent and would not disrupt the historic group. The effect of the proposed development on the non-designated heritage assets would mainly derive from the visual impact on the views of the westernmost end of the Crescent (mainly Villa 8), particularly as the viewer approaches the site from the south. On balance, and having in mind that the original context of the Crescent has been affected significantly by modern development and extensive car parking areas, this impact would amount to some limited harm to the setting of the locally listed Crescent but would not be critical for the heritage interest of the historic group.
- 15.22 Paragraph 197 of the National Planning Policy Framework (NPPF) instructs that the decision of applications should consider their effect on the significance of a non-designated heritage asset and when applications directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. The proposed development would not disrupt the grouping of the locally listed Villas and the visual impact would, for the reasons set out above, be towards the lower end of the scale. The Historic Buildings and Areas Officer concludes that there are no objections to the application on heritage grounds. It is therefore assessed that the proposals are acceptable with regards to the NPPF and Local Plan policies ENV1 and DP14 with regards to built heritage.
- 15.23 In terms of archaeology, the submitted Archaeological and Heritage Desk-based Assessment has identified a 'moderate to high potential for Roman period remains on the site', although as the Council's Archaeological Adviser has noted, the degree to which the later development of the hospital will have impacted upon these remains is not currently certain.

The proposed works would cause ground disturbance that has potential to damage any archaeological deposits which do exist and, whilst there are no grounds to consider refusal of permission in order to achieve preservation in situ of any important heritage assets, it is considered necessary to require further archaeological investigation and assessment in accordance with paragraph 199 of the NPPF. Such condition(s) would enable recording of, and advance understanding of, the significance of any heritage asset before it is damaged or destroyed.

- 15.24 In this case in particular, a trial-trenched archaeological evaluation will be required to establish the archaeological potential of the site. This will need to focus on areas of existing open ground, and also include provision to evaluate the areas of existing buildings following their demolition, unless extensive basement storeys already exist. 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. In addition, financial planning contributions are required for the purposes display and interpretation of any finds as mitigation of the impact (see section 14.0 of this report for detail).
- 15.25 Subject to necessary conditions, the proposed development is considered to be acceptable in heritage terms in accordance with Local Plan policies ENV1 and DP14.

Landscape and Trees

- 15.26 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.
- 15.27 The application site is currently a working part of the hospital, with existing buildings and car parking areas. There are however areas of established landscaping within the site, as well as to the boundary of the site alongside the NAR. The submitted tree reports confirm that the proposed layout would require the removal of 14 individual trees comprising 5 category 'U', 7 category 'C' plus 1 young and 1 semi-mature category 'B' trees. The Category 'U' trees have been identified as being unsuitable for retention due to their poor condition and their limited safe useful life expectancy in the context of the location.
- 15.28 The Council's Arboricultural Officer has agreed with the submitted reports and has commented that, given the removal of low and moderate value trees on the site is acceptable subject to mitigation with additional planting elsewhere.

- 15.29 A landscape strategy has been submitted with the application which shows some additional tree planting, although the Arboricultural Officer has not confirmed whether the tree planting on site would be sufficient to mitigate the loss of trees proposed, rather it is suggested that mitigatory planting is carried out elsewhere within the hospital site. The additional tree planting can be conditioned.
- 15.30 In terms of the landscape proposals, the Council's Landscape Officer has commented that the current landscape strategy would not adequately conserve or enhance the landscape of the site for the betterment of its wider setting as required by planning policy. The Landscape Officer has requested some amendments to the landscape strategy to increase planting beds, relocate proposed trees, and incorporate soft landscape beds for new tree planting. Some of the landscape amendments would require some minor adjustments to the site layout; revised plans and a revised landscape strategy would be required before a positive recommendation on landscape grounds can be made. The necessary amendments are considered to be achievable so have not resulted in a recommendation of refusal; further negotiation can be undertaken, along with the inclusion of conditions to secure detail and implementation of an agreed landscape scheme.

Design and Appearance:

- 15.31 In considering the design and layout of the proposal, Core Strategy policy UR2 and Development Plan policy DP1 are relevant. These policies seek to secure high quality and inclusive design in all developments, respecting and enhancing the characteristics of the site, its context and surroundings.
- 15.32 The proposed development would result in a large three-storey building that would be publicly visible from within the hospital grounds and from the adjacent NAR. There is pedestrian/cycle entrance into the hospital immediately south of the application site which is a public right of way and well used so visual amenity is a significant consideration.
- 15.33 The built environment across the wider hospital complex consists of an eclectic mix in terms of the scale, form and materials structures adopt. The design of the proposed building should make a contribution to the design quality of the wider complex as required by planning policy. The existing buildings that would be demolished do not exhibit particular design merit so there is no objection to their removal.
- 15.34 The Council's Urban Designer had a number of concerns regarding the massing and design of the proposed building: lack of visual articulation, visual interest, and pedestrian scale. The proposals have subsequently been revised to reduce the scale of the building, as well as improve the proportions and increase the articulation to provide visual breaks. Changes include:
- staggering the windows on all elevations to create visual breaks;

- the inclusion of windows at the lower level of the eastern and southern elevations (which are publicly visible and accessible) to accentuate the horizontality of the building and provide some active frontage;
 - use of signage on the eastern elevation to create a break in the mass and unify the building;
 - balustrading on the southern elevation to create a vertical emphasis;
 - recessed feature to southern elevation and use of gabion planters to provide more visual interest;
 - Roof top plant set back from façade in order to reduce visual impact and overall height of building;
 - Use of profiled louvred cladding for roof top plant in order to reduce visual impact; and
 - Projecting cladding over lower level brickwork in order to bring the sight line down and improve the pedestrian scale of the building.
- 15.35 The revisions to the proposal are considered to be successful in giving the building a more compatible scale in relation to existing buildings within the hospital site, as well as presenting a more active frontage to the publicly accessible parts of the building (particularly the eastern and southern elevations). It will be important to ensure that the detailed design of the building (e.g. materials, architectural detailing, window and door arrangements and design) maintain a high standard so that the overall design of the building is not diminished in any way; this can be secured via conditions.
- 15.36 The scale, massing, and design of the building is considered to satisfactorily reflect the character of the existing hospital site, whilst still maintaining an individual design quality. Provided that the detailed design of the building maintains a high quality, and subject to appropriate landscaping to compliment the design of the building as a whole, the proposal is not considered to have an adverse impact on the character of the area or visual amenity.

Amenity

- 15.37 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.
- 15.38 The proposed building, whilst large, would not be in such close proximity to neighbouring dwellings so as to have an adverse impact in terms of daylight or sunlight, nor would it result in overlooking to residential properties. The proposed development includes a large plant area which has the potential to create noise and the Council's Environmental Protection team have therefore recommended a condition to ensure that noise levels at boundaries do not exceed the current levels, in the interests of residential amenity. Subject to the noise condition, the proposed development is considered to be in accordance with planning policy DP1.

Other Matters:

- 15.39 Development Plan Policy DP2 requires all development to be designed to help promote healthy lifestyles and avoid causing adverse impacts on public health. The policy requires Health Impact Assessments to be submitted for all non-residential development in excess of 1,000sqm (there is also a requirement for residential development over a certain size). Whilst it may seem superfluous to request a health provider to provide a Health Impact Assessment it is necessary in order to meet with planning policy and, as such, a desktop review and screening note has been submitted with the planning application which considers healthcare provision, parking and travel planning, environmental impacts (such as traffic generation, air pollution, light pollution, noise impact, residential amenity, and landscaping), with recommendations for monitoring to ensure a balanced approach particularly with regards to modes of transport and parking. Ultimately the submitted Health Impact Assessment screening and scoping concludes that negative impacts are minimal and the proposed development would 'support the provision and function of vital accessible healthcare facilities, with consequential benefits on local public health, equality and wellbeing being experienced.' The conclusions are considered to be reasonable and are accepted. It is noted that the NHS were consulted on the planning application, but have not submitted any comments.
- 15.40 With regards to health and safety, the Health and Safety Executive have confirmed that there no major hazards or pipelines that would be affected by the proposed development. The Fire Service have considered the submitted Fire Strategy information and do not have any objections.
- 15.41 Impacts from the construction phase, such as mud on the road and working hours, can be controlled via conditions.

16.0 Planning Balance and Conclusion

- 16.1 National policy requires planning to be genuinely plan-led. The proposal is considered to accord with the relevant policies contained in the Council's adopted development plan, subject to some further negotiation in respect of landscaping and subject to necessary planning conditions and obligations. The NPPF makes it plain that the purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF identifies three dimensions to sustainable development – economic, social and environmental. In respect of the first of these, the current proposal would provide economic benefits, for example in respect of employment during the construction phase and continued employment as part of its future use. 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.

- 16.2 The proposal is considered to meet these objectives by providing a necessary health care facility that would be accessible by the local community and would benefit their health and well-being. In respect of the third dimension (environmental), the proposal does allow for some biodiversity net gain with ecological enhancement measures. There is also sufficient evidence to be confident that overall the development would not cause significant harm to the amenity of nearby residents, create noise pollution or have a severe impact upon the highway network. Overall it is considered the positive environmental effects and sustainability of the proposal would weigh in favour of this scheme.
- 16.3 In conclusion, it is considered that the public benefits of the scheme demonstrably outweigh the limited adverse impacts identified in terms of the setting of the locally listed buildings and loss of moderate value trees. As such, Members are recommended to resolve to grant planning permission subject to the requirements and conditions set out below.

17.0 Recommendation to the Committee

- 17.1 The Officer recommendation is for the Committee to resolve to:
- Approve the application subject to the recommended conditions (following satisfactory negotiations with regards to the landscape strategy and including any necessary conditions as a result) and following the signing of a legal agreement to secure necessary planning contributions. In the event that the legal agreement is not signed within 6 months of the committee meeting, to delegate authority to the Head of Service to refuse the application, or otherwise to be authorised to complete the agreement;
 - Allow delegated authority to the Head of Service to make minor amendments to the recommended conditions as a result of consultation with the applicant and the requirements of the Town and Country Planning (Pre-commencement Conditions) Regulations 2018.

