

# Planning Committee Meeting

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

**Thursday, 31 March 2022 at 18:00**

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

# Information for Members of the Public

## Access to information and meetings

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

Dates of the meetings are available here:

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

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

## Have Your Say!

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

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

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## Access

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## Facilities

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[www.colchester.gov.uk](http://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, 31 March 2022 at 18:00**

**The Planning Committee Members are:**

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

**The Planning Committee Substitute Members are:**

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

**Councillors:**

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

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

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

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

**Live Broadcast**

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

**1 Welcome and Announcements**

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

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

## **2 Substitutions**

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

## **3 Urgent Items**

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

## **4 Declarations of Interest**

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

## **5 Have Your Say**

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

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

## **6 Minutes of Previous Meeting**

The Councillors will be invited to confirm that the minutes of the meetings held on the 3rd February 2022 and 17th February 2022 are a correct record.

**2022-02-03 Colchester Borough Council Planning Committee Minutes** 9 - 12

**2022-02-17 Colchester Borough Council Planning Committee Minutes.** 13 - 18

## **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 | <b>202829 Land to the Rear of Catchbells, 296 London Road, Stanway, Colchester, CO3 8PB</b>  | 19 - 64   |
|     | Development of 66 dwellings with associated parking, landscaping, open space, drainage and infrastructure and the formation of a vehicular access onto London Road.  |           |
| 7.2 | <b>212646 Land to the East of, Newbarn Road, Great Tey</b>   | 65 - 100  |
|     | Outline planning application for 30 dwellings and 1ha of public open space and access from Newbarn Road. Some matters reserved.  |           |
| 7.3 | <b>220150 Land to the rear of, Hedge Drive Colchester</b>  | 101 - 120 |
|     | Redevelopment of site to involve the demolition of the existing garages on site, and provision of 3 no. new dwellings.   |           |
| 7.4 | <b>212888 Land between 7 &amp; 15 Marlowe Way, Colchester</b>  | 121 - 144 |
|     | Construction of three 4-bedroom detached houses, each with an integral garage, plus individual private driveways connecting to Marlowe Way. Retention of two TPO trees.  |           |
| 7.5 | <b>211878 228 Old London Road, Marks Tey, Colchester, CO6 1HD</b>  | 145 - 178 |
|     | Erection of building for use as builders' merchants (sui generis) and/or B8 storage and distribution use, ancillary office space, provision of external yard for use associated with builders' merchants and/or B8 storage and distribution use, with associated access, infrastructure and parking. Clearance of existing site and demolition of remaining buildings/structures |           |
| 8   | <b>212810 St Leonards Works, Port Lane, Colchester</b>   | 179 - 180 |
|     | This report concerns application reference 212810 and seeks approval to allow for the 3.5-metre-wide footway/cycleway along the two sections of the site's Port Lane frontage to be secured via condition rather than the S106 Agreement.  |           |
| 9   | <b>120380 The Maltings Student Accommodation, Hythe Quay, Colchester</b>   | 181 - 184 |
|     | Variation to the S106 contribution spend project.  |           |
| 10  | <b>Application Nos 160103, 181281 and 191141 Magdalen Street Student Accomodation</b>  | 185 - 188 |
|     | Variation to the S106 agreement.   |           |
| 11  | <b>Exclusion of the Public (not Scrutiny or Executive)</b>   |           |

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

**Planning Committee Information Pages v2**

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





# Planning Committee

## Thursday, 03 February 2022

**Attendees:** Councillor Helen Chuah, Councillor Robert Davidson, Councillor Pauline Hazell, Councillor Michael Lilley, Councillor Jackie Maclean, Councillor Roger Mannion, Councillor Martyn Warnes  
**Apologies:** Councillor Lyn Barton, Councillor Beverley Oxford  
**Substitutes:** Councillor Sam McCarthy (for Councillor Lyn Barton), Councillor Gerard Oxford (for Councillor Beverley Oxford)

### 896 Minutes of Previous Meeting

The Minutes of the meetings held on the 12 December 2021 and 6 January 2022 were confirmed as a correct record. Councillor Warnes noted that on application 212804 heard on the 9 December 2021 he should have declared a non-pecuniary interest as a Director of Colchester Commercial Holdings Limited when the application was being discussed.

### 897 213018 133 Straight Road, Colchester, CO3 9DE

The Committee considered an application for construction of a detached double garage to serve an approved single storey dwelling together with a storage area for recycle material and waste (Household). The application was referred to the Planning Committee because it was called in by Councillor Buston who had concerns that the proposal “contravenes policies DP1 Design and Amenity, DP12 Dwelling Standards and DP19 Parking Standards (including Design and Good practice). The main house is set back from public view, so the difference in materials to those already in existence in the area can be overlooked. However, extending this to an area in public view means its design and materials do not relate to the existing surrounding context of development.”

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

Chris Harden, Senior Planning Officer, presented the report and assisted the Committee in its deliberations. A presentation was given of the site outlining the red line boundary of the area, the space that vehicles would have to manoeuvre on site and the design and proposed materials that would be used for the construction of the garage. The Committee heard that the access to the site had been secured under the application for the dwelling and the proposed site area had permission as a parking area as hard surfacing. The presentation showed that there was a Tree Preservation Order on the other side of the previously approved dwelling and that the Leylandii was not considered to be of value to be preserved. The Senior Planning Officer outlined that the proposal was considered to be scaled to its surroundings, would not be obtrusive in its current environment, and that no objections had been received from Essex County Council's Highways Department regarding the length and width of the proposal including the storage inside the garage. The Senior Planning Officer concluded that there would not be a significant impact on residential amenity or a loss

of light and that the recommendation was for approval as detailed in the Committee report.

Tracy McCloskey addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in objection to the application. The Committee heard that this was the fourth separate application on this site within two years and that each time the footprint of the building had increased and that the proposed dimensions of the building questioned what the functionality would be based upon the internal dimensions of that proposed and the speaker's double garage with it being 2.5m to 3m wider. The speaker directed Members attention to the Essex County Council Parking Standards and the minimum space requirements being 7m by 3m and raised concern regarding the height of the proposals being 1-2 m higher than the fence line, that point 16.6 of the report outlined how the development would become car dominated as there was space for further parking but that this could lead to turning and manoeuvring issues and would also create a car dominated environment on the site and along the access. The Committee heard that there was concern that the bin storage area was beyond the 25m drag distance to the public highway and how the proposal related to the Essex design guide and how there was inconsistent decision-making taking place. The speaker concluded that the application contravened policies DP1, DP12, DP19 and Essex County Council's parking standards: Design and good practice and asked that all works on site be limited to weekdays only to protect local residents.

With the permission of the Chair Councillor Roger Buston attended and addressed the Committee. The Committee heard how the site had evolved through previous applications and the view of local residents was that the original permission on site should have been refused. The speaker echoed the comments of the Objector and commented on the flat 1 storey building and how it was not in-keeping with the surrounding environment. There was a large amount of concern with the extremely narrow entrance to the site and its impact with every vehicle movement passing by the window of the neighbouring property. The Committee also heard that the road leading to the site was unadopted and any increase in use would be inappropriate and that it would be very difficult for the future occupiers of the property.

At the request of the Chair the Senior Planning Officer responded to the points raised by the public speakers. The Committee heard the officer's professional opinion that the single storey garage would not have a significant impact and reiterated that the Highways Authority were content with the proposal's width and length and that the proposal did not change the distance that the refuse would have to travel as the main dwelling was in the same place. The Officer added that they did not believe that the proposal contravened the Council's policies or parking standards and that if Members were minded to approve the application the construction times could be amended to be weekdays only.

The Senior Planning Officer responded to further questions on issues including: that the development would not overshadow the neighbouring property and that Permitted Development Rights across the site had already been removed, that the boundary trees were not considered of value and that issues regarding their relation to any foundations would be covered under building control regulations and relevant Tree Preservation Orders.

Concern was raised that not enough was being done to protect the vegetation on site and what pre-application advice was given with regard to existing trees and bushes and their associated root systems. The Development Manager advised Members that an informative note could be added to the recommendation drawing the applicant's attention to the relationship between the trees and buildings on the site and that they should have this looked into with their own arboricultural specialist.

RESOLVED (EIGHT Voted For and ONE Voted AGAINST) that the application be approved subject to the conditions and Informatives in the report and amendment sheet and an amended working hours condition to prevent Saturday working (Reason: Having regards to the intimate relationship with adjacent properties which are sensitive to noise and disturbance), and the additional informative: that the applicants are advised to consider carefully the potential impact of tree roots upon foundations of the build having regard to BS5837 Trees in relation to design, demolition and construction.

**898      212716 Barn at, Oak Farm, Vernons Road, Wakes Colne, Colchester, CO6 2AH**

The Committee considered an application for a barn conversion to a dwelling. The application was referred to the Planning Committee because the applicant is a Borough Councillor. Furthermore, the site is outside the adopted settlement boundaries in an area defined as countryside and relates to the creation of a dwelling. The proposal is therefore a Departure from policies in the Local Plan which seek to direct new development within settlements.

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

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



# Planning Committee

## Thursday, 17 February 2022

**Attendees:** Councillor Lyn Barton, Councillor Helen Chuah, Councillor Robert Davidson, Councillor Pauline Hazell, Councillor Jackie Maclean, Councillor Roger Mannion, Councillor Martyn Warnes  
**Apologies:** Councillor Michael Lilley, Councillor Beverley Oxford  
**Substitutes:** Councillor Dave Harris (for Councillor Michael Lilley), Councillor Gerard Oxford (for Councillor Beverley Oxford)

### 898 Minutes of Previous Meeting

The Minutes of the meetings held on the 20 January 2022 were confirmed as a correct record.