18.0 Conditions

1. Time Limit for Full Permissions

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

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

2. Development to Accord With Approved Plans

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

Proposed Block Plan	133738-IBI-WS-XX-PL-A-100-0007 Rev P4
Proposed Ground Floor Plan	133738-IBI-WB-00-PL-A-200-0001 Rev 3
Proposed First Floor Plan	133738-IBI-WB-01-PL-A-200-0001 Rev 3
Proposed Second Floor Plan	133738-IBI-WB-02-PL-A-200-0001 Rev 3
Proposed Roof Plan	133738-IBI-WB-04-PL-A-200-0001 Rev 3
Proposed Building Elevations	133738-IBI-WS-XX-EL-A-100-0001 Rev P4

DC0901MWeV9.3

Proposed Site Sections 133738-IBI-WS-XX-EL-A-100-0006 Rev P3
Proposed Car Parking Plan 133738-IBI-WS-XX-PL-A-100-0007
Construction Management Plan Rev O, dated 11.03.2021
SES Tree Survey and Arboricultural Impact Assessment Rev B, dated 18th March 2021

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

3. Ecological Mitigation and Enhancement Measures

The development hereby approved shall be implemented fully in accordance with the Mitigation and Enhancement Measures set out in Section 4.0 of the SES Preliminary Ecological Appraisal dated 18 March 2021.

Reason: In the interests of mitigating the impact of the development upon biodiversity and to secure biodiversity net gain.

4. 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.

5. Archaeological Investigation

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

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

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

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

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development.

6. 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:

- Rainwater harvesting should be considered on this site as a viable option
- Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure and the infiltration testing methods found in chapter 25.3 of The CIRIA SuDS Manual C753.
- Limiting discharge rates to 15l/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.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

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

7. 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

8. 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.

9. 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.

10. Construction Vehicle Cleaning Facilities

No works shall take place until details of a wheel and underbody cleaning facility for demolition and construction vehicles has been submitted to and approved in writing by the Local Planning Authority. The wheel and underbody cleaning facility shall be located within the site and adjacent to the egress onto the highway. The approved facility shall then be implemented and maintained as approved during the periods of demolition and construction.

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

11. Architectural Detailing

Notwithstanding the information submitted, no works shall take place (except for site clearance and underground enabling works) until additional drawings (at a scale between 1:5 and 1:50 as appropriate) of the architectural features have been submitted to and approved in writing by the Local Planning Authority. These drawings shall include details of any flashing, reveals, recessed or projecting elements to be used. The development shall be implemented in accordance with the approved additional drawings.

Reason: Insufficient detail has been submitted to ensure that the character and appearance of the area is not compromised by poor quality architectural detailing.

12. Materials

Notwithstanding the information submitted, no works shall take place, other than site clearance and underground enabling works, until details and samples of all external facing materials to be used in construction have been submitted to and approved, in writing, by the Local Planning Authority. Such materials as may be approved shall be those used in the development.

Reason: In order to ensure that suitable materials are used on the development in the interests of good quality design and visual amenity.

13. Foul Water Drainage Scheme

No works shall take place above damp proof course level until a scheme for on-site foul water drainage works, including connection point and discharge rate, have been submitted to and approved in writing by the Local Planning Authority. The approved drainage scheme shall then be carried out and completed in full prior to the occupation of the development.

Reason To prevent environmental and amenity problems arising from flooding.

14. Window and Door Details

No external windows, doors, or curtain walling shall be installed until precise details of all external windows, doors, and curtain walling has been submitted to and approved, in writing, by the Local Planning Authority. The submitted details shall include depth of reveal, details of heads, sills and lintels, elevations at a scale of not less than 1:10 and horizontal/vertical frame sections (including sections through any glazing bars) at not less than 1:2 or as a sample sections as deemed appropriate. The works shall thereafter be carried out in accordance with the approved details.

Reason: To ensure that the approved works are carried out without detriment to the character and appearance of the building where there is insufficient information within the submitted application

15. SUDS Management and Maintenance

The development shall not be occupied until a surface water drainage management and maintenance plan, detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies/recording, 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.

16. Site Boundary Noise Levels

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

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

17. Bicycle Parking

The development shall not be occupied until the bicycle parking facilities, as shown on the approved plans, have been provided and made available for use. The bicycle parking facilities shall be secure, convenient, and covered, and shall be maintained free from obstruction and retained thereafter.

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

18. Travel Plan

The development shall not be occupied until a Travel Plan has been submitted to, and approved in writing by, the Local Planning Authority.

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

19. Directional Signage

The development shall not be occupied until appropriately faced signage that indicates and leads motorists, cyclists, and pedestrians to and from the development have been provided at access points and throughout the site in accordance with a signage scheme that shall have been previously submitted to

and approved in writing by the Local Planning Authority. The approved signage shall then be implemented as approved and thereafter retained.

Reason: In the interests of ensuring convenient and efficient access, circulation, and exit movements within the site.

20. 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 7, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 8, 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 9.

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.

Please note:

Conditions regarding LANDSCAPING AND TREES to be added, subject to further landscape proposals being submitted as per Case Officer's recommendation.

19.0 Informatives

19.1 The following informatives are also recommended:

1. Advisory Note on Construction & Demolition

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

2. 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. Highway Informative (Parking Facilities)

The Highway Authority observes that there will be a significant loss of onsite parking facilities which are fiercely competed for, patients and visitors will be arriving from more distant locations and there will be an increase in staff levels albeit working within a shift system and strongly recommends that the promotion of alternative means of travel than the use of private vehicles such as taxis', public transport, the park and ride facilities etc being highlighted and included in the refreshed travel plan, also included in the patient advice notes prior to admission and also available to those who may visit.

4. Highway Informative (Future Access Proposals)

The Highway Authority observes that there are proposals awaiting confirmation of a new access and connection to the internal road layout, the applicant is advised to carefully consider the proposal against this proposal.

5. Highway Informative (Highway Works)

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

6. SUDS Suitable Qualified Person Informative

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

7.Fire Service Informatives

Building Regulations:

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).

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

Item No: 7.4

Application: 190335

Applicant: Chris Board, Lanswood Limited

Proposal: Redevelopment of site to provide 282 student bedrooms (sui generis) in an 8 storey building with ancillary ground floor space combining cafe, meeting space, bin store, cycle store, laundry, reception/office, plant rooms and car parking.

Location: Land at rear of The Colchester Centre, Hawkins Road, Colchester

Ward: Hythe & Old Heath

Officer: James Ryan

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it is a major application with a legal agreement.

2.0 Synopsis

- 2.1 The key issues for consideration are the principle of the development, the design/scale/massing of the proposal and the parking provision.
- 2.2 The application is subsequently recommended for approval.

3.0 Site Description and Context

The site comprises a piece of vacant land behind an office complex that fronts Hawkins Road. An access road serves the site which is also used by the office block to the road frontage and provides vehicular access to the car park to the rear of it. Commercial uses are located east and west. The network Rail train tracks are located to the north and the car park of Tesco Hythe supermarket lies beyond that at a significantly higher level.

4.0 Description of the Proposal

- 4.1 The redevelopment of site to provide a block of 282 student bedrooms (sui generis) in an 8 storey building with ancillary ground floor space combining cafe, meeting space, bin store, cycle store, laundry, reception/office, plant rooms and car parking.

5.0 Land Use Allocation

- 5.1 The land is allocated for a mix of uses – please see policy principle section of main report.

6.0 Relevant Planning History

- 6.1 There is no relevant planning history.

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
CE1 - Centres and Employment Classification and Hierarchy
CE2 - Mixed Use Centres
CE3 - Employment Zones
H1 - Housing Delivery
H2 - Housing Density
H3 - Housing Diversity
UR1 - Regeneration Areas
UR2 - Built Design and Character
PR1 - Open Space
PR2 - People-friendly Streets
TA1 - Accessibility and Changing Travel Behaviour
TA2 - Walking and Cycling
TA3 - Public Transport
TA4 - Roads and Traffic
TA5 - Parking
ENV1 - Environment
ENV2 - Rural Communities
ER1 - Energy, Resources, Waste, Water and Recycling

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

DP1 Design and Amenity
DP2 Health Assessments
DP3 Planning Obligations and the Community Infrastructure Levy
DP4 Community Facilities
DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses
DP10 Tourism, Leisure and Culture
DP12 Dwelling Standards
DP14 Historic Environment Assets
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP17 Accessibility and Access
DP19 Parking Standards
DP20 Flood Risk and Management of Surface Water Drainage
DP21 Nature Conservation and Protected Lanes
DP23 Coastal Areas

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

SA CE1 Mixed Use Sites
SA EC6 Area 4: Hawkins Road

7.5 The area does not have a Neighborhood 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.

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 is therefore considered to carry 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.

- 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
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
Colne Harbour Masterplan

8.0 Consultations

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

8.2 Anglian Water

No objection – infomatives suggested.

8.3 Arboricultral Planner

Condition Tree Protection.

8.4 Archaeology

In terms of below-ground archaeology, the proposed development is situated within the area of archaeological interest recorded in the Colchester Historic Environment Record. The site is located immediately above the floodplain of the River Colne, a location that is topographically favourable for early occupation of all periods. Groundworks relating to the application would cause ground disturbance that has potential to damage any archaeological deposits that exist.

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

8.5 Contaminated Land

Based on the information provided, it would appear that the site could be made suitable for the proposed use, with the remaining contamination matters dealt with by way of planning condition.

8.6 Emergency Planner (in-house)

My comments would be that they would need to comply with the EA recommendations listed in the document regarding the flood risks as this development falls within Flood Zone 3a. I would also expect them to have their own Business Continuity Plan detailing an evacuation process and a identified place of safety for displaced residents to take shelter. Also to sign up to receive flood alerts and weather warnings from the appropriate agencies.

8.7 Environment Agency

No objection to scheme.

8.8 Environmental Protection

No objection – conditions suggested.

8.9 Essex County Fire and Rescue

No objection raised – a number of useful points raised that will be highlighted to the applicant via an informative.

8.10 Essex Police

The published documents have been studied and, unfortunately, do not provide sufficient detail to allow an informed decision pursuant to the National Planning Policy Framework, sec 12, paragraph 127, (f) and Colchester's Planning Policy DP1: Design and Amenity, however the revised internal layout is greatly improved from the original Feb 2019 application and now offers ample opportunity for effective compartmentalisation within each floor.

To ensure this development is a safe, secure place to live, e.g. uniform lighting without dark areas, effective physical security at the public entrance and on each student room and to comply with Colchester's Planning Policy DP1: Design and Amenity (Revised July 2014), (iv) Create a safe and secure environment, Essex Police would recommend the applicant incorporate Crime Prevention through Environmental Design and apply for nationally acknowledge and police recommended Secure By Design Homes 2019 accreditation.

Essex Police, provide a no cost, impartial advice service to any applicant.

8.11 Highway Authority

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

8.12 Historic Buildings and Areas

The application site is not situated within a Conservation Area and there are no designated or non-designated assets in the immediate vicinity.

8.13 Landscape Advisor

The landscape content/aspect of the strategic proposals lodged on 03/03/20 (principally under drawing 20132-HNW-ZZ-ZZ-DR-A-2101.P0) and the revised Townscape & Visual Appraisal (TVA) rev B dated March 2021 lodged 08/03/21 would appear satisfactory.

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

8.14 Lead Local Flood Authority/SuDS

No objection – conditions requested.

8.15 Natural England

No objection subject to compliance with RAMS.

8.16 NHS

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

8.17 Transport/Sustainability (in-house)

I have looked at the cycle parking. It isn't in a suitable location. If it isn't going to be integrated with the building then it should be right outside the main entrance, so easy access for users. It also needs to be secure as well as covered, with a fob access or similar. I would suggest that some of the car parking right near the entrance is replaced with a large, secure, and attractive cycle storage building which would be easy to use and convenient for cyclists and a statement that cycling is encouraged, supported and welcomed on this site.

8.18 Urban Design

As per previous comments, by virtue of its location and layout, the proposed development remains out of keeping with the sites immediate context and the prevailing character of the area. However, the scheme does now achieve a good standard of architecture and in light of this, there are positive and negative elements to the design of the proposed development. Ultimately, by virtue of the latter, the proposed development would still be discordant with the site's context and as such remains contrary to elements of the above outlined national and local planning policies.

The latest revisions to the proposed structure provide a reduced scale and break down the structure into a composition of various different elements/forms. The use of a variety of materials and approaches to fenestration break down the massing of the structure effectively. As a result, the elevational treatments of the proposed structure achieve a consistent rhythm, appearing balanced and visually articulated. The approach to materiality is consistent with the vernacular of the wider area. On this basis, the proposed structure is considered to achieve an acceptable standard of design in itself.

As highlighted above, elements of the design of the proposed development have been improved, whilst others remain contrary to policy. The negative elements of the design are a result of the density of the proposed development, which pertains to matters of principle. As such a balanced judgement is required as to whether the negative elements of the proposed design are considered acceptable in the context of the wider material planning considerations relevant to this application. Great weight should be given to any Townscape impact when weighing up the design elements of the proposal as part of wider considerations. The Case Officer should be satisfied that the

development will not have an adverse impact on the Town's skyline, nor on townscape views.

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.

It is noted that no neighbour objections were received following the latest full set of amended drawings and therefore the comments below actually relate to the previous scheme. Three representations were previously received, and they can be read in full on the website, however in summary they objected for the following reasons:

- >This is a commercial area and should stay as such.
- >It is not suitable for residential due to the noise and vibration of the railway and surrounding uses.
- >The redevelopment of the Hythe is supported where the buildings are old and falling down but this side of Hawkins Road should be left.
- >Residents will be unhappy.
- >1B Albarn is a 24hr operation and the noise will cause issues plus we will suffer loss of light into our offices.
- >Issues with parking.
- >We don't object to the principle of the use but there needs to be more parking supplied.
- >The parking on the access way should be removed.
- >There should be more cycle parking.
- >There should be a Section 106 contribution for a business parking permit scheme on Hawkins Road and students must not be allowed to have residents parking permits.
- >A construction method statement should be supplied.

11.0 Parking Provision

11.1 Whilst many of the recently approved student accommodation buildings have no car parking to encourage cycling, walking and public transport, this scheme does provide 34 car spaces. 100 cycle spaces are also proposed. It is considered that at reserved matters stage this could be further improved to increase either the number or position of cycle spaces (or both). That may result in the loss of car parking spaces and that would be welcomed.

12.0 Accessibility

12.1 The scheme is designed with a number of accessible rooms/flats and a number more are designed to facilitate conversion, if needed. All floors are served by lifts. The Type 2 room is accessible for wheelchair use and the Type 3 room is convertible to an accessible room. The Type 5 studio is fully accessible and the Type 6 is a studio room that is convertible to an accessible studio room.

13.0 Open Space Provisions

13.1 As sui generis student accommodation this scheme is not required to provide on-site open space.

14.0 Air Quality

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

15.0 Planning Obligations

15.1 As 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:

NHS: £44,482

Archaeology: £2810

Sustainable Transport: £110,000

Travel Plan Membership: £10,000

Also secured via the LA:

RAMS: £21,843.96

A legal agreement has been agreed to deal with the matters of RAMS, the NHS contribution and membership of the Travel Plan club plus walking and cycling improvements.

16.0 Report

16.1 The main issues in this case are:

Principle of Development

Introduction

16.2 The proposal for 282 student dwellings and ground floor commercial/function space on land adjacent Weston Homes on Hawkins Road is on land which is allocated for development in the Adopted Local Plan as follows:

Core Strategy Policy SD1 (Sustainable Development) - Development will be focused on a range of sustainable locations including the East Growth Area

Core Strategy Policy H1(Housing) - Table H1a provides that a total of 2600 units will be provided in the East Growth Area.

Site Allocations Policy SA EC1 (Residential development in East Colchester) lists 15 sites in East Colchester which will deliver housing in East Colchester, including number 13, Land in Hawkins Road.

Site Allocations Policy SA EC2 (Development in East Colchester) provides a supportive approach to development in the area, provided it addresses criteria including ensuring that development provides for a balanced and integrated mix of uses; addressing flooding issues, and contributing to infrastructure provision.

Policy SA EC6 (Area 4: Hawkins Road) supports regeneration of the former industrial area by extending and consolidating housing to the west of Hawkins Road, and reflecting uses current at the time, continuing employment uses on the east side.

Significant redevelopment of the Hawkins Road area has occurred over the life of the current Adopted Local Plan, but as some sites remain to be developed, reference to these sites was required to be carried forward in the Emerging Local Plan. Policy EC2 (East Colchester/Hythe Special Policy Area) consolidated the East Colchester areas previously covered by specific area policies into one more generic and flexible policy. This meant that the specific requirement for employment uses on the east side of Hawkins Road was replaced by an area wide requirement for a criteria-based approach to development proposals including the following areas:

- Regeneration at densities appropriate to an urban area with good transport access and mix of uses
- Maximise benefits of location near the University
- Respond to the area's distinctive historic character
- Contribute to East Transit Corridor
- Enhance provision of Green Infrastructure
- Contribute to flood risk solutions
- Provide for a compatible mix of uses having regard
- Minimise and mitigate contaminated land issues

NPPF Compliance

16.3 The planning policy approach to the proposal reflects the Council's current position in the plan-making process where both an adopted and an emerging Local Plan are relevant. The relationship of the proposal to each of those plans and the compliance of relevant adopted and emerging policies with the 2019 NPPF are accordingly key variables in assessing the planning balance. In this instance, given that the proposal features in both plans rather than just in the Emerging Local Plan, the focus of checking compliance is on the current plan.

16.4 It is considered that the fundamental principles of both the Adopted and Emerging Local Plans are compliant with the new NPPF.

Emerging Local Plan

- 16.5 The NPPF also advocates consideration of other factors including emerging local plans which can be afforded weight when they reach an advanced stage of preparation. In this respect Paragraph 48 states that authorities may give weight to emerging plans according to the stage of preparation, the extent to which there are unresolved objections to relevant policies (and the significance of these objections - the less significant the greater the weight that can be given) and the degree of consistency of the relevant policies to the NPPF (the closer the policies are to policies in the NPPF, the greater the weight that may be given). Testing these criteria will inform the judgement about the weight which should be afforded to the emerging Local Plan in this case.
- 16.6 The ELP is considered to be at an advanced stage having been submitted in 2017 with examination commenced in January 2018 and with an EiP having taken place in April of this year.
- 16.7 The urban area of Colchester incorporates East Colchester, which includes the proposed residential allocation on Hawkins Road which is the subject of this allocation.
- 16.8 The Spatial Strategy Policy (SG1), Housing Delivery Policy (SG2) and the East Colchester Allocations policy (EC3) are aligned with the NPPF which reinforces the plan led system. The policies will contribute to the delivery of sustainable development.
- 16.9 The detailed criteria included in Policy EC3 for the East Colchester/Hythe area accords with the NPPF which outlines that Local Plans should include non-strategic policies which provide more detail for specific areas and types of development.
- 16.10 The key policies in the emerging Local Plan relevant to this scheme are considered to be highly consistent with the NPPF and should therefore be afforded considerable weight.
- 16.11 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. Accordingly, further consideration of the issues raised in representations to Policy EC2 is necessary to guide the judgement of the weight which should be given to the emerging policy in this case. There were 6 representations made in respect of this allocation in Policy EC2. None of them made specific points on the application site, but Network Rail considered that more detail should have been provided on specific sites, and Hythe Forward objected to the loss of employment site to residential uses.