### 899 211510 Colne Quay, Land to East of Hythe Quay, Colchester

The Committee considered a Full Planning application for the demolition of existing buildings and construction of student accommodation blocks to provide student studio apartments, internal communal areas, staff offices and associated facilities, a substation, landscaping, works to river wall, changes to access and parking. The application was referred to the Planning Committee because it was a major application with objections, a legal agreement and has also been called-in by Councillor Lee Scordis for the following reasons:

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

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

James Ryan, South Team Planning Manager (STPM), presented the report and assisted the Committee in its deliberations. A presentation was given outlining the location of the site within Colchester, the red line plan of the site including the current condition of the site which had been vacant for the past fifty years. The STPM detailed the proposed buildings on the site and the heights of the buildings compared to the existing built developments in the area and those that had been previously approved. The Committee heard about the internal design of the buildings, the layout of the studio flats and the facilities on site. The Committee were shown photos of the existing site including the sea wall that was degrading and tidal nature of the surrounding area as well as the Public Right of Way which was currently impassable. The Committee were also shown Computer Generated Images (CGI) of how the proposal would look when completed and its relationship to the surrounding area. These included the tower blocks, the tidal terrace area and the associated public space surrounding the area. The STPM detailed how the proposal surpassed the

required sustainability criteria which included Photovoltaic panels, insulation, limited parking and electric car charging facilities. The Committee also heard that there was a biodiversity net gain on the site with further works being conducted to the basin through dredging out of the Colne. The STPM outlined the access arrangements to the site for cyclists and the improvements this would bring to the connectivity of the area and concluded with the recommendation of approval as detailed in the Committee Report and Amendment Sheet.

Rod Isbister addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in objection to the application. The Committee heard that the support for the proposal had been manipulated and was not reflective of the local communities views and that there was a conflict of interest between the staff and students commenting on the application. Members heard that there was concern that an application was being made close to residential development and not closer to existing student accommodation. The Objector raised concern regarding the height of the building and the impact that this would have on the light and residential amenity of existing residents through overshadowing. The Objector concluded by drawing the Committee's attention to the lack of parking on the site and the impact this could have on the surrounding road network.

Simon Talbot (Applicant) addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The Committee heard that the applicant had previously been before the Committee on a separate application which had since been implemented fully which had invested into the local economy. The Speaker noted that Members of the Applicants staff and associated business partners were in attendance at the meeting and were all based in the Greater Colchester Area and refuted the claims that the consultation responses were being manipulated as slanderous. The Committee heard that the proposal had an overall budget of £25 million and that local contractors would be undertaking the work with the applicant being the future operator of the site. The Applicant outlined that there had been a large consultation period, that the site provided a large amount of open space which would be monitored and that life preservers provided on site. The Applicant concluded by commenting on the car club and its positive environmental impact, that this was the golden jubilee of the site being vacant and asked that the Committee approve the application.

With the permission of the Chair Councillor Michael Lilley attended via zoom and addressed the Committee. The Committee heard that the Councillor had attended to speak against the application as a large number of complaints and objections had been received including from the Spinnaker Inn which should be taken into consideration by Members as this was an application too far for the area trying to squeeze in the proposal. The Committee heard that the proposed area should be given to the community as the proposal would cause significant overlooking of existing buildings and residents. The visiting Councillor concluded by reminding the Committee of the existing flooding issues in the area and the this needed to be resolved.

At the request of the Chair the STPM responded to the points raised by the public speakers. The Committee heard that the Council only accepted representations during consultations where an address had been provided and made available in the public domain. It was noted that some of the representations did not come from the

immediate local area. The STPM acknowledged as detailed in the report that there would be some impact on residential amenity and that the brownfield site and its redevelopment would contribute 108 dwellings towards the Councils land supply safeguarding other areas of the borough from speculative development. The Committee heard that the improvements to the sea wall would not be possible without a proposal of this size and it was noted that the proposal would not be supported by everyone and the Public Right of Way was based on a 1.8 metre width with some areas being 1 metre wide as the additional space was required for the developable area of the site. It was noted that there was a significant demand for student accommodation in Colchester and that this was due to increase and that there were limited options on the campus at Essex University. Furthermore it was noted that the flooding in the immediate area was being looked into and explored with Officers on the Hythe Task Force but that the proposal before Members had come with a very detailed flood design which had not received a statutory objection. The STPM concluded by outlining that the proposed scheme was car free apart from the car club and that a large proportion of the site was being retained for landscaping and not car parking.

Further information was sought from the Committee on the projected student accommodation need in the future, the overdevelopment of the site and its relationship to existing developments adjacent to the site, the public right of way and the possible repair works to the sea wall which was in disrepair. The Committee raised further questions on the bin stores that would be used, disabled provision on site, the overshadowing and loss of light to existing residents, the width of the proposed footpath, the number of cycle racks on site, the internal layouts of the proposal including shared spaces, the lack of parking on site which would cause significant congestion in the area. Members of the Committee asked what provision could be made to ensure that the building was secure by design, whether an adjacent disused allocation for health provision would be a better site for student accommodation, the public benefits associated with the proposal. Members concluded their initial questions by asking for clarification on what protection was there for people to not walk or cycle into the water, the impact of the loss of privacy for neighbours, the cycle pathways through the site, and what the proposal would look like 20 years in the future.

At the request of the Chair the STPM responded to the questions raised by the Committee. The Committee heard that the identified student need was listed in the officer report at paragraph 16.37 which had been provided by the applicant and the University of Essex and that the additional accommodation would not be proposed if it was not going to be used. The STPM elaborated that the height of the proposals was shown in the presentation and referred back to this for Members of the Committee and advised that the cycle path through the site was separate from the Public Right of Way as it was not wide enough for bikes. The Committee heard that the proposal would deliver significant public benefits and would only be available for use as student accommodation and not permanent residential development and that the aforementioned NHS site could not be secured by the proposal before the Committee. Members heard that the parking was limited as it would only be used for dropping off and picking up which would be managed to avoid indiscriminate parking in the area. The STPM Concluded by responding that in coming to the recommendation they had taken a holistic approach to all the relevant considerations as was the normal process and that there would not be balustrading on the edges of the development as it was

anticipated boats would be able to moor in the area.

The Committee continued to discuss the application on issues including whether there was enough open space on the site, that the cycleways were not up to the required standard, and that there was only one refuse shed for the entirety of the proposal.

At the request of the Chair the Development Manager advised the Committee that the proposal was not for housing but for a student accommodation block which would not be permanently occupied. It was noted that students on site would have access to the entirety of the campus including the limited outdoor space however it was noted by the Development Manager that students rarely used outdoor space. They added that the planning balance is a method to weigh up the positive and negative aspects of a site and that this was a brownfield site which channelled student accommodation away from the town centre and existing residential areas. The Development Manager elaborated that it would be included in the legal agreement and the lease that students would not be able to bring cars with them and that the design of the building in the area was not incongruous as it was a tall and slender building not unlike a warehouse.

Members continued to debate the application on the issues including the transport connections to the site and the close proximity to the University, the proposed height of the building and whether the proposal quantified as overdevelopment of the site.

At the request of the Committee the Development Manager advised Members that if Members were minded to refuse the application on the grounds of overdevelopment it would need to be demonstrated that it breached the Council's policies. They elaborated that there were other facilities included such as provision for drop-off as well as for delivery companies and that the effect on sunlight for existing residents was detailed in the report and that the bin storage could be separated if members wished. The Development Manager outlined that the matter of design was subjective and that the scale, bulk and mass of the building was contextual and would be surrounded by other such buildings in the Hythe area and would maintain the functional link between the Spinnaker Inn and the river. The STPM summarised that there was an impact on longer views for existing residents but that was not a material planning consideration and confirmed that there was no forthcoming solution apart from this application to fix the sea wall or walkway issues and that only limited objections remained.

In response to a further question the Development Manager outlined that if the application was refused on the basis of 16.69 and 16.7 in the report it would refer to the occupation of the accommodation being student only and not residential accommodation and noted that the proposal was student accommodation and the levels of space for students were not the same as those required when considering permanent residency, and that it was proposed that a condition be included to not allow any change of use from the student occupation proposed.

Members discussed the possibility of deferring the item to seek further information on the impact on light and residential amenity of existing residents. In response to the discussion the STPM advised Members that a very detailed report regarding the light and impact had been submitted to Officers and had been summarised in the report between paragraphs 16.8- 16.94 and that a deferral on these grounds would not



present members with substantial further evidence.

A proposal was made, and seconded to refuse the application on the grounds of the loss of light and scale of the buildings.

The Committee discussed the proposed refusal reasons with advice from the Development Manager including considerations of the surrounding contextual landscape as well as the report aforementioned by the STPM regarding loss of light and residential amenity.

The proposal to refuse was withdrawn and a separate proposal was made, and seconded, to defer the application so that officers could negotiate a reduction in height and access to the site.

RESOLVED (UNANIMOUSLY) that the application be deferred for officers to negotiate reduction in height and access to the site.

**900        212685 Land at Brierley Paddocks, West Mersea**

The Committee considered an application for variation of condition 1 (reserved matters, as approved under 202492), Condition 3 (Submission of RM), Condition 4 (detailed access) and removal of Condition 2 (Submission of RM) and Condition 6 (schedule) of planning permission 192136 (and subsequent Reserved Matters 202492), comprising updated access arrangements and minor amendments to the layout and house types. The application was referred to the Planning Committee because it is a section 73 application with a Deed of Variation that makes material changes to the previous Section 106 Agreement.

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

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

**901        213463 Unsworth House and Josephs Court, Hythe Quay, Colchester**

The Committee considered an application for a change of use from Offices to Student Accommodation. The application was referred to the Planning Committee because a director of the applicant company is a spouse of a member of Colchester Borough Council Staff.

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

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

**902        213353 Shrub End Depot, 221 Shrub End Road, Colchester**

The Committee considered an application for the demolition of an existing baling shed and construction of a new baling shed. The application was referred to the Planning Committee because the applicant is Colchester Borough Homes Ltd.

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

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



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**Item No:** 7.1

**Application:** 202829

**Applicant:** Miss P Harris, Persimmon Homes Essex

**Proposal:** Development of 66 dwellings with associated parking, landscaping, open space, drainage and infrastructure and the formation of a vehicular access onto London Road.

**Location:** Land To The Rear Of Catchbells, 296 London Road, Stanway, Colchester, CO3 8PB

**Ward:** Marks Tey & Layer

**Officer:** Lucy Mondon

**Recommendation:** Approval

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

- 1.1 This application is referred to the Planning Committee because:
- It constitutes major development where a s106 is required and the recommendation is to approve; and
  - It constitutes major development where objections have been received and the recommendation is to approve.

## **2.0 Synopsis**

- 2.1 The application seeks full planning permission for the development of 66 dwellings with associated parking, landscaping, open space, drainage and infrastructure and the formation of a vehicular access onto London Road, Stanway. The key issues for consideration are the principle of development; flood risk and drainage; impacts on ecology, highways, heritage, landscape and trees; and design. Matters of contamination, amenity, and climate change are also considered, along with other material planning matters.
- 2.2 The proposed development has been assessed in line with both current and emerging planning policy, with the benefit of consultee comment and local representations. A consideration of the planning benefits of the proposed development has resulted in a balanced judgement which concludes that the benefits of the scheme outweigh any adverse impacts identified and the application is subsequently recommended for approval subject to a number of planning conditions, as well as s106 obligations.