- 16.12 It is agreed that development in the area should retain employment uses in the area as far as possible, but considering the dramatic transformation of the Hythe area following the closing of Colchester Port and the increase of residential uses on former employment sites along with the limited demand for employment land in the Borough, it is considered that a more flexible approach to uses in the area is warranted to support the continuing delivery of regeneration. Policy EC3 is considered to provide the correct level of flexibility in supporting 'a mix of commercial, community and residential uses. As the Council contends that Policy EC3 is sound on the above basis, the weight to be given to the Emerging Local Plan does not need to be reduced due to objections.

Policy Conclusion

- 16.13 The proposed residential development at land adjacent to Weston Homes, Hawkins Road is within a mixed-use regeneration area featuring in both the Adopted and Emerging Local Plans and is accordingly a clear Council priority for development. It is considered that all relevant policies associated with the proposal are compliant with the NPPF. Planning policy accordingly supports the principle of residential development on this site.

Design/Townscape

- 16.14 Core Strategy policy ENV1 seeks to conserve and enhance Colchester's natural and historic environment. Core Strategy policy UR2 seeks to promote and secure high quality design. Development Policies DP1 and DP12 set out design criteria that new development must meet. These require new development to be of a high quality and respect the character of the site and its context. Development Policy DP1 states that all development must be designed to a high standard and avoid unacceptable impacts on amenity. Core Strategy policy ENV1 states that the Borough Council will conserve and enhance Colchester's natural and historic environment, countryside and coastline, and this is also echoed within the relevant section of the NPPF. Development Policy DP1 provides that all development must demonstrate environmental sustainability and respect its landscape setting and contribute to the surrounding area.
- 16.15 DP1 also requires development to "Respect and enhance the character of the site, its context and surroundings in terms of its architectural approach, height, size, scale, form, massing, density, proportions, materials, townscape and/or landscape setting, and detailed design features."
- 16.16 As originally submitted, the scheme was not acceptable in design terms. It was too bulky, the elevations lacked articulation and modulation and were cumulatively too unmitigated and the whole package was lacking in the finesse a large building requires to sit in a position such as this.
- 16.17 Extensive discussions then took place over a long period. The applicants commissioned new architects and worked with the Council's Urban Designer and case officer to break the massing down and provided a more

refined proposal driven by the Landscape and Visual Impact Assessment (LVIA).

- 16.18 The revised proposal as now submitted is considered to represent a significant improvement. Whilst the in-house Urban Designer still has reservations about a tall building in a back-land position, such as this one (as can be seen by his comments), they accept the scheme is a great deal better than the original submission and has architectural merit.
- 16.19 As the landscape context analysis set out in the LVIA was the starting point for the reworked scheme, the architects have gone to a great deal of work to bring the massing down in the areas that matter most – for example in views from the Colne bridge and from Tesco's car park to the north. From these viewpoints the bulk of the building will be screened by the drop in levels.
- 16.20 The building will clearly still be seen from Hawkins Road but the resubmitted design addresses the access road more convincingly and the height has been concentrated at the front as a visual end stop to the access way. This design revision with the height focused on the frontage draws the eye up the access way and announces the entrance to the building which is important with a back land scheme such as this.
- 16.21 In terms of massing, whilst at its highest point the building is eight storey, the main bulk is far lower and this is intentional. The top floor (the 8th) contains only three rooms, and then there are 11 rooms (including a shared kitchen) on the 7th floor below that. There are then 30 rooms on the 6th floor including kitchens. There are 39 rooms on the 5th Floor. There are then 50 rooms on the 4th, 3rd and 2nd and 1st Floors which all have similar massing. The ground floor has a mix of student rooms and servicing. This illustrates how the block reduces in scale and massing as the floors increase. This result is a block that is held to be appropriate in the streetscene and will sit comfortably in the townscape.
- 16.22 It could be argued that a building of this size is not acceptable in a backland positions such as this and it is clear the in-house Urban designer has reservations about this matter, although they accept the design is a good one. It is not considered that the scale of the building causes material harm to the character of the area however and on balance the scheme is therefore held to be acceptable in design terms.

Trees

- 16.23 The case officer has discussed the in-house Arboricultural Planner's and in this instance, it is held that with a condition the trees on the Network Rail land to the north can be protected during the construction phase.

Flood Risk/SuDS

- 16.24 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. The NPPF requires a detailed flood risk assessment (FRA) to be produced for all development located within a flood zone and/or sites that are greater than 1 hectare.

- 16.25 In terms of SuDS, after a holding objection for more information which was provided, ECC SuDS (the LLFA) has suggested conditions which will be imposed.
- 16.26 The site sits in Flood Zone 3, the high-risk zone. The scheme was supported by a FRA which has been assessed by the Environment Agency and also by the Council's In House Emergency Planner. It is considered that with a satisfactory Flood Plan the scheme will satisfactorily mitigate against flood risk to the future residents.
- 16.27 The EA's no objection comment did suggest that the FRA was updated with the most up to date data (which they needed to provide the applicants) to enable the Council to make the most informed decision. The amended FRA picks up on the revised surface water design as required by the LLFA. It also supports the finished floor level of 3.1m AOD.
- 16.28 The EA has provided the updated mapping which shows the potential water levels at the site for both the defended and un-defended scenarios. This data shows that with the defenses in place, the site is currently not at risk of fluvial / tidal flooding in all events up to and including the 1 in 1000 + climate change (CC) year event.
- 16.29 It is important to consider the impact of flooding in the unlikely event of the flood defenses (i.e. the Colne Barrier) failing. The CBC Strategic Flood Risk Analysis states finished floor levels must be 300mm above the 1 in 200 year + CC flood event, as the site is protected for events up to and including the 1 in 1000 + CC year event, it is proposed to set the finished floor levels at no lower 3.1m AOD (in line with the existing level at the site). The agents have confirmed that the site will be managed 24 hours a day, 7 days a week, all year round.

Impact on Amenity

- 16.30 Adopted Policy DP1 seeks to prevent harm to neighboring amenity. Whilst a very tall block as originally submitted, the applicants have worked hard to bring the massing down. It is noted that the proposal sits in a position that is surrounded by commercial uses. Generally the Council seeks to preserve the amenity of residential neighbours but not commercial neighbours – for example the office to the front of the site and the commercial uses to the west – such uses are not afforded such protection and the mutual overlooking that will inevitably occur is not held to warrant a refusal.
- 16.31 It is noted that there will be some loss of light to the windows of the offices in the commercial unit to the west which are close to the boundary. This has been carefully considered but it would not be reasonable for a unit's windows to effectively sterilize development on a neighbouring plot. A

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degree of impact would result from any building on this site, be it student accommodation or a new commercial building for example. This has been carefully considered but, in this instance is not held to warrant a refusal.

Amenity of Future Occupiers

- 16.32 Concerns about the impacts of surrounding uses on the students have been raised. The scheme has been assessed by Environmental Protection and they have suggested a condition to deal with sound insulation to ensure the scheme is acceptable for habitation. They have not raised concerns about vibration from the train line to the north. The scheme is therefore held to be acceptable in that regard.

Highways and Parking

- 16.33 Policy TA4 and TA5 of the Core Strategy refers to the importance of highway safety and with regards to parking states that development proposals should manage parking to accord with the accessibility of the location and to ensure people friendly street environments. Policy DP19 states that the Council will refer developers to the Essex Planning Officers Association (EPOA) Vehicle Parking Standards which is an adopted SPD (November 2009).
- 16.34 The Highway Authority has assessed the scheme and are satisfied that the scheme is acceptable in highway safety terms subject to conditions.
- 16.35 The representation from the Colchester Centre raises issues of parking. The Council do not accept that more parking provision should be provided and in fact consider the scheme to be parking dominated at the expense of space for amenity and landscaping. The parking standards for student accommodation are maximum standards - which means that no onsite parking is policy compliant. This site is located close to the university and close to other halls of residence that do have dedicated parking. The larger student accommodation building at 'The Maltings' just over the river does have undercroft parking (which is far preferable to surface parking in urban design terms) but the parking spaces are rarely used. The Hythe Mills site almost opposite this proposal has parking spaces but is to be run as a low car/car free scheme with help from the Travel Plan Club. The majority of the University's on-site halls of residence do not have dedicated parking.
- 16.36 The site is located a short walk from the University, in a location similar to a number of the private and university owned student accommodation blocks. It is close to the Hythe Station and close to a large Tesco's. For the purposes of its future students a car would be of very limited use on a day to day basis and there is no planning reason to encourage car ownership on a site such as this – apart from some disabled parking spaces and servicing. As the site landscaping will be dealt with at reserved matters stage the precise parking layout can also be agreed at that stage.

Cycle Parking

- 16.37 It is accepted that the proposed onsite cycle parking provision is poor in terms of its location. 100 covered spaces are to be provided which is reasonable, but they need to be sited nearer to the entrance of the building, if not integrated within it. This can be dealt with by condition and the applicant has agreed to that approach. It is hoped that at reserved matters stage the number of cycle parking spaces can be increased and the useability of the provision improved.

Transit Corridor

- 16.38 The adopted local plan suggested that this site is close to if not within an area protected for a proposed transport corridor. It was then clarified that this site does not sit on the route for the proposed transit corridor.

Secure By Design

- 16.39 It is important that facilities of this nature are safe for its users. The comments from Essex Policy are noted as are the comments that the scheme is much improved since the initial submission. The fencing/gates/boundary treatment and site lighting will be matters dealt with at reserved matters stage but there is no reason to believe that with the right details a scheme that is secure cannot be fully realised. An informative will be imposed to signpost the future student accommodation operator to the Secure by Design service that Essex Police Provide.

Fire Safety

- 16.40 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 the of sprinklers.

Ecology

- 16.41 Core Strategy policy ENV1 and Development Policy DP21 seek to conserve or enhance biodiversity of the Borough. The NPPF states that the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity.
- 16.42 An ecology report has been submitted and this concluded that the site is of relatively limited ecological potential. It is a piece of vacant land located between two commercial units. It does however have links to the train tracks beyond and that means it could be used as refuge by wildlife. The Preliminary Ecological Appraisal carried out by Geosphere Environmental has concluded that the scheme would not cause material harm to protected species and it is noted that Natural England have no objection to

the scheme. The Phase 1 Ecology Report is dated March 2019 so it is suggested at this it is updated at reserved matters stage with a detailed Phase 2 study including a species specific reptile study as recommended by the Preliminary Ecological Appraisal and an ecological mitigation strategy to ensure biodiversity net gain from the development.

Off site impacts to Protected Areas

- 16.43 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. Student accommodation has an impact and therefore this scheme must be assessed on that basis.
- 16.44 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.
- 16.45 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 £127.31, 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.
- 16.46 Proposals for 100 dwellings or more will also require a shadow appropriate assessment to be submitted with the application, which assesses likely significant effects alone. This should clearly show how necessary avoidance measures are incorporated into the proposal however that is not reasonably possible in this instance due to the

constrained nature of the site. Payment of the RAMS tariff will address in-combination effects. It is agreed that as student accommodation is assessed on a case by case basis as are not full independent dwellings as with a normal block of flats. The applicants have agreed with this approach and the financial contribution of £21,843.96 will be secured in the legal agreement.

Climate Emergency

- 16.47 The Council has declared a Climate Emergency and therefore it is important to consider how this application will contribute to a low carbon future for the area. It is highly sustainably located, in a position ideal for walking and cycling be that to local shops and services or the University. As noted above there is an over provision of car parking spaces but with the Travel Plan membership it is hoped that this scheme can be run as low car or car free development. The financial contribution towards off-site sustainable transportation/infrastructure will also help this scheme contribute towards the Council's low carbon aims. The development therefore comprises sustainable development.

17.0 Conclusion and Planning Balance

- 17.1 To summarise, the scheme would utilise a vacant piece of land that is sustainably located close to key facilities including shops and transports nodes. It is walkable to the University. The scheme contributes to the Council's land supply and will help meet the ever-growing demand for student accommodation. The scheme therefore meets the social and economic roles of the NPPF. Following negotiation, the scheme has been thoroughly reworked to bring the massing down and to improve the overall composition. Whilst it is accepted that this is a tall building in a back land position, much of the proposed block will be visually filtered by the change in levels to the north and by the other buildings in the area. What is seen will be a high-quality piece of architecture. The scheme therefore complies with the environmental role of sustainable development as set out in the NPPF 2019. Officers consider than the Planning Balance tips strongly in favour of this proposal.

18.0 Recommendation to the Committee

- 18.1 The Officer recommendation to the Committee is for:

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

1) ZAC - *Time Limit for Outline Permissions Part 1 of 3*

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

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

2) ZAD - Time Limit for Outline Permissions Part 2 of 3

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

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

3) ZAE - Time Limit for Outline Permissions Part 3 of 3

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

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

4) ZAM - *Development to Accord With Approved Plans*

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

20132-HNW-ZZ-ZZ-DR-A-2100 REV P0

20132-HNW-ZZ-ZZ-DR-A-2101 REV P0

20132-HNW-ZZ-00-DR-A-2200 REV P4

20132-HNW-ZZ-00-DR-A-2500

20132-HNW-ZZ-00-DR-A-2501

20132-HNW-ZZ-00-DR-A-2502

20132-HNW-ZZ-01-DR-A-2201 REV P4

20132-HNW-ZZ-02-DR-A-2202 REV P2

20132-HNW-ZZ-03-DR-A-2203 REV P3

20132-HNW-ZZ-04-DR-A-2204

20132-HNW-ZZ-05-DR-A-2205

20132-HNW-ZZ-06-DR-A-2206 REV P3

20132-HNW-ZZ-07-DR-A-2207 REV P4

20132-HNW-ZZ-08-DR-A-2208 REV P3

20132-HNW-ZZ-ZZ-DR-A-2300 REV P0

20132-HNW-ZZ-ZZ-DR-A-2301 REV P0

20132-HNW-ZZ-ZZ-DR-A-2302 P0

20132-HNW-ZZ-ZZ-DR-A-2303

20132-HNW-ZZ-ZZ-DR-A-2304 REV P0

20132-HNW-ZZ-ZZ-DR-A-2310

20132-HNW-ZZ-ZZ-DR-A-2400

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

5) ZBC - Materials To Be Agreed

No external facing or roofing materials including the windows, 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.

6) Archaeology

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

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

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

The site investigation shall thereafter be completed prior to development, or in such other phased arrangement, as agreed, in writing, by the Local Planning Authority. The development shall not be occupied or brought into use until the site investigation and post investigation assessment has been completed in accordance

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with the programme set out in the Written Scheme of Investigation approved and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

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

7) SuDS

No works except demolition shall takes 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:

- Limiting discharge rates to 1l/s for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change. The outfall orifice diameter should be no smaller than 50mm. 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.
- Investigation and implementation where possible of rainwater reuse for the landscaped areas.
- 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 • 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.

8) SuDS

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

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

9) 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.

10) SuDS

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

Reason: To ensure that drainage system implemented at the site will adequately function and dispose of surface water from the site. 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.

11) Ecology

Prior to commencement an updated ecological report/phase two ecology report shall be submitted to and approved in writing by the LPA including a species-specific reptile survey and an ecological mitigate and enhancement plan. No works shall be carried out except in complete accordance with the approved report/plan.

Reason: In the interests of the mitigation of harm to on site ecology. As these are the suggestions of the preliminary ecological appraisal this a condition is needed to ensure they are provided and complied with.

12) 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.

13) ZCF - Refuse and Recycling As Shown

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

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

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) ZGG - Site Boundary Noise Levels

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

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

16) ZGI - Sound Insulation on Any Building

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

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

17) Acoustic Assessment

Prior to construction of the development above ground level, a detailed acoustic assessment and mitigation report, produced by a competent person, which provides details of the noise exposure at the facade of residential dwellings, internal noise levels in habitable rooms and noise levels in all associated amenity spaces shall be submitted to and approved, in writing, by the Local Planning Authority. 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) any reliance upon building envelope insulation with closed windows should be justified in supporting documents that cross reference the mitigation measures used. In addition, noise levels in external amenity spaces shall not exceed 55dBLAeq 16 hours, daytime. 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.

18) 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 E22 RURAL, SMALL VILLAGE OR DARK URBAN AREAS.

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

19) ZHA - Grease Traps Required

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

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

20) Air Quality

Prior to occupation a scheme showing the provision type and location of four charging Points for Electric Vehicles shall be submitted to and approved in writing by the Local Planning Authority. The charging points approved shall be installed prior to occupation and them maintained and retained in perpetuity.

Reason: In the interests of air quality and the facilitation of low/zero carbon vehicles.

21) 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

22) 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

23) 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

24) 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 21 and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 22, 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 23.

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

25) 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 24.

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

26) Highways CMS

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.

27) Travel Plan

No occupation of the development shall take place until a travel plan has been provided or completed.

Reason: To ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking.

28) Trees

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: In the interests of the protection of the off-site trees on Network Rail Land.

29) Flood Plan

No occupation of the development may occur until a flood evacuation plan has been submitted to and approved in writing by the Local Planning Authority. The Flood Evacuation Plan shall then be used by the student accommodation management team on site and must be available in the on-site management office to be used at all times.

Reason: In the interests of mitigating the impact of flood risk on the future occupants of the student accommodation.

30) Student Accommodation Only

The development hereby approved is for sui generis student accommodation only and shall be retained as such permanently notwithstanding the provisions of the Use Classes Order 2020 or any subsequent re-enactment.

Reason: This is the basis on which the scheme was assessed. The scheme is considered to be acceptable in this form and in this location by the Local Planning Authority for such a use. This condition would require a planning application for any other potential uses on this site.

31) Drainage

No drainage systems for the infiltration of surface water to the ground are permitted other than with the written consent of the local planning authority. Any proposals for such systems must be supported by an assessment of the risks to controlled waters. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not contribute to, is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants. This is in line with paragraph 170 of the National Planning Policy Framework

32) Piling

Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: Piling or any other foundation designs using penetrative methods can result in risks to potable supplies from, for example, pollution / turbidity, risk of mobilising contamination, drilling through different aquifers and creating preferential

pathways. Thus it should be demonstrated that any proposed piling will not result in contamination of groundwater.

33) FRA Compliance

The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) Rev B prepared by Richard Jackson Engineering Consultants, referenced 49261 and dated 14/5/2021 and the following mitigation measures detailed within the FRA:

1. Finished ground floor levels are set no lower than 3.1 metres above Ordnance Datum (AOD).

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: To reduce the risk of flooding to the proposed development and future occupants.

19.0 Informatives

19.1 The following informatives are also recommended:

1. ZT0 – Advisory Note on Construction & Demolition

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

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

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

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

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

4. Non standard informative – Secure by Design

It is strongly suggested that prior to the submission of the reserved matters, the applicant engages with Essex Police, who provide a no cost, impartial advice service to any applicant who request this service; they are able to support the applicant to achieve the requirements to gain the nationally acknowledged Secured by Design accreditation. They can contact Essex Police via designingoutcrime@essex.police.uk

5. 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.

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.”

6. Non Standard Informative - Network Rail

Your attention is drawn to the letter from Network Rail on the system that sets out the implications for working close to rail lines.



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Item No: 7.5

Application: 210822

Applicant: Mr Ray Millar

Agent: Mr W Andrew Todd, At Design Stage

Proposal: Single storey rear extension, and Log cabin type summer house

Location: 2 Woodview Close, Colchester, CO4 0QW

Ward: St Anne's & St John's

Officer: John Miles

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it has been called-in by Cllr Hogg for the following reason:

Strength of objections by 9 residents on the grounds of over development on the proposed site and out of keeping with the existing bungalows in the area. Also on the ground of setting a precedent for future developments in the immediate vicinity and the area.