## **3.0 Site Description and Context**

- 3.1 The application site is currently a grass field, approximately 3.4ha in area, that extends north from London Road, Stanway. The site lies immediately west and north of Catchbells (296 London Road), a Grade II\* listed building. Immediately opposite the site frontage onto London Road sits the Parish Church of St Albright, also a Grade II\* listed building. The site is located within a Site of Special Scientific Interest (SSSI) Impact Risk Zone, although the proposed development of 66 dwellings is below the threshold for Natural England to consider impacts.
- 3.2 The site is located outside the currently adopted settlement boundary of Colchester and is therefore classed as being within the countryside for planning purposes, although the site is allocated for residential development as part of a wider site allocation within the Council's Emerging Local Plan (ELP) Section 2. Immediately west of the site is a small area of woodland that is also allocated for development as part of the ELP.
- 3.3 The surrounding context is considered to represent the changing character between the more built up areas of Colchester and the surrounding rural area leading to Copford. London Road exhibits a variety of built form and architectural style due to ongoing development over a number of years (centuries). There is a mix of modest two-storey semi-detached properties, as

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well as much larger detached properties that are set back within their respective plots. There are also a number of more modern commercial units, such as car sales premises, garden centre, restaurants along the road and in proximity to the application site. Recent residential development has also taken place at Wyvern Farm immediately east of the application site.

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

- 4.1 The application seeks full planning permission for the development of 66 dwellings with associated parking, landscaping, open space, drainage and infrastructure, and the formation of a vehicular access onto London Road.
- 4.2 The proposed development would provide a range of both market and affordable units, having a mix of one to four bedroom dwellings. The proposed scheme has undergone significant changes throughout the planning application process. The application as originally submitted (December 2020) sought planning permission for 102 dwellings, which was later amended to 98 dwellings, and finally 66 dwellings in response to Case Officer comments. The revisions seek to address comments relating to site allocation policy requirements, landscape and trees, layout and design, and highways matters in particular.
- 4.3 The application is supported by a site allocation masterplan and relevant detailed drawings, as well as the following documents (alphabetical order):
- Acoustic Design Statement
  - Air Quality Assessment
  - Arboricultural Impact Assessment
  - Archaeological Desk-Based Assessment
  - Biodiversity Net Gain Design Stage Report
  - Biodiversity Net Gain Metric
  - Canopy Cover letter
  - Ecological Impact Assessment (both interim assessment and addendum)
  - Flood Risk Assessment and Drainage Report
  - Health Impact Assessment
  - Heritage Statement
  - Landscape and Visual Impact Assessment
  - Phase 1 Geoenvironmental Assessment
  - Planning, Design and Access Statement
  - Transport Assessment (with addendum)
  - Wintering Bird Survey

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

- 5.1 The application site is allocated for development as part of a wider site allocation in the Council's Emerging Local Plan (ELP) Section 2. The relevant site allocation policy reads as follows:

*Policy WC2: Stanway*

*Allocations as shown on the policies map will be safeguarded for predominantly residential uses unless otherwise stated. In addition to meeting*

*the requirements set out in Policy PP1 a new primary school will also be required on 2.1 hectares of suitable land allocated for education and childcare use to the north of London Road in a location to be decided. The primary school will be secured through a S106 agreement and will be co-located with an early years and childcare nursery. An additional 0.13 hectares of suitable land for a 56 place early years and childcare nursery will also be required in Stanway in a location to be decided. All new residential developments in Stanway will be expected to contribute towards new education facilities. Commercial developments may be expected to contribute to Early Years and Childcare facilities.*

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

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

*Land to the North of London Road*

*Development of these sites will be supported where they provide;*

- (i) Up to 630 dwellings of a mix and type compatible with surrounding development*
- (ii) A new primary school with co-located early years and childcare nursery places;*
- (iii) A comprehensively planned highways access which takes into account adjoining residential allocations in order to minimise the number of new access points onto London Road but without prejudice to the development of the adjoining sites;*
- (iv) Suitable landscaping and open space provision to the north of the site to form a buffer between future residential uses and the A12;*
- (v) An integrated cycleway and footway serving the development and connecting to the existing network;*
- (vi) A design and layout to minimise the impacts from, and mitigate against any impacts associated with noise from the A12; and*
- (vii) Suitable landscaping and open space provision to the west of the site to form a defensible boundary and visual separation from Copford.*

*Up to 26 additional Almshouses (for affordable housing) on land to the north of London Road will be supported where it also provides:*

- (i) Safe vehicular, pedestrian and cycle access*
- (ii) A Tree Survey, to be agreed with the Local Planning Authority*
- (iii) Retention of important landscape features on the northern and eastern boundaries of the site; and*
- (iv) Enhancement of the street frontage and the setting of the street scene.*

*The best way of securing a comprehensive approach to development of these sites north of London Road is through the use of a masterplan which will be prepared prior to the first application being submitted.*

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

- 5.2 The site allocation policy is considered to carry sufficient weight with which to determine the planning application, having had regard to paragraph 48 of the National Planning Policy Framework (the NPPF). Further detail is provided as Sections 7 and 16 of this report.

## **6.0 Relevant Planning History**

- 6.1 No relevant planning history. There have been planning applications relating specifically to Catchbells and its associated outbuildings, but these do not fall within the current planning application site. A two-storey house and garage on the site frontage to London Road was refused in 2008 (ref: 080404).
- 6.2 An Outline Planning Application has been submitted for the remainder of the site allocation (ref: 212507): *Outline Planning Application (with all matters reserved except access) for the erection of up to 600 dwellings, land for a co-located 2FE primary school and early years nursery, public open space and associate infrastructure. Vehicular access from London Road (B1408) and Red Panda Road.* This application has not been determined and is currently under consideration.
- 6.3 An application for full planning permission has also been submitted for the adjacent Almshouse site, which is also allocated for development within the Emerging Local Plan (ELP) (ref: 200995): *Phased construction of 31 single and two bedroom Almshouses in one and two storey configurations with associated access, parking and external works. Demolition of existing almshouses.* This application has not been determined and is currently under consideration.

## **7.0 Principal Policies**

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.
- 7.2 Local Plan 2017-2033 Section 1  
The shared Section 1 of the Colchester Local Plan covers strategic matters with cross-boundary impacts in North Essex. This includes a strategic vision and policy for Colchester. The Section 1 Local Plan was adopted on 1 February

2021 and is afforded full weight. The following policies are considered to be relevant in this case:

- SP1 Presumption in Favour of Sustainable Development
- SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
- SP3 Spatial Strategy for North Essex
- SP4 Meeting Housing Needs
- SP6 Infrastructure & Connectivity
- SP7 Place Shaping Principles

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

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

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

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

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



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

DP1 Design and Amenity  
DP2 Health Assessments  
DP3 Planning Obligations and the Community Infrastructure Levy  
DP4 Community Facilities  
DP12 Dwelling Standards  
DP14 Historic Environment Assets  
DP16 Private Amenity Space and Open Space Provision for New Residential Development  
DP17 Accessibility and Access  
DP19 Parking Standards  
DP20 Flood Risk and Management of Surface Water Drainage  
DP21 Nature Conservation and Protected Lanes

- 7.5 Submission Colchester Borough Local Plan 2017-2033:

The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The Section 2 Emerging Local Plan is at an advanced stage having undergone examination hearing sessions in April 2021 and recent consultation on modifications. Section 2 will be afforded significant weight due to its advanced stage. Proposals will also be considered in relation to the adopted Local Plan and the NPPF as a whole.

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

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

SG1 Colchester's Spatial Strategy  
SG2 Housing Delivery  
SG7 Infrastructure Delivery and Impact Mitigation  
ENV1 Environment  
ENV3 Green Infrastructure  
ENV5 Pollution and Contaminated Land  
CC1 Climate Change  
PP1 Generic Infrastructure and Mitigation Requirements  
DM1 Health and Wellbeing  
DM2 Community Facilities  
DM3 Education Provision  
DM8 Affordable Housing H4  
DM9 Development Density  
DM10 Housing Diversity  
DM12 Housing Standards  
DM15 Design and Amenity  
DM16 Historic Environment  
DM18 Provision of Open Space and Recreation Facilities

DM19 Private Amenity Space  
 DM20 Promoting Sustainable Transport and Changing Travel Behaviour  
 DM21 Sustainable Access to development  
 DM22 Parking  
 DM23 Flood Risk and Water Management  
 DM24 Sustainable Urban Drainage Systems  
 DM25 Renewable Energy, Water Waste and Recycling

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

The Essex Design Guide  
 External Materials in New Developments  
 EPOA Vehicle Parking Standards  
 Affordable Housing  
 Community Facilities  
 Open Space, Sport and Recreation  
 Sustainable Construction  
 Cycling Delivery Strategy  
 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  
 Air Quality Management Guidance Note, Areas & Order  
 Stanway Joint Design Statement and Parish Plan

## 8.0 Consultations

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

8.2 Anglian Water: No objections. Confirmation that:

- The foul drainage from the development would be in the catchment of Copford Water Recycling Centre, which has available capacity for flows;
- The sewerage system has available capacity for flows;
- Preferred method of surface water disposal would be to a sustainable drainage system (SuDS), with connection to sewer as a last option.

Recommended informatives regarding adoption and sewer connection.

8.3 Arboricultural Officer: No objections following revisions and submission of additional information (including tree canopy cover assessment).

8.4 Archaeological Adviser: No objections subject to condition to secure a programme of archaeological investigation.

- 8.5 Building Control: No comments received.
- 8.6 Contaminated Land Officer: Conclusion that the site would likely be suitable for the proposed residential end use (provided that the proposed intrusive site investigation actions are undertaken). No objections subject to conditions to secure site characterisation and remediation works (as necessary). Further condition to secure procedure should any unexpected contamination be found.
- 8.7 Emergency Planning: No comments received.
- 8.8 Environmental Protection: No objections subject to conditions to secure electric charging points for cars; construction method statement; hours of working during demolition/construction; and mitigation to reduce impacts of noise.
- 8.9 Essex Bridleways Association: No comments received.
- 8.10 Essex County Council Energy and Low Carbon team: No comments received.
- 8.11 Essex County Council Green Infrastructure team: No comments received.
- 8.12 Essex County Council Minerals and Waste: No comments as, whilst the application site is located within the sand and gravel mineral safeguarding area, it is below the minimum threshold (5ha) for comment.
- 8.13 Essex County Fire and Rescue: Fire Service access considered to be satisfactory subject to compliance with Building Regulations. Additional fire hydrants may be required and automatic sprinkler systems are recommended.
- 8.14 Essex Police: Recommend that the developer considers opportunities to embed Secured by Design in the proposed development.
- Comments based on original submission highlighted concerns with the layout and design from a crime and safety perspective. No comments have been received in respect of revised proposals.
- 8.15 Essex Wildlife Trust: No comments received.
- 8.16 Health and Safety Executive: No comments as the site does not lie within the consultation distance of a major hazard site or major accident hazard pipeline.
- 8.17 Highway Authority: No objections subject to conditions regarding construction traffic, a priority junction off London Road, upgraded bus stops, improvements to Public Footpath 27 Stanway, residential travel information packs, and s106 requirement for a financial contribution toward new and or/improvement bus services.
- 8.18 Historic Buildings and Areas Officer: Concluded that the proposed development would result in less than substantial harm to the Grade II\* listed Catchbells and St Albright's Church given the mitigation strategies put forward.

Comment on original submission was that a more substantial green buffer zone would provide additional mitigations that would further reduce the harm to the setting of Catchbells. No comments have been received in respect of the subsequent revisions.

8.19 Historic England: No comments.

8.20 Landscape Officer: No objections on landscape grounds subject to specific requirements in respect of hedgerows and planting, as well as conditions to agree detailed landscape works and a landscape management plan.

8.21 National Highways: No comments.

8.22 Natural England: Advice to consider the Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS) in accordance with Natural England guidance.

8.23 NHS: Comments in respect of s106 requirements.

8.24 North East Essex Badger Group: Comments that there are badgers situated along the western boundary as well as the single holes noted in the submissions. Surveys should be undertaken and mitigation to retain the badger location sites rather than close them. Concern regarding loss of open areas and hedgerows so open space and woodland should be set aside.

8.25 Planning Policy: A masterplan for the wider site allocation is required and there is a requirement for wintering bird surveys as part of modifications to the Section 2 Local Plan.

The above comments relate to the original submission only. A masterplan for the wider site allocation has been submitted, as has a wintering bird survey. No further comments have been received.

8.26 SUDS: No objections subject to conditions relating to a detailed surface water drainage scheme, as well as management and maintenance plan.

8.27 The Ramblers Association: No comments received.

8.28 Sustainability and Transport: Recommendations in respect of s106 requirements.

8.29 Urban Design: No objections following revisions. Recommended conditions relating to materials, landscaping, design of utility structures, cycle storage, architectural detailing, and removal of certain permitted development rights.

8.30 Waste Services: No comments received.

## **9.0 Parish Council Response**

9.1 Stanway Parish Council objected to the original submission on the basis of objections from residents on London Road and concerns that the land would be overdeveloped, lack of infrastructure, and a concern that the proposed access on London Road would have highway safety issues.

9.2 Stanway Parish Council have not commented on the later submissions.

## **10.0 Representations from Notified Parties**

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

10.2 The comments summarised below cover all submissions: Original submission in December 2020, followed by revisions in October and December 2021, January 2022, and final revisions in February/March 2022.

10.3 In total, 20 objections have been received (some comments are from the same source):

- The area cannot cope with further development.
- Highway Matters:
  - Increase in traffic
  - Should be brought up to standards of LTN 1/20
  - There should be no regular vehicle access to/from London Road at the proposed access;
  - Toucan crossing over London Road required;
  - Segregated route along London Road from Church Lane to Marks Tey Station with links to Stanway Schools (CBC Cycling SPD route 12) should be provided;
  - Widened pavements on London Road should be shared-use with cyclists as last resort;
  - There should be cycle/pedestrian priority (on-site and London Road);
  - Difficult to judge off-site connections without details of wider site
  - On-site cycling routes need to be better planned out.
  - Masterplan is too vague in respect of cycle routes and connections; no links to off-site infrastructure; bus route not shown; suggestion that all private vehicle access should be via the Western Bypass has not been taken up or justified; why has CBC sanctioned access further west.
- Infrastructure
  - Local schools, surgery, hospital and dentist cannot cope.
- Design and Layout:
  - Layout dominated by road system;
  - Open space confined to edges of development only with limited opportunity for safe and overlooked spaces;
  - Layout does not relate well to village setting;
  - Little regard to streetscape;
  - Little opportunity for NPPF requirements for tree-lined streets
  - Poor house designs

- No playspaces
- Lack of daylight to private gardens (where north-facing) and properties (with small windows).
- Amenity:
  - Health and well-being of future residents
- Impact on Heritage Assets:
  - St Albrights and Catchbells would be severely compromised due to loss of trees and poor standard of architecture.
- Safety and Accessibility:
  - The scheme would not connect well with existing or proposed cycling and walking routes.
  - Lack of connectivity would add to car-borne journeys and increased traffic.
- Climate Change:
  - No commitment to reducing carbon footprint of the development (buildings have not been designed to take advantage of solar gain or to reduce energy consumption).
- Landscape and Trees:
  - 40% loss of mature trees which would harm character of the site

10.4 Four letters of general comment have been received The comments are summarised as follows:

- Request that trees on the eastern perimeter of the site be retained in the interests of wildlife and to prevent flooding;
- Concerns regarding traffic on London Road and request double yellow lines to prevent parked cars and keep traffic flowing; and
- Comment that Stanway does not have adequate infrastructure.

## 11.0 Parking Provision

11.1 Development Plan Policy DP19 requires vehicle parking to be in accordance with the Vehicle Parking Standards SPD. For residential development there is a minimum car parking requirement of 1 no. space per dwellings (for one bedroom units) and 2 no. spaces per dwelling (for two bedroom or more units), with a preferred bay size of 5.5m x 2.9m. There is a minimum cycle parking requirement of 1 no. secure covered space per dwelling. Visitor spaces should also be provided at a ratio of 0.25 spaces per dwelling (rounded up to nearest whole number).

11.2 The proposed development fully accords with these requirements. Each property is provided with 2 no car parking spaces and 17 no. visitor spaces would also be provided. The provision of secure cycle parking can be secured by way of condition.

## 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 the accessibility standard for 10% of market housing

and 95% of affordable housing will meet Building Regulations Part M4 Cat 2. There would be a requirement (secured via s106) for 5% of affordable housing to meet Part M4 Cat 3 (2) (b) as set out in Draft Policy DM12 vi.

### **13.0 Open Space Provisions**

13.1 Both adopted policy DP16 and emerging policy DM18 require at least 10% of an application site area to be usable public open space. In this case, the site area is 3.4ha so the minimum amount of public open space required would be 0.34ha.

13.2 The Case Officer's assessment of open space provision has been quite stringent, only taking into account as part of the public open space calculation those areas considered usable. It is considered that the site would provide 0.44ha public open space, which is in excess of the planning policy minimum requirement. The proposed development also includes additional landscaped areas which have an added public visual benefit.

13.3 The provision of playspace is being pursued as part of s106 negotiations.

### **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. Matters of air quality are assessed in the main body of this report.

### **15.0 Planning Obligations**

15.1 As a "Major" application, there was a requirement for this proposal to be considered by the Council's Development Team. It was considered that Planning Obligations should be sought in order to mitigate impacts from the development. The Obligations that would be agreed as part of any planning permission would be (alphabetical order):

- Affordable Housing obligation to secure 30% Affordable Housing with a tenure split of no less than 80% affordable housing for rent and no more than 20% Shared Ownership. The affordable housing should meet enhanced accessibility standard of Part M4 Cat 2 (Building Regulations 2015) and 5% will need to be designed to meet Part M4 Cat (3) (2) (a) or (b);
- Archaeological financial contribution towards the display, promotion, and management of any archaeological finds; and/or financial contribution towards integrating information from the archaeological investigation of the site into the Council's Historic Environment Record (HER);
- Community Facilities financial contribution towards Phases 1 and/or Phase 2 of the Stanway Community Centre;
- Education financial contribution towards Primary education;
- Healthcare financial contribution towards primary healthcare and additional ambulance health services;
- Highways financial contribution towards new and improved bus services;

- Parks and Receptions financial contribution towards both Borough (Castle Park) and Ward (Stanway Allotments and/or Stanway Country Park) projects;
- Recreational disturbance Avoidance Mitigation Strategy (RAMS) financial contribution; and
- Sustainable Transport financial contribution towards walking and cycling routes, car club, and shared cycle scheme and bike club.

It is also considered necessary to:

- Secure the provision, management, and maintenance of public amenity areas, open space and equipped play area (including financial contribution should Colchester Borough Council adopt); and
- Safeguard land to allow for vehicle access to north should it be required (dependent upon the access requirements for the wider site allocation).

## 16.0 Report

### Principle of Development:

- 16.1 The application site lies outside the settlement boundary for Colchester in the Adopted Local Plan (ALP), but is included within the settlement boundary as part of the Emerging Local Plan (ELP) and is allocated for residential development as part of a larger site allocation under policy WC2 of the ELP. Both the adopted and emerging local plans are relevant in this case and the relationship of the proposal to each of those plans, as well as the compliance of relevant adopted and emerging policies with the NPPF, are accordingly key variables in assessing the planning balance.
- 16.2 On the first point, the ELP is considered to be at an advanced stage, with Section 1 now being adopted and Section 2 having gone through examination and consultation on modifications. Representations were made in respect of policy WC2 at earlier stages in the ELP preparation, but these representations are not considered to constitute substantive objections that would reduce the weight to be afforded to the ELP.
- 16.3 Whilst the proposal does not accord with the ALP, the principle of development on the site is put forward by policy WC2 of the ELP which can be afforded weight in the decision-making process. The proposed development is therefore considered to be acceptable in principle, although it is important to note that the overall acceptability of the application would be dependent upon its acceptability in respect of the specific requirements of policy WC2 and other planning policy requirements.



### Contaminated Land

- 16.4 Development Plan policy DP1 requires new development to undertake appropriate remediation of contaminated land. Emerging Plan Policy ENV5 supports proposals that will not result in an unacceptable risk to public health or safety, the environment, general amenity or existing uses due to land pollution.
- 16.5 A Phase 1 Geoenvironmental Assessment has been submitted with the application. The assessment has identified some potential sources of contamination requiring further risk assessment. The assessment concludes that the site would likely be suitable for the proposed residential end use (taking into account that the further site investigation is undertaken). The Council's Contaminated Land Officer does not have any objections to the application on this basis, subject to conditions being applied to ensure site characterisation is undertaken, as well as suitable remediation (as necessary). These conditions are considered necessary given the conclusions of the submitted assessment. A further condition is recommended to set out the procedure should any unexpected contamination be encountered; this condition is also considered to be necessary and appropriate.
- 16.6 Subject to the necessary conditions, the proposed development is considered to satisfy the requirements of policy DP1 and emerging policy ENV5.