2.0 Synopsis

- 2.1 The key issues for consideration are impact on the character and appearance of the host dwelling, surrounding area and impacts on neighboring amenity.
- 2.2 It is considered that the proposed development is appropriately designed and will not cause harm to the character and appearance of the host dwelling or the surrounding area. The proposal is held to accord with adopted policy with regards to preservation of neighboring amenity and in terms of other planning considerations (e.g. damage to trees or highway matters).
- 2.3 The application is subsequently recommended for approval, subject to conditions.

3.0 Site Description and Context

- 3.1 The site lies with the Colchester settlement boundary in a relatively modern close that contains a mixture of properties. The site contains a detached bungalow with associated detached garage. There is an area of hardstanding in front of the dwelling's garage providing space for off-road parking. The dwelling's primary amenity space is located to the rear of the dwelling.

4.0 Description of the Proposal

- 4.1 The application seeks planning permission for a single storey rear extension and a free standing summerhouse to the rear garden. The application has been revised since first submitted with the roof form of the proposed extension revised to a hipped roof, in addition to the depth of the extension being reduced slightly.

5.0 Land Use Allocation

- 5.1 Residential

6.0 Relevant Planning History

- 6.1 Permission for the close that the application dwelling lies within was granted in 1985 under application 84/1281. The conditions of this permission included the removal of permitted development rights for extensions to the approved dwellings meaning that while additional extensions are not explicitly

prevented, proposals for any such development would be subject to additional consideration as a planning application would be required. The condition is reproduced below for reference:

11. Notwithstanding the provisions of the Town & Country Planning General Development Order 1977 (or any order revoking and re-enacting that Order) no extensions shall take place to the dwellings to be erected in accordance with this permission without the specific consent of the local planning authority.

Reason: To protect the amenity of existing residential occupiers and ensure that as far as possible existing trees are retained.

7.0 Principal Policies

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

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

UR2 - Built Design and Character
ENV1 – Environment

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

DP1 Design and Amenity
DP12 Dwelling Standards
DP13 Dwelling Alterations, Extensions and Replacement Dwellings
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP19 Parking Standards

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.

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, with Section 2 having progressed to examination hearing sessions in April. Section 1 of the plan is therefore considered to carry full weight.

Section 2 will be afforded some weight due to its advanced stage. However, as it is yet to complete 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
 - EPOA Vehicle Parking Standards

8.0 Consultations

- 8.1 Due to the nature of the proposed development and the lack of notable site constraints no specific external or internal stakeholders were identified who were required to be consulted on the application, beyond those parties identified in the below sections.

9.0 Representations from Notified Parties

- 9.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. The consultation exercises resulted in 7 objections, two general comments and one comment of support, between representation from 6 different parties. Please note representations were received in respect of both the original and revised proposals, with consultation undertaken on both set of plans. 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:
- Loss of (sun)light and outlook
 - Landscape impacts
 - Out of keeping with properties in the area
 - Overdevelopment of the site
 - Inappropriate design
 - Environmental Impacts
 - Health Impacts

10.0 Parking Provision

- 10.1 The host dwelling benefits from an area of hardstanding to the south of the site for vehicle parking and this area is unaffected by the proposed development.

11.0 Accessibility and Equality Duties

11.1 It has been identified in representation received that there is the potential for the granting of planning permission in this instance to result in specific disadvantage being suffered by an individual as a result of a protected characteristic they have - specifically with regards to potential health implications from dust during construction works. Given this a standalone bespoke equality impact assessment has been undertaken to assess this issue, in light of the Council's Public Sector Equality Duty under the Equality Act 2010. This assessment is held on the planning record. Subject to the imposition of a condition covering the production and implementation of a Method Statement for the Control of Dust it is considered the Council can suitably discharge their duties under the Equality Act as appropriate action has been taken to remove or minimizing disadvantages suffered by people due to their protected characteristics and the granting of planning permission is not considered to present conflict with any other arms of the Public Sector Equality Duty.

12.0 Environmental and Carbon Implications

12.1 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 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.

13.0 Open Space Provisions

13.1 The proposal does not include, nor is it required by policy to make any open space provisions.

14.0 Air Quality

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

15.0 Planning Obligations

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

16.0 Report

Principle of Development

- 16.1 Development Policy DP13 states that within the Borough's settlement boundaries, residential extensions (inter alia) will be supported where they meet other policy requirements. The application site is identified as being within the defined settlement boundary of Colchester Town and given this, the proposal is considered to be acceptable in principle, subject to the usual material considerations, outlined below.

Design and Layout

- 16.2 Core Strategy Policy UR2 seeks to promote and secure high-quality design. Development Policies DP1 set out design criteria that new development must meet, this includes that development should be of a high quality and respect the character of the site and its context.
- 16.3 It is considered the design, scale and form of the proposed extension is acceptable. The proposed extension adopts an eaves and ridge height to match the existing dwelling and reads as a natural continuation to the existing built form. The extension has a proposed depth of 3500mm and is subordinate to the existing dwelling in this regard. The materials proposed to the extension comprise of facing brickwork, interlocking concrete tiles and stained timber, with all the proposed materials to match those used in the construction of the original dwellinghouse.
- 16.4 The proposed summerhouse is modestly proportioned and is considered of an acceptable scale and form, considering the surrounding context. The proposed summerhouse is of a traditional design for an ancillary domestic outbuilding, is to be primarily constructed from timber and is expected to sit quietly to the rear of the dwelling in a context where sheds, outbuildings and other domestic paraphernalia are common. It is also not considered the summerhouse will appear as an overly dominant or otherwise obtrusive feature in its proposed setting.
- 16.5 Following the proposed development the host dwelling will retain in excess of the minimum 60m² of functional amenity space required by policy for a dwelling of its size and it is considered the site can satisfactorily accommodate the quantum of development proposed while avoiding a cramped or over-developed appearance.
- 16.6 Notwithstanding the above, taking into account the position of the proposed development to the rear of the dwelling and the existing surrounding natural and built form, it is anticipated the proposed development will be of limited visibility from surrounding public environs and as such any impact on the character and appearance of the surrounding area, positive or negative, will be minimal.

16.7 Taken as a whole the design of the proposed development is considered satisfactory on its own merits. The development is visually acceptable and would not materially detract from the appearance of the original dwelling. The design and layout do not harm the surrounding area either and the proposal is considered to be in conformity with of Policies UR2 and DP1.

Impact on Neighbouring Amenity

16.8 Development Policy DP1 states that all development must be designed to a high standard and avoid unacceptable impacts on amenity. This includes protecting existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, pollution (including light and odour pollution), daylight and sunlight. The adopted Supplementary Planning Document (SPD) the Essex Design Guide also provides guidance on the safeguarding of residential private amenity.

16.9 The proposal is not considered to have a materially harmful impact on the outlook of neighbouring properties. With regards to the proposed extension a 45 degree angle of outlook will be retained from neighbouring properties where such an angle of outlook is already afforded. Similarly, there are no concerns with regarding loss of light from the proposed extension. The combined plan and elevation tests are not breached and the proposal therefore satisfies the Councils standards for assessing this issue as set out in the Essex Design Guide. The proposed extension will also not be within a 25 degree angle on elevation from a point 2 metre above the floor level at the façade of the rear of the dwellings fronting Evergreen Drive and subsequently there are also no concerns with regards to impacts on the amenity of these properties. Taking into account the position, scale and form of the proposed summerhouse, in addition to the existing natural and built form, there are also no concerns this structure will have any materially harmful impact on the amenity of neighbouring properties by way of either loss of light or outlook.

16.10 Specific concerns have been raised regarding the impact of the proposed works on neighbouring dwelling's solar gains, however taking into account the existing built form, the scale for the development proposed, and with the proposals in accordance with the Council's standards for assessing the issues of loss of light it is not considered any impact on passive solar gain arising from the development would be significant such to be considered materially harmful, nor would it otherwise be reasonable or necessary to request a more detailed analysis of such matters be undertaken.

16.11 Additionally, the proposal does not include any new windows 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 Essex Design Guide .

16.12 For the reasons given above, it is considered that the proposed development would not have a significant adverse effect on the amenity of neighbouring properties. In view of this, the proposed development is not considered to conflict with Policy DP1 or the NPPF, insofar as they seek to protect existing public and residential amenity.

Landscape and Trees

- 16.13 Core Strategy policy ENV1 states that the Borough Council will conserve and enhance Colchester's natural and historic environment, countryside and coastline, and this is also echoed within section 15 of the NPPF. Development Policy DP1 provides that all development must demonstrate environmental sustainability and respect its landscape setting and contribute to the surrounding area.
- 16.14 The proposal does not give rise to any concerns with regard to the preservation of the existing landscape character or wider natural environment. The additional built form proposed is to be well contained within an area of existing development and views of the proposed development from public environs is anticipated to be limited, with existing landscape character preserved. The proposed development is also not anticipated to be to the detriment of any existing notable natural features

Highways Matters

- 16.15 Policy TA5 of the Core Strategy 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. Policy DP19 states that the Council will refer developers to the Essex Planning Officers Association (EPOA) Vehicle Parking Standards which is an adopted SPD (November 2009). As discussed, the dwelling is to retain its existing parking provisions and the proposed development is neither anticipated to materially alter the parking provisions required on site, nor do the proposals otherwise give rise to any concerns in relation to highway safety. While concerns have been raised in relation to construction traffic, owing to the relatively minor scale of the development proposed there are no concerns any associated vehicle movements would be material to highway safety or the amenity of surrounding properties.

Flooding

- 16.16 Core Strategy policy ENV1 seeks to direct development away from areas of flood risk (both fluvial and coastal), towards sites with the lowest risk from flooding. Development Policy DP20 seeks to promote flood mitigation and defence measures as well as the use of appropriate sustainable drainage. The NPPF requires a detailed flood risk assessment (FRA) to be produced for all development located within a flood zone and/or sites that are greater than 1 hectare. The application site is outside an identified flood zone and measures less than 1 hectare and as such an FRA is not required to support the application. The proposal site is outside of any flood zone and the proposed development is not anticipated to have a material impact upon surface water drainage within the locality

Ecology

- 16.17 Core Strategy policy ENV1 and Development Policy DP21 seek to conserve or enhance biodiversity of the Borough. The NPPF states that the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity.
- 16.18 The proposal has been assessed in line with the NPPF and Natural England Standing Advice. The site is not considered to encompass suitable habitat for protected species, nor is the proposal considered likely to have an impact upon protected species. The proposal is therefore acceptable in regard to biodiversity.