### Flood Risk and Drainage

- 16.7 Core Strategy Policy SD1 and Development Plan Policy DP20 require proposals to promote sustainability by minimising and/or mitigating pressure on (inter alia) areas at risk of flooding. Policy DP20 also requires all development proposals to incorporate measures for the conservation and sustainable use of water, including the appropriate use of SUDs for managing surface water runoff. Emerging Plan Policies CC1 and DM23 state that development will be directed to locations with the least impact on flooding or water resources. Major development proposals required to reduce post development runoff rate back to the greenfield 1 in 1 year rate, with an allowance for climate change. On brownfield sites where this is not achievable, then a minimum betterment of 50% should be demonstrated for all flood events. In addition, emerging plan policy DM24 requires all new residential development to incorporate Sustainable Drainage Systems (SuDS) appropriate to the nature of the site.
- 16.8 A Flood Risk Assessment and Drainage Report has been submitted with the planning application and considered by the Lead Local Flood Authority, Essex County Council SUDs team, and Anglian Water. The proposed development includes on-site SUDs features.
- 16.9 The report concludes the following:
- The site falls within Flood Zone 1 “areas with little or no potential risk of flooding” from watercourses;
  - The site is at low or very low risk of flooding from all sources, including groundwater, surface water/overland flows and reservoirs;

- Therefore, the proposed redevelopment has an acceptable flood risk within the terms and requirements of the NPPF;
- The detention basin provides approximately 1130 m<sup>3</sup> attenuation storage and has been designed to accommodate the 1 in 100-year storm even plus 40% allowance for climate change, a further 10% allowance has been included in the design to account for urban creep;
- Flow will be restricted to the 1 in 1-year Greenfield run-off rates before discharging into an existing ditch;
- Site investigation and infiltration testing in accordance with BRE 365 shall be carried out on site as part of the detailed design process;
- Permeable paving and modular attenuation tanks will be used to provide additional attenuation.
- The foul water strategy will include a pumping station to the north-west corner of the site. The pumping station will be designed in accordance with Building Regulations Part H and DCG for sewers offered for adoption. The rising main route / outfall is subject to review by Anglian Water.

- 16.10 Anglian Water have confirmed that there is sufficient capacity for flows from this development. The County Council SUDs team have confirmed that they have no objections to the proposed development subject to conditions to secure a detailed surface water drainage scheme, as well as securing the maintenance and management of the agreed scheme. The conditions are considered to be both reasonable and necessary and can be included as part of the decision. On the basis of the conclusions of the Flood Risk Assessment and Drainage Report, SUDs proposals, and advice from both Anglian Water and the County Council SUDs team, the proposed development is considered to be acceptable in respect of flood risk and drainage.

### Ecology

- 16.11 Section 40 of the Natural Environment and rural Communities Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity and a core principle of the NPPF is that planning should contribute to conserving and enhancing the natural environment. Development Plan policy DP21 seeks to conserve or enhance biodiversity and geodiversity in the Borough. New developments are required to be supported by ecological surveys where appropriate, minimise the fragmentation of habitats, and maximise opportunities for the restoration, enhancement and connection of natural habitats.
- 16.12 A number of Emerging Plan Policies seek opportunities to safeguard and enhance biodiversity throughout the Borough. Policy ENV1 requires development proposals to be supported by appropriate ecological surveys where necessary; conserve or enhance the biodiversity value of greenfield and brownfield sites (minimising fragmentation of habitats); maximise opportunities for preservation, restoration, enhancement, and connection of natural habitats; and incorporate biodiversity net gain of at least 10% in line with principles outlined in the Natural England Biodiversity Metric. In addition to these requirements, the site allocation policy WC2 requires wintering bird surveys to be undertaken to identify any offsite functional habitat.

16.13 The application is supported by an Ecological Impact Assessment and addendums, as well as a Biodiversity Net Gain Design Stage Report and Arboricultural Impact Assessment. A Wintering Bird Survey was also submitted as per the site allocation requirements. Essex County Council Place Services have considered the submissions and confirmed that they provide sufficient information for determination of the application. A summary of Places Services considerations is as follows:

- Great Crested Newts recorded in the pond onsite. The pond is due for retention and mitigation will be sought via the District Level Licencing Scheme. Case Officer Note: sufficient information has been submitted in association with Natural England.
- Bat Activity Surveys have been undertaken and updated surveys will be necessary in order to establish appropriate mitigation. There are features on site that have potential to support maternity, hibernation, roosting bats and sufficient mitigation and enhancement would be required, Planning conditions would secure appropriate mitigation and enhancement, as well as a sensitive lighting scheme.
- A reptile mitigation strategy is required to protect slow worm, grass snake, and common lizard population. An on-site receptor site is proposed and considered to be acceptable.
- There are two Priority Habitats on site (Mixed Deciduous Woodland and Hedgerows), both of which will be impacted by the proposals. The Biodiversity Net Gain Design Stage Report (SES, December 2021b) details a loss of 0.66 units of hedgerow and 5.59 units of other habitats, including plantation woodland. The proposals include enhancement of retained habitats and creation of new habitats via planting and appropriate management leading to a net gain of 0.71 habitat units and 4.61 hedgerow units. This represents a gain of 8.38% in habitat units and 75.40% in hedgerow units. A Landscape and Ecological Mitigation Plan (LEMP) will be required via condition in order to secure the net gains and protect the retained woodland and boundary habitats.

16.14 Whilst the proposed development would have an impact on ecology and biodiversity, the impacts can be appropriately mitigated and enhancements can be secured in line with planning policy requirements. Subject to conditions to ensure protection, mitigation, and enhancement measures, the proposed development is considered to adhere to both adopted and emerging planning policy in respect of ecology and biodiversity. Protected species (e.g. bats, badgers, newts) are also protected by legislation outside of the planning system and the Developer will need to adhere to that legislation.

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

#### Highways

- 16.16 Core Strategy policy TA4 seeks to make the best use of the existing highway network and manage demand for road traffic. The policy makes it clear that new development will need to contribute towards transport infrastructure improvements to support the development itself and to enhance the broader network to mitigate impacts on existing communities. Development Plan policy DP17 requires all development to maintain the right and safe passage of all highways users. Development Plan policy DP19 relates to parking standards in association with the Vehicle Parking Standards SPD. Recently adopted Section 1 Policy SG1 states that development that reduces the need to travel will be encouraged. Emerging Plan Policies DM15, DM20, DM21, and DM22 have similar requirements to adopted policy, with particular emphasis on enhancing accessibility for sustainable modes of transport
- 16.17 The site allocation policy WC2 has specific requirements in respect of highway matters and sustainable transport; it requires under points (iii) and (v) of the policy that the development must have:
- A comprehensively planned highways access which takes into account adjoining residential allocations in order to minimise the number of new access points onto London Road but without prejudice to the development of the adjoining sites; and
  - An integrated cycleway and footway serving the development and connecting to the existing network.

- 16.18 A Transport Assessment has been submitted with the application which the Highway Authority considers to be acceptable. The Highway Authority does not have any objections to the proposed development subject to planning conditions and s106 obligations which will be referred to below. It is important to note that the Transport Assessment detailed highway impact on the basis of the original proposals for 102 dwellings and the Highway Authority did not object to the application at this point. The proposed development has since undergone significant revision and the dwelling numbers reduced to 66 which would have a lesser impact than previously considered acceptable in any case.
- 16.19 In the interests of establishing a comprehensively planned highways access and strategy, a Masterplan has been submitted with the application which shows the site allocation as a whole, as well as its relationship to the adjacent Almshouse site allocation. This has aided consideration of appropriate access arrangements and infrastructure, particularly in respect of modes of sustainable transport. The Masterplan shows that there would be two vehicular access points from London Road: one to serve the current application site and one to serve the wider site allocation; the Almshouse site would not have a separate access from London Road and would be accessed via this application site. This access arrangement does minimise the number of new access points onto London Road (as required by the site allocation policy) and further discussions with the Highway Authority are being undertaken as part of the planning application for the wider site in order to ensure a comprehensively planned highway network throughout the site and connecting to the surrounding area.
- 16.20 Initial layouts for the development included a vehicular access that continued north from London Road into the adjacent wider site. This has subsequently been omitted however in order to promote green infrastructure and cycle/pedestrian links through to the wider site and surrounding area. It has been considered necessary however to safeguard sufficient land within the site to enable a vehicular route through to the north should this be necessary, it being dependent upon the final and agreed access strategy for the wider site (the site allocation policy seeks to ensure that other sites are not prejudiced by site access arrangements); this matter can be dealt with as part of the s106.
- 16.21 The proposed development also includes links to the public right of way (PROW) on the eastern edge of the site and includes both segregated and on-road cycle routes through the development. The Highway Authority have recommended conditions to improve the PROW, which is considered to contribute towards encouraging walking and cycling in accordance with planning policy, as well as mitigate the increased usage. In addition, a financial contribution towards improving walking and cycling routes between the application site and the town centre can be secured as part of the s106 (as required by the Council's Sustainability and Transport team) which further increases the accessibility of the site.
- 16.22 In terms of public transport, the Highway Authority require a financial contribution towards new and/or improved bus services in the vicinity of the

application site, as well as bus stop upgrades (upgrade of the two bus stops which would best serve the development). These requirements are all considered to be necessary (by way of s106 obligation or condition as appropriate) in order to enhance the accessibility of the site and encourage the use of more sustainable modes of transport which not only protects highway efficiency of movement and safety, but also provides mitigation in terms of climate change. A financial contribution towards car and bike clubs can also be included as part of the s106 in order to promote and encourage sustainable choices by reducing car use.