Other Matters

- 16.19 Concerns have been raised regarding that the concrete base for the summerhouse has already been laid and that the base will also increase the height of the structure. The Agent for the application has confirmed that the height of the summerhouse shown includes any associated base and any approval would be subject to a standard condition recommending the development is constructed in accordance with the approved plans, including to the height shown. Notwithstanding it appears the base itself may constitute 'permitted development' any works already undertaken also in no way prejudice the above consideration given to the proposals put forward.

17.0 Conclusion

- 17.1 To summarise, the proposed development is held to accord with the Council's policy requirements. The proposed extension is considered to relate satisfactorily to the host dwelling and the works proposed, when taken as a whole, will neither be to detriment of the character and appearance of the wider area, nor the amenity of neighbouring properties or any existing natural features. The proposed development is therefore also not anticipated to result in the harm that the condition restricting permitted development rights applied to the original permission for the dwelling sought to prevent. The imposition of a condition covering the control of dust during construction is recommended to ensure the Council can suitably discharge their duties under the Equality Act, as outline in section 11.1.

18.0 Recommendation to the Committee

- 18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following condition:

1. ZAA - Time Limit for Full Permissions

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

2. ZAM – Development to Accord with Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Number RM-PP-01-B (Dated 6/5/2021).

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

3. ZBB – Materials as Stated in Application Form

The external facing and roofing materials to be used shall be those specified on the submitted application form and drawings.

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

4. Z00 – Bespoke Condition - Dust Control

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

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, when taking into account the particular circumstances identified.

19.0 Informatives

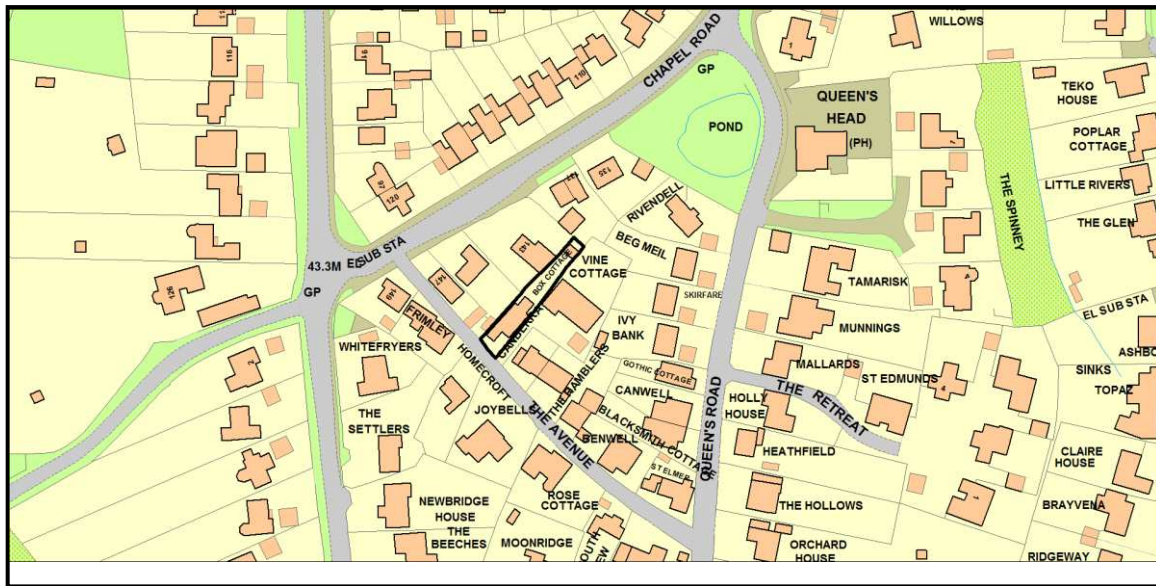
19.1 The following informatives are also recommended:

1. ZT0 – Advisory Note on Construction & Demolition

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

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

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



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Item No: 7.6

Application: 210384

Applicant: Mr David Lockyer

Agent: Simon Tankard

Proposal: Proposed first floor rear extension & alterations & detached annex for carer.

Location: Box Cottage, The Avenue, West Bergholt, Colchester, CO6 3HD

Ward: Lexden & Braiswick

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 Cllr Willetts who states “A self-contained annex crammed into such a small plot, with very limited access, and no additional parking appears to be contrary both to the West Bergholt Neighbourhood Plan and CBC planning policy, Furthermore, if approved it would set a precedent for inappropriate developments in rear gardens in the area. The scope of this call-in relates only to the self-contained annex and does not apply to the proposal to extend the main dwelling.”

2.0 Synopsis

- 2.1 The key issues for consideration are the principle of the development as well as issues such as design, scale, form, size of plot, highways aspects and neighbouring residential amenity.
- 2.2 The application is subsequently recommended for approval. It is considered that the design, scale and form of the proposed works is acceptable and that the need for the annexe has been justified. It is not considered there would be a detriment to neighbouring residential amenity from an overbearing impact or loss of light. Revisions received to the scheme plus conditions would ensure there will not be a potential overlooking problem. It is not considered the proposal can be refused on parking provision grounds, particularly given the circumstances of the need for the annexe. It is suggested that a construction management plan condition would be applied given the constrained nature of the context.

3.0 Site Description and Context

- 3.1 The site lies within the village settlement limits and contains a detached dwelling and garden that is surrounded by other residential properties. Vehicular access is taken from the single width Avenue. There are two parking spaces available at the front of the site.

4.0 Description of the Proposal

- 4.1 The proposal is for the erection of a first-floor rear extension and alterations and for a detached annexe to provide for a carer. The annexe would be positioned at the end of the rear garden and would replace an existing shed.
- 4.2 The annexe would be single storey with a pitched roof and would be 7 metres in length and 3.7 metres in width. It would have a bathroom, bed sitting area, a sink and room for basic kitchen facilities.
- 4.3 The agent states that the annexe is required for a carer to help care for the needs of one of the household. Essex County Council have confirmed in writing the details of the case.

5.0 Land Use Allocation

- 5.1 Residential curtilage

6.0 Relevant Planning History

- 6.1 F/COL/00/1622
13/10/2000 - Full
Box Cottage, The Avenue, West Bergholt Colchester CO6 3HD
Proposed conservatory and garden shed
Approve Conditional - 07/11/2000
- 6.2 F/COL/99/0797
Demolition of bungalow and erection of one No. three bedroom dwelling
Approved conditional- 09/08/1999

7.0 Principal Policies

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

SD1 - Sustainable Development Locations
UR2 - Built Design and Character
- 7.3 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:

DP1 Design and Amenity
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
DP21 Nature Conservation and Protected Lanes
- 7.4 The Neighbourhood Plan for West Bergholt carries statutory weight and forms part of the Development Plan in this area of the Borough.

7.5 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 has completed examination, with hearing sessions recently completed. 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.

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 completed examination hearing sessions in April. Section 1 of the plan carries full weight.

Section 2 will be afforded some weight due to its advanced stage. However, 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.

7.6 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
Sustainable Construction
Managing Archaeology in Development.
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.

8.2 Health and Safety Executive states: “The proposed development site which you have identified does not currently lie within the consultation distance (CD) of a major hazard site or major accident hazard pipeline; therefore at present HSE does not need to be consulted on any developments on this site. However, should there be a delay submitting a planning application for the proposed development on this site, you may wish to approach HSE again to ensure that there have been no changes to CDs in this area in the intervening period.”

8.3 Contaminated Land Officer states:

Environmental Protection’s files indicate that the proposed annexe will be located adjacent or very close to a former Smithy. Consequently, should this application be approved, we would recommend inclusion of the following precautionary Condition:

Reporting of Unexpected Contamination:

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

Reason – The site lies on or in the vicinity of a former Smithy where there is the possibility of contamination.

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.

8.4 Archaeologist states:

No material harm will be caused to the significance of below-ground archaeological remains by the proposed development. There will be no requirement for any archaeological investigation.

8.5 Tree officer: if concerns about vegetation, applicant could provide baseline data in line with BS5837: 2012; in this case a simple survey and constraint plan is all that would be required initially.

9.0 Parish Council Response

9.1 The Parish Council have stated:

Reason for comment: Object to the proposal

Comment: The Parish Council has no objection in principle but would like to see a different window arrangement on the first-floor extension at the rear to avoid overlooking the neighbours. With regards the annexe, the Council is content, subject to approval being conditional on the annexe only ever being occupied by a family member or carer for the main house and that it is not sold or let separately to the applicant's main property.

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 5 letters of objection have been received which make the following points:

- Only high level windows were allowed at the back of the property when first built in 1999, Application No. F/COL/99/0797. Proposal shows full-length windows, approx. 3 metres closer to this property. Will reduce the privacy of the back of the house and garden.
- Extended roof height will further overshadow this property.
- Annexe wall is very close to the garage and garden wall of this property. It is a 19th century 9" softbrick wall, probably with only shallow foundations that could be made unstable by the new foundations.
- Access to gutters on both properties and wood cladding to the garage wall will be needed.
- Access to the rest of that side of the roof and gutter of the annexe will need to be obtained from that property.
- Lane unsuitable for parked cars and cars already park in Chapel Road opposite the bus stop causing a hazard and there is no additional space for parking for more vehicles at the property.
- Plot proposed is too tight and narrow at the bottom of the garden.
- Surely there is space for a live in carer in the main property anyway.
- Overdevelopment.
- In 1999 building was originally a bungalow, as are five of the nearby properties (F/COL/99/0797). Conditional planning permission was given protecting amenities of adjoining residents and to prevent overdevelopment of the site.
- Site has already been doubled in size plus a large conservatory being added in October 2000 (F/COL/00/1622).
- West Bergholt Village Design Statement, when referring to The Essex Design Guide and the Core Strategy guidelines on size of garden says: Garden sizes may need to be substantially larger than these minimum standards in order that garden sizes reflect the size and shape of gardens in the area (DG5).

- Contrary to Policy PP10 of Neighbourhood Plan.
- Space for adequate surface water drainage?
- Narrow access road. How will heavy machinery access site?
- Does main access to annexe comply with Fire regs?

10.3 4 letters of support have been received which make the following points:

- Aware of personal circumstances surrounding the applicant's need to make provision for ongoing care and fully support the application. Believe that the applicant should be applauded for doing his best to ensure that the individual in need of care can stay at their home for as long as possible. The annexe will have minimal impact on any other property.
- aware how much this will benefit the family for now and in the future. We are a neighbouring property and this application does not impact on any of the surrounding homes.
- Extension will be of immeasurable benefit to the resident family, faced, as they are, with problems so complex that those of us more fortunate could hardly begin to comprehend.
- Condition proposed by the Parish Council (that the annex should only be occupied by a carer or family member) provides adequate restraint on the intention creating this application.
- Support juliet balcony- experiencing treasure of the warmth of the sun would not want to deny it to the one who feels it.
- It will help the owner in his caring duties

11.0 Parking Provision

11.1 2 car spaces.

12.0 Accessibility

12.1 The proposal has the ability to comply with the provisions of the Equalities Act in respect of access for yeh new build elements. However, as the dwelling is existing these elements are fixed and the proposals do not extend to adapting the existing dwelling for accessibility.

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

Key issues

16.1 Whilst there are special health related circumstances regarding this application, as outlined above, nevertheless, consideration of the proposed extension and annexe will still need to have regard to the planning merits of the case whilst paying due regard to the protected characteristics of residents. The most significant planning issues are the design, scale and form of the proposed development, as well as any impact on neighbouring amenity in terms of outlook, light and privacy. The extent of overall development on the site needs to be assessed, as well as any highway issues and the extent of garden space retained.

Design, scale, form and layout of extension and annexe

16.2 The two storey extension would project 4 metres rearwards from the existing dwelling and would be 4 metres in width. Its ridge height would be lower than the height of the existing dwelling. In terms of width it would be stepped in either side of the existing dwelling and approximately 1.7 metres from the neighbouring side boundaries. Accordingly the extension would appear recessive and subordinate to the existing dwelling and its overall design, scale and form is considered visually satisfactory. The extension would not detract from the appearance of the original building and would not be detrimental to the character of the street scene.

16.3 The design scale and form of the single storey annexe building is also considered to be visually acceptable. It is relatively modest in scale, being approximately the size of a single garage, measuring 7.3 metres in length and 3.7 metres in width. It would not be visually prominent in the street scene, being set at the end of the garden. Accordingly the extension and annexe are considered to comply with Policy DP1 which provides that such proposals should respect and enhance the character of the site, its context and surroundings.

16.4 It is not considered that the annexe and two storey extension represent an overdevelopment of the plot. Whilst the plot is narrow it is lengthy and approximately 90m² of private garden space would be retained. This exceeds the amenity standard of 60m² for a 3 bedroom dwelling as defined in Policy DP16. It is not considered the overall layout and extent of retained amenity space is out of character with its surroundings. In addition the extension is stepped in from the side boundaries so would not appear cramped. Whilst the annexe is stepped in from the rear boundary, it is close to the side boundaries so the neighbour's comments in respect of foundations of their wall and other such issues can be brought to the attention of the applicant as an informative. This matter is dealt with under the Party Walls Act.

Impact upon neighbouring residential amenity

- 16.5 With regard to the impact upon neighbouring residential amenity, the extension and annexe would not appear overbearing on the outlook of neighbours. The Council policy sets out that a 45 degree angle of outlook from the mid-point of the nearest neighbouring windows should be preserved and it is considered that this proposal satisfies this requirement.
- 16.6 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.
- 16.7 Additionally, the proposal does not include any new windows at first floor level that would offer an unsatisfactory angle of overlooking that potentially harmed the privacy of the neighbouring properties, including their protected sitting out areas as identified in the above SPD. This however, is the result an amendment received to the proposed 1st Juliette balcony on the rear elevation of the extension which will be non-opening and obscure glazed up to a height of 1.7 m above floor level. Whilst this reduces outlook from the bedroom, without this revision there could be overlooking of neighbouring private amenity spaces from short distances in this tightly knit area and this is not considered reasonable. Similarly the first floor side rooflights should also be obscure glazed up to 1.7 m in height to avoid overlooking from the side elevation. Whilst not ideal for the occupants of the proposed bedroom, the openings would still offer some high level outlook whilst not undermining neighbouring privacy.

Use of the annexe

- 16.8 As this is a proposed annexe (for a carer) within the settlement limits, the principle of an annexe should be judged on its merits. It is relatively modest in size and has primary facilities. Normally, an annexe is for a relative of the host dwelling. However, in this case it is required for a carer who may be unrelated to the occupants of the host dwelling. However, it is considered that the requirement for a carer has been justified by the applicant, including with the background information received in writing from the County Council. A condition would thus be applied to limit the use of the annexe to either a relative of the family of the host dwelling or a carer engaged in care of the occupants of the host dwelling. The protected characteristics of the resident and meeting their needs is a material consideration and a statutory duty under the Equality Act 2010.

Highway Issues, including parking

- 16.9 Whilst the proposed built development does not affect the level of parking provision on site, it could be argued that the provision of an annexe could add to parking pressure. Two car parking spaces would be retained at the front of the site although it is fair to say that this space is tight and probably best suited to one large car and one smaller car. The lane serving the property is also narrow and could not be expected to provide on street parking provision in the immediate vicinity. Nevertheless, given the demonstrated need for the carer, it is not considered, on balance, that it would be reasonable to refuse permission on the grounds of inadequate parking provision. Policy DP 19 provides that two spaces should be provided for dwellings of 2 or more bedrooms. It should be noted that the garage at the front of the property has previously been converted to a study,

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although this would not have met the current standard of 7m x 3m internal dimensions.

- 16.10 It is considered that a construction management plan condition should be applied given the narrowness of the lane serving the property and the relatively tightly knit nature of the surroundings.

Other issues

- 16.11 With regard to impact upon vegetation, it is considered that the extension is far enough from any significant vegetation to avoid any material detrimental impact and that no further information is required in this respect. The proposed annexe. has been positioned an adequate distance from the rear boundary and the extension is set away from the side boundaries.
- 16.12 There are no archaeological issues (Policy DP14).
- 16.13 It is not considered a Unilateral Undertaking or RAMs payment is required as the annexe would be used ancillary to the existing dwelling.
- 16.14 The development would need to comply with the relevant Building Regulations, including in relation to fire safety and drainage. No concerns have been raised regarding proximity to gas pipelines. A contaminated land informative can be applied as the site lies close to the location of a former smithy.

Neighbourhood Plan and Village Design Statement

- 16.15 It is not considered the proposal conflicts with the West Bergholt Village Design Statement or The Essex Design Guide and the Core Strategy guidelines on size of garden for the reasons outlined above. The garden size retained is not out of keeping with the character of the area.
- 16.16 It is also not considered the proposal conflicts with the West Bergholt Neighbourhood Plan, including Policy PP10 of Neighbourhood Plan. The proposed extension and annexe are considered to be of an appropriate design for the reasons outlined above and would respect and be in harmony with their surroundings. The proposals would also respect neighbouring residential amenity. Furthermore, no objection was raised by the parish council identifying any conflict with the WBNP policies.

17.0 Conclusion

17.1 In conclusion it is considered that the design, scale and form of the proposed works is acceptable and that the need for the annexe has been justified. It is not considered there would be a detriment to neighbouring residential amenity including from an overbearing impact or loss of light. Revisions to the scheme already received plus suggested conditions will ensure there will not be an overlooking problem. It is not considered the proposal can be refused on parking provision grounds, particularly given the circumstances of the need for the annexe. A construction management plan condition would be applied given the constrained nature of the context.

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: Location Plan, 24-2020-05P Rec'd 15.2.21, 24-2020-03 PA, 24-2020-04 PA Rec'd 3.3.21.

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

3. ZBB- Materials As Stated in the Application

The external facing and roofing materials to be used shall be those specified on the submitted application form and drawings.

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

4. ZPA- Construction Method Statement

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

the parking of vehicles of site operatives and visitors;

hours of deliveries and hours of work;

loading and unloading of plant and materials;

storage of plant and materials used in constructing the development;

wheel washing facilities;

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

and

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

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

5. ZDQ- Urban Annexes

The annexe hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Box Cottage, West Bergholt. This can include a carer or relative of the occupants of the host dwelling.

Reason: For the avoidance of doubt as to the scope of the permission, as this is the basis upon which the application has been submitted and subsequently considered and any subdivision of the site into independent units would require the careful consideration against the current policies of the Local Planning Authority at such a time as any proposal were to come forward as the annexe is constrained by the site characteristics and may not be satisfactory as a stand alone dwelling.

6. 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 (as amended) (or any Order revoking and re-enacting that Order with or without modification), the 1st floor window in the rear elevation of the extension and the side rooflights in that extension shall be non-opening and glazed in obscure glass (both up to 1.7 m above floor level) 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.

19.0 Informatives

19.1 The following informatives are also recommended:

1.Reporting of Unexpected Contamination:

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

Reason – The site lies on or in the vicinity of a former Smithy where there is the possibility of contamination.

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.

2. Non Standard Informative

The applicant should note that neighbours have raised concerns about the impact of the annexe upon the foundations of a boundary wall. In addition it would appear that permission from a neighbouring landowner may be required for maintenance of guttering and cladding.

3.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.

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.

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.