- 16.23 Objections have been received that concern traffic impact and cycle infrastructure (specifically LTN 1/20 guidance). In terms of traffic impact, paragraph 111 of the NPPF states that 'development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe'. Given that the Highway Authority have no objections to the proposed development in terms of transport and highway impact, and that a range of mitigatory measures can be secured, it is concluded that it cannot be demonstrated that the proposed development would have an unacceptable or severe impact on the road network. A refusal on these grounds is not considered to be justified.
- 16.24 In considering cycle infrastructure, the proposed development is considered to (as a result of both physical works and contributions to projects in the wider area) offer satisfactory and beneficial cycle access routes through the site and further afield. Objections refer to the need for the development to adhere to the Department for Transport LTN 1/20 guidance, specifically in regard to segregated cycle paths. Whilst the LTN 1/20 does not form part of adopted policy or guidance, it has been considered as part of the assessment of this application. The development layout provides for segregated paths; the southern part of the site includes a segregated cycle/footpath, and the northern part of the site (travelling into the wider site) has a segregated cycle path. Whilst a dedicated segregated cycle path is not included in the southern part of the site to/from London Road, the roads within the site would have a speed limit of 20mph (given that the site would provide a relatively low number of dwellings (66), without any through roads) and it is considered reasonable for cyclists to use the carriageway in this speed limit. Indeed, LTN 1/20 acknowledges (at paragraph 4.4.1) that 'in quiet residential streets, most people will be comfortable cycling on the carriageway even though they will be passed by the occasional car moving at low speeds', with Figure 4.1 confirming that mixed traffic would be appropriate in 20mph areas. In any case, the site layout does provide a shared cycle/foot path that can be used if desired. Should safeguarded land be required (to provide vehicular access through to the north and the wider site allocation), fully segregated cycle paths would be provided as the road would have increased vehicular traffic.
- 16.25 Having had regard to planning policy requirements, as well as the recommendations of both the Highway Authority and the Council's Sustainability and Transport team, it is considered that the proposed

development is acceptable in respect of highway impacts and matters of accessibility and sustainability.

- 16.26 The proposed development is also considered to be acceptable in terms of parking provision. Both adopted and emerging planning policies would require at least 2 no. parking spaces per dwelling and 17 no. visitor spaces. The proposed development accords with these requirements to planning policy standard. A disabled parking space is also provided to serve the accessible unit on site. Cycle parking can be provided for each plot and details can be secured by condition.

### Heritage

- 16.27 Both Core Strategy Policy ENV1 and Development Plan Policy DP14 seek to conserve and enhance Colchester's historic Environment. Development Plan Policy DP14 makes it clear that development will not be permitted that will adversely affect a listed building, conservation area, historic park or garden, or important archaeological remains. Emerging Plan Policy DM16 states that development affecting the historic environment should seek to conserve and enhance the significance of the heritage asset.
- 16.28 The relevant legislation for the review of the application from a heritage perspective includes Planning (Listed Buildings and Conservation Areas) Act (1990), whose Section 66 (1) requires that the decision to grant planning permission for development which affects a listed building or its setting shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The NPPF is an additional consideration. Section 16, Paragraph 189 requires from applicants to describe the significance of any heritage assets affected by the proposal, including any contribution made by their setting, with a level of detail which is proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. Paragraph 192 (c) states that in determining applications, the desirability of new development making a positive contribution to the local character and distinctiveness should be taken into account. Paragraph 193 requires that when considering the impact of a proposed development on the significance of a designated heritage asset, *great weight* should be given to the asset's conservation. Paragraph 194 clarifies that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Whereas paragraph 195 deals with substantial harm to a designated heritage asset, Paragraph 196 states that where a development proposal will lead to less than substantial harm to the asset's significance, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 16.29 The application site sits adjacent and opposite to Grade II\* listed buildings Catchbells 296 London Road and the Parish Church of St Albright. The proposed development, given its siting and relationship to these two

buildings, is considered to have an impact on their setting. The relevant listing descriptions are as follows:

Catchbells (listed in 1982):

*STANWAY LONDON ROAD 1. 5214 (north side) Catchbells TL 92 SW 11/51 II\* 2. Early C15 house with later alterations. Timber framed and brick clad. Two storeys. Red plain tile, hipped and gabled roof. 1:1:2 window range, C18 and C19 double hung vertical sliding sashes. H plan. East wing is early C15 with fine pair of service doorways with rounded heads. Originally jettied and gabled now underbuilt and oversailed. Original roof remains, with cambered and arch braced tie beam, short 4 armed crown post, with moulded base and moulded and castellated capital. Little of the original hall remains except one storey post. Late C16 inserted first floor with moulded bridging joists and stop chamfered common joists. West wing is circa 1500, originally jettied and gabled, now underbuilt and oversailed. Fine circa 1500 chimney stack with rebuilt diagonal shafts. Two original fireplaces. To the rear of the west wing is a 2 storey late C19 wing in brick, part painted. Double hung vertical sliding sashes. East wing has rear extension of C17 and later. East boundary has C18 red brick wall. (RCHM 9).*

Parish Church of St Albright (listed in 1965):

*STANWAY LONDON ROAD 1. 5214 (south side) Parish church of St Albright (formerly listed as TL 92 SW 11/57 Church of St Ethelberts) 7.4.65 II\* 2. C12 and later, with extensive alterations by Gilbert Scott in circa 1880. Nave is early C12, and retains part of its original roof with scissor-bracing and notched lap joists. C12 windows in north wall, both single light with Roman brick jambs and round stone head. Mid C14 window with 2 cinquefoiled lights with quatrefoil in 2 centred head with moulded label, and head stops, C15 window with 2 cinquefoiled lights in 2 centred head. South wall has one C12 window and C12 doorway, with round arch of Roman brick. West wall has Roman brick quoins and C14 window, much restored. Restored C12 window above. Chancel added in 1826 and restored in circa 1880, when south aisle, south chapel and, it is said, the bell-turret were added. South arcade of circa 1500 from St Rumwald's Church. Colchester, North porch is C15 with 4 braced crown post on cambered tie-beam with hollow chamfers. Octagonal perpendicular font, with panels with shields and with chalice and the host surrounded by rays. East window by Kempe, 1892. Red plain tile roof. (RCHM 2).*

- 16.30 The Council's Historic Buildings and Areas Officer has provided detailed comments in respect of the impact of the proposed development upon built heritage which is drawn upon in the following assessment.
- 16.31 Catchbells is an early fifteenth century house with later additions that include a two storey late nineteenth century range to the rear of the west wing and a seventeenth century extension to the east wing. The house appears as 'The Cedars' in the nineteenth century Ordnance Survey Maps and as 'The Stanway Grange' from 1920s onwards; the maps mark as "Catchbells" the group of outbuildings to the north of the house. The cartographic evidence indicates that the agricultural complex has undergone various changes,

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with removals and additions, but the footprint of certain buildings appears continuously present in historic maps, including the two long ranges along the east boundary of the application site. The additional buildings are likely to be considered as curtilage listed.

- 16.32 The application site forms part of Catchbells' immediate setting which contributes to the special interest of the heritage asset; the undeveloped land maintains a degree of separation between the listed building and the development along London Road to the west and enables its appreciation within the rural landscape that has been its context historically. The hedge and trees to its south end that fronts onto London Road contribute to the experience of the street frontage as a soft rural edge with planting that screens the various buildings which are set back from the street. Albeit set a bit back from the road, the Church of St Albright with the low boundary wall remains the prominent feature in that section of the road while Rosemary (a Grade II listed building) emerges within the views that unfold as the observer moves westwards.
- 16.33 The development of the site would result in a significant change to the character of the area by introducing built form where none exists currently. The change would affect primarily Catchbells as it would introduce built development to the North and West, while the configuration of the section that fronts onto London Road, including the new vehicular access, would have an impact on the setting of St Albright's Church.
- 16.34 The urbanisation of the rural land immediately surrounding Catchbells would result in a level of less-than substantial harm to the special interest of the listed building through harm to its setting. This harm is identified in paragraph 5.2 of the Heritage Statement; the report acknowledges that the scope of the development would cause harm to Catchbells but argues that the harm would be moderated by the mitigation that is set out in paragraph 4.2 and 4.3 and summarised in paragraph 5.2. and outweighed by the public benefit of new dwellings.
- 16.35 The proposed layout would include a buffer zone between the proposed development and Catchbells and the proposed dwellings would be in a position and of a scale that would not challenge the presence of Catchbells. In addition, the recommendations made by the Council's Historic Buildings and Areas Officer as part of the original scheme have been incorporated into the current scheme, such as including a green buffer zone to the London Road frontage to allow for the retention of hedges and trees and to maintain Rosemary as the dominant feature in the streetscene. Enhanced landscaping would also be implemented in order to mitigate the urbanisation of the site.
- 16.36 In respect of the impact on St Albright's Church, the access from London Road would create a gap in the green frontage and would result in increased traffic opposite the church. The proposed access is therefore considered to have an adverse impact on its setting. Again, the level of harm is considered to be less than substantial.

- 16.37 Paragraph 196 of the NPPF sets out that where a development proposal will lead to less than substantial harm to a designated asset's significance, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. The Council's Historic Buildings and Areas Officer has recommended that this requirement is taken into account for the planning balance that would decide the outcome of this application.
- 16.38 In consideration of below-ground archaeology, the submitted archaeological desk-based assessment identifies that the proposed development site has a high potential for containing Romano-British archaeological deposits and features, and a moderate potential Anglo-Saxon and later periods. The Council's Archaeological Adviser concurs with these findings having taken into account data held within the Colchester Historic Environment Record (HER). The advice from the Archaeological Adviser is that they have no objections to the proposed development subject to further archaeological investigation and recording in order to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed (in accordance with paragraph 199 of the NPPF). The further investigations can be secured by condition and any necessary display and recording being secured via s106 obligation.

Character of the Area (including landscape matters and trees)

- 16.39 Core Strategy Policy ENV1 seeks to conserve and enhance Colchester's natural and historic environment, countryside and coastline, with Core Strategy policy UR2 and Development Plan policy DP1 seeking to secure high quality and inclusive design in all developments, respecting and enhancing the characteristics of the site, its context and surroundings. These principles are also reflected in adopted Local Plan Section 1 Policy SP7 and Emerging Plan Policy DM15. In addition, Emerging Plan Policy PP1 requires suitable design and screening/landscaping to minimise any negative impacts on surrounding landscape.
- 16.40 The site allocation policy WC2 also has specific requirements in the interests of the surrounding landscape under points (iv) and (vii), but these points focus on landscape buffers to the north and west of the wider site allocation and are not relevant to the application site in question.
- 16.41 The application is supported by a Landscape and Visual Impact Assessment (LVIA) and Landscape Strategy drawing(s). The LVIA acknowledges that given that the land use of the site would change as a result of the development, with the addition of built form, there would be an impact on the character of the site and its immediate surroundings, but the residual landscape effects would be 'minor adverse' or 'negligible' given the mature trees and shrub boundary vegetation, with the development being designed to minimise landscape and visual effects further. In terms of enhancement opportunities, the LVIA refers to the proposed landscape strategy which would 'deliver landscape, biodiversity, recreation, and sustainability

benefits'. The Council's Landscape Officer has considered the LVIA and does not have any objections with regard to landscape impact.

- 16.42 In considering the Landscape Strategy, the Landscape Officer has confirmed that they would have no objection in principle to the proposed vehicle/pedestrian/cycle accesses that breach existing hedgerows, given that there are a number of weak areas in the hedgerows meaning that the impact is less pronounced. There would, however, be the need for compensation by way of the existing/retained field hedgerows being cleared of bramble and deadwood and gapped up with native hedging. This is considered to be a matter that can be secured by condition.
- 16.43 The Landscape Officer has also requested further amendment to the landscape proposals, such as including mown grass beneath the avenue trees to serve as a buffer with wildflower and species rich areas, and extending some areas of proposed wildflower areas (with suitable species mix used to provide foraging environments for bees and other insects). Again, this detailing can be agreed via condition in the interests of visual amenity and achieving good design.
- 16.44 With regards to trees, the application site has a number of trees, hedges and shrubs: 96 individual trees, 8 groups of trees, 6 hedges and 3 shrubs have been considered as part of the submitted Arboricultural Impact Assessment (AIA). The majority of trees on site are Category B and C trees. The revised scheme has significantly reduced the number of units onsite in order to increase tree retention. The AIA confirms that the proposed development would have an impact on existing trees and vegetation on site as follows:
- The removal of 57 individual trees, 1 tree group, 1 hedge and 1 shrub, along with the partial removal of 2 groups of trees, 4 hedges and 2 shrubs; and
  - The Root Protection Areas of trees T7, T19, T82 and T113 will be incurred into by the design layout, with specialist design considerations being required before the commencement of works.
- 16.45 In order to compensate for the loss of trees, the Landscape Strategy provides considerable tree planting, as well as shrub and hedge planting. The tree planting would be a combination of larger and medium trees, with smaller trees in incidental areas and where closer to residential properties. Evidence has been provided to demonstrate that the proposed tree planting would provide for mitigation plus a 10% uplift in tree canopy cover as required by Emerging Plan Policy CC1.

- 16.46 The Council's Arboricultural Officer has no objections to the proposed development on the basis of the information submitted. It is considered necessary to condition the AIA (to ensure that works are carried out as agreed), as well as the tree planting to provide the 10% uplift in tree canopy cover.
- 16.47 In consideration of the built character of the area, it is noted that London Road exhibits a variety of built form and architectural style due to ongoing development over a number of years (centuries). There is a mix of modest two-storey semi-detached properties, as well as much larger detached properties that are set back within their respective plots. There are also a number of more modern commercial units, such as car sales premises, garden centre, restaurants etc in close proximity to the application site. Recent residential development has also taken place at Wyvern Farm immediately east of the application site. Given the mixed character, the proposed development is not considered to have a significant or detrimental impact in that respect. In addition, the site is well-screened by trees and hedgerows so would not be a dominant presence in principal public views along London Road. The design and layout of the proposed development will be important in terms of respecting and reflecting the existing character however and this is considered in more detail below.

#### Layout and Design

- 16.48 In terms of housing density and diversity, Core Strategy policies H2 and H3 require developments to make efficient use of land and relate to their context. A range of housing types and tenures across the Borough is sought in order to create inclusive and sustainable communities. Emerging Policy DM10 also requires a range of housing types and tenures for the same reason. Emerging Plan Policy DM9 makes specific reference to the setting of important heritage assets; access and local road network; scope to enhance walking and cycling access to local amenities and public transport; and existing landscaping, trees, and hedgerows; matters that have been considered above.
- 16.49 With specific reference to layout requirements, Development Plan Policy DP12 sets out the specific matters to be taken into consideration (matters relating to multi-occupancy buildings have been omitted as they are not relevant to the proposed development):
- The avoidance of adverse overshadowing between buildings or over neighbouring land uses, and of other adverse microclimatic effects resulting from medium and high rise buildings at a high density;
  - Acceptable levels of daylight to all habitable rooms and no single aspect north-facing homes;
  - Acceptable levels of privacy for rear-facing habitable rooms and sitting-out areas;
  - Flexibility in the internal layout of dwellings to allow adaptability to different lifestyles;
  - Vehicle parking (including secure cycle and motorcycle parking) to an appropriate standard, as set by Essex County Council and policy

DP19, and provided in a visually acceptable manner. In the case of flats, secure cycle storage should be incorporated into flat blocks and readily located at the building entrances.

- 16.50 With direct reference to Policy DP12, the proposed development is not considered to result in adverse shadowing between buildings (being a predominantly two-storey housing scheme set out in a relatively spacious layout), does not include any single aspect north-facing homes, would achieve acceptable levels of privacy (respecting policy requirements in respect of back-to-back distances and garden sizes), include flexible layouts to allow for adaptability (home working space is catered for as part of several housetypes and wheelchair adaptability/accessibility will be provided as per policy requirements), and appropriate vehicle parking has been provided in accordance with policy requirements.
- 16.51 As acknowledged by the Council's Urban Designer, recent revisions to the scheme have been negotiated that have reduced grey infrastructure, mitigated prominent parking, and enhanced the enclosure of spaces. Previous revisions sought to enhance place making and house type design, as well as increase tree retention. In addition to this, revisions have incorporated appropriate frontage treatments, tree planting and surface materials which contribute to a clear road hierarchy, alongside individual character areas. The Urban Designer has commented that the revisions to the scheme have strengthened the depth of the sites' identity, road hierarchy and character areas, as well as achieve good levels of pedestrian permeability and connectivity. The proposed hard and soft landscaping also contribute establishing a sense of place and character. There remains some elements of detailed design which would be improved in order to achieve a higher standard of detailed design; it is considered that a condition could be imposed to require further details of architectural detailing to be agreed.
- 16.52 Both Essex Fire and Rescue and Essex Police have provided recommendations in respect of their requirements and these matters can be referred to as part of an informative (given that they either relate to Building Regulations or external accreditation which would not be appropriate to condition).

#### Amenity

- 16.53 Development Plan policy DP1 and Emerging Plan Policy DM15 require all development to be designed to a high standard that protects existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, and daylight and sunlight.
- 16.54 The proposed development would not have an adverse impact on existing properties in the area given the significant degree of separation. The proposed dwellings are arranged with acceptable levels of back-to-back distances and policy compliant garden sizes so appropriate levels of amenity would also be achieved for new and future residents.

- 16.55 The Council's Environmental Protection team have recommended a number of conditions in the interests of protecting the amenity of existing residents: construction method statement to be agreed; set working hours for demolition and construction. These conditions are considered to be both necessary and reasonable in the interests of residential amenity. Further conditions have been recommended in respect of the new build design to ensure that the dwellings are not susceptible to undue levels of noise. This condition is also considered to be necessary and reasonable in order to protect the amenity of future residents.

#### Other Matters

- 16.56 Matters of climate change and environmental impact have been considered in line with the NPPF and planning policy, particularly that of the Emerging Local Plan (specifically policies CC1 and PP1). Matters of flood risk, biodiversity, tree canopy cover, sustainable transport, and green infrastructure have been assessed in the above sections and the proposed development has been considered to be acceptable in these matters, subject to mitigation and enhancement as appropriate and necessary.
- 16.57 Adopted Core Strategy Policy ER1 and Emerging Plan Policy DM25 are also relevant and confirm the Local Planning Authority's commitment to carbon reduction, which includes the promotion of efficient use of energy and resources alongside waste minimisation and recycling. An Air Quality Assessment has been submitted with the application and this has been considered by the Council's Environmental Protection team. In the interests of carbon reduction and improving air quality, it is considered appropriate to condition the provision of electric vehicle charging points throughout the scheme. In terms of the buildings themselves, these will need to meet Building Regulations requirements in terms of insulation and energy efficiency; planning policy seeks to encourage the use of the 'Home Quality Mark' so this can be promoted by way of an informative (it is not considered reasonable to impose a condition covering this point as the Home Quality Mark is not a planning policy requirement as such).
- 16.58 It is considered that local representations have been addressed in the preceding sections of this report, either as part of the assessment or by direct reference.
- 16.59 In terms of procedural matters, the Applicant has been notified of the recommended pre-commencement conditions in accordance with the Town and Country Planning (Pre-commencement Conditions) Regulations 2018.

## **17.0 Planning Balance and Conclusion**

- 17.1 National policy requires planning to be genuinely plan-led. The proposal is considered to accord with the relevant policies contained in both the Council's adopted development plan and Emerging Local Plan. 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. It would also result in residents living in proximity to accessible means of employment. The social role of sustainable development is described as supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being. The proposal is considered to meet these objectives by providing a range of houses with appropriate green infrastructure and sustainable links to both leisure and employment facilities. In respect of the third dimension (environmental), the proposal will secure enhancement to habitats and landscape features, particularly in respect of a 10% uplift in tree canopy cover on site and a 10% biodiversity net gain onsite. 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. The proposed development is also considered to adhere to the requirements of the relevant site allocation policy WC2. Overall it is considered the positive social and environmental benefits of the proposal, as well as the economic benefit (to a lesser extent), would weigh in favour of this scheme.
- 17.2 The proposed development would have an impact on the character of the area (by introducing development in an undeveloped field) and would have less than substantial harm on the setting of listed buildings (Catchbells and St Albright's Church). There would also be impacts in respect of biodiversity and existing trees/hedgerows. It is considered however that the proposed development provides appropriate mitigation and that the benefits of the scheme outweigh the adverse impacts identified. As such, Members are recommended to resolve to grant planning permission subject to the conditions set out below and the s106 obligations set out in section 15 of this report.

## **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

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to complete the agreement. Delegated authority to make non-material amendments to planning conditions. The Permission will also be 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. Approved Details**

With the exception of any provisions within the following conditions, or as may be varied by the s106 Agreement, the development hereby permitted shall be carried out in accordance with the following details:

Site Location Plan (PH-130-001)  
Detailed Layout (PH-130-003 Revision F)  
Materials Layout (PH-130-004 Revision G)  
Storey Heights (PH-130-005 Revision F)  
Boundary Treatment (PH-130-007 Revision D)  
Landscape Strategy (PH-130-008 Revision G)  
Open Space and Phasing Plan (PH-130-009 Revision C)  
Hard Surfacing (PH-130-011 Revision B)  
HT Coralin (PH-130-020 Revision C)  
HT Gallows (PH-130-021 Revision D)  
HT Grantley (PH-130-022 Revision D)  
HT Albright (PH-130-023 Revision B)  
HT Bellington (PH-130-024 Revision B)  
HT Hollington (PH-130-025 Revision B)  
HT Kingsbury (PH-130-026 Revision C)  
HT Tey (PH-130-034 Revision B)  
HT Easthorpe (PH-130-035 Revision A)  
HT Fordham 1 (PH-130-036 Revision A)  
HT Fordham 2 (PH-130-037 Revision A)  
HT Aldeham 1 (PH-130-038 Revision A)  
HT Aldeham 2 (PH-130-039 Revision A)  
HT Lexden 2 (PH-130-041)  
HT Copford (PH-130-042 Revision A)  
HT Warren (PH-130-043 Revision A)  
HT Malting (PH-130-044)  
Carports (PH-130-051)  
Twin Garage (PH-130-050 Revision A)  
Phase 1 Geoenvironmental Assessment (1516 R01 Issue 1);  
Arboricultural Impact Assessment Revision C;  
Acoustic Design Statement Technical Report 35288-R2;  
Ecological Impact Assessment (Southern Ecological Solutions (SES), November 2020a);  
Interim Ecological Impact Assessment (SES, February 2022);  
Addendum to the Ecological Impact Assessment (SES, February 2022 Rev B); Biodiversity Net Gain Design Stage Report (SES, December 2021a);

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Habitats Regulations Assessment Report (HRA) (SES, November 2020b).

Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning. To allow the Local Planning Authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species).

### **3. Removal of Permitted Development Rights (Extensions and Outbuildings)**

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

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

### **4. Removal of Permitted Development Rights (Enclosures)**

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

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

### **5. 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.

## **6. Materials**

Notwithstanding the details shown on Materials Layout (PH-130-004 Revision G), the SVK Montana slate shall have a textured finish and the weatherboarding shall be featheredged weatherboarding. Any alternative materials to those shown on the drawing (including any alternatives to the Forticrete Mixed Russet roof tile) shall not be used until details (including samples as necessary) have first been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of good design and visual amenity, and to avoid any ambiguity as to the details approved.

## **7. Electric Charging Points**

Notwithstanding the submitted details, each residential unit shall be provided with EV charging point infrastructure. The infrastructure shall be installed and made fully available for use prior to occupation of the unit to which it relates.

Reason: In order to accommodate and encourage the use of ultra-low emission vehicles to reduce carbon emissions in the interests of climate change and sustainability.

## **8. Adaptable Dwellings**

Plots 1, 2, 58, 59, and 66 shall all be completed to meet M4(2) Category 2 of The Building Regulations 2010 Approved Document M (2015, as amended), as indicated on drawing PH-130-026 Revision C. No occupation of each of these plots shall take place until a Building Regulations Completion Certificate (to demonstrate that the plot meets M4(2) Category 2) has been submitted to and approved in writing by the Local Planning Authority.

Reason: In order to achieve high standards of design and provide adaptable and accessible housing.

## **9. Construction Method Statement and Traffic Management Plan**

No works shall take place, including any demolition, until both a Construction Method Statement and Construction Traffic Management Plan have 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;
- vehicle and 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 to protect highway efficiency and safety, and to ensure that amenities of existing residents are protected as far as reasonable.

#### **10. Construction Environmental Management Plan for Biodiversity**

No works shall take place until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority.

The CEMP (Biodiversity) shall include the following.

- a) Risk assessment of potentially damaging construction activities i.e. to retained habitats either physically or via lighting, as well as to protected and Priority species i.e. Badger, Bats.
- b) Identification of “biodiversity protection zones”.
- c) Practical measures (both physical measures and sensitive working practices i.e. soft fell of trees with Low roost potential, precautionary measures for Badger (including pre-commencement update survey), Hedgehog and Harvest Mouse, nesting bird checks, restoration of pond including fingertip search for GCN) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECow) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.
- i) Containment, control and removal of any Invasive non-native species present on site.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: To conserve protected and Priority species and allow the Local Planning Authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species).

#### **11. Surface Water Drainage During Construction**

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

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

## **12. Archaeological Investigation**

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

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

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

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

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

## **13. Contaminated Land (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.

#### **14. Contaminated Land (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.

#### **15. Contaminated Land (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.

## **16. Ecological Design Strategy for Bats**

No works shall take place until an ecological design strategy (EDS) for bats addressing the further surveys required to inform the detailed mitigation, compensation and enhancements required to mitigate for the loss of roost opportunities on site has been submitted to and approved in writing by the local planning authority. Further supplementary ecological surveys for roosting bats in trees to be lost to the development shall be undertaken to inform the preparation and implementation of ecological measures required through Conditions 18 and 19. The supplementary surveys shall be of an appropriate type for roosting bats in trees and survey methods shall follow national good practice guidelines."

The EDS for bats shall include the following.

- a) Purpose and conservation objectives for the proposed works.
- b) Review of site potential and constraints – to include updated further surveys in line with BCT guidelines.
- c) Detailed design(s) and/or working method(s) to achieve stated objectives to include: soft fell of trees with Low roost potential, translocation of sectioned roost features where possible, minimum of one replacement bat box for each tree/feature lost with roost potential (whichever is greater), a range of bat box designs suited to a variety of species and roost types.
- d) Extent and location/area of proposed works on appropriate scale maps and plans.
- e) Type and source of materials to be used where appropriate, e.g. native species of local provenance within attenuation basin, woodland, hedgerows and restored pond.
- f) Persons responsible for implementing the works.
- g) Details of initial aftercare and long-term maintenance.
- h) Details for monitoring and remedial measures.
- i) Details for disposal of any wastes arising from works.

The EDS for bats shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

Reason: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species).

## **17. Reptile Mitigation Strategy**

No works shall take place until a Reptile Mitigation Strategy addressing the mitigation and translocation of reptiles has been submitted to and approved in writing by the local planning authority, to follow advice provided within the Addendum to the Ecological Impact Assessment (SES, February 2022 Rev B).

The Reptile Mitigation Strategy shall include the following.

- a) Purpose and conservation objectives for the proposed works.
- b) Review of site potential and constraints.
- c) Detailed design(s) and/or working method(s) to achieve stated objectives.
  - d) Extent and location/area of proposed works on appropriate scale maps and plans.
  - e) Type and source of materials to be used where appropriate, e.g. native species of local provenance.
  - f) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
- g) Persons responsible for implementing the works.
- h) Details of initial aftercare and long-term maintenance of the Receptor area(s).
- i) Details for monitoring and remedial measures.
- j) Details for disposal of any wastes arising from works.

The Reptile Mitigation Strategy shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

Reason: To allow the Local Planning Authority to discharge its duties under the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species).

## **18. Biodiversity Enhancement Strategy**

No works shall take place until a Biodiversity Enhancement Strategy for protected and Priority species has been submitted to and approved in writing by the Local Planning Authority. The Biodiversity Enhancement Strategy, shall as a minimum include: pond restoration, woodland restoration, hedgerow enhancement and creation, attenuation basin creation, tree planting, wildflower grasslands, woodland buffer, standards planted for 'hop-over' either side of site access, a range of bird boxes – 26, 28 and 32mm boxes, open fronted nest boxes, stock dove box and sparrow terraces, hibernacula, hedgehog homes and connectivity measures.

The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs to achieve stated objectives;
- c) locations of proposed enhancement measures by appropriate maps and plans;
- d) persons responsible for implementing the enhancement measures;
- e) details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details prior to occupation and shall be retained in that manner thereafter.”

Reason: To enhance protected and Priority species & habitats and allow the Local Planning Authority to discharge its duties under the NPPF 2021 and s40 of the NERC Act 2006 (Priority habitats & species), as updated by the Environmental Act 2021.

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## **19. Landscape and Ecological Management Plan**

No works shall take place until a Landscape and Ecological Management Plan (LEMP) has been submitted to, and be approved in writing by, the local planning authority prior to the commencement of the development.

The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management i.e. to benefit breeding and wintering birds, reptiles, bats, badger, GCN and Priority mammals.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

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

Reason: To allow the Local Planning Authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species).

## **20. Surface Water Drainage Scheme**

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:

- 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 4.5l/s for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change subject to agreement with the relevant third party. All relevant permissions to discharge from the site into any outfall should be demonstrated.



- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change.
- Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- An updated drainage strategy incorporating all of the above bullet points including matters already approved and highlighting any changes to the previously approved strategy.

The scheme shall subsequently be implemented prior to occupation

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

## **21. Wildlife Sensitive Lighting Scheme**

No works shall commence on each phase of the development (as shown on Phasing Plan PH-130-009 Revision C) until a lighting design scheme for biodiversity has been submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats / nocturnal species and that are likely to cause disturbance along important routes used for foraging / commuting; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats / nocturnal animals using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

Reason: To allow the Local Planning Authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species).

## **22. Landscape Works**

Notwithstanding the submitted details, no works shall take place above ground floor slab level on each phase of the development as per Phasing Plan PH-130-009 Revision C 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 within the respective phase unless an alternative implementation programme is subsequently agreed, in writing, by the Local Planning Authority. The submitted landscape details shall include:

- Vehicle/Pedestrian/Cycle access points through agreed weak points in the hedgerows enclosing the site, to be informed by a detailed arboricultural survey.
- Details of hedge planting and gapping up (particularly in respect of the existing field hedge to the eastern boundary of the site which should be cleared of bramble and deadwood and gapped up with native hedging).
- Finished levels or contours, where notable changes are proposed.
- Means of enclosure.
- Car parking layouts and other vehicle and pedestrian access and circulation areas.
- Hard surfacing materials.
- Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.).
- Proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. Indicating lines, manholes, supports etc.).
- Sight lines, ensuring any part of an existing hedge with a its centre-line within 500mm of the sight line is proposed for removal and replacement behind the line.
- Planting plans (drainage and building foundation detailing shall take account of the position of the trees as so indicated). The plans should include revisions to show mown grass applied either side of the main spine road beneath the avenue tree planting (as a 1m boundary strip to wildflower/species rich grassed areas) and a revision of the proposed 'native wildflower seeding' to wildflower species and rich grasses, being also extended to the south of the SUDs basin.
- Written specifications.
- Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate (including details to demonstrate 10% uplift in tree canopy cover on the basis of the SES Canopy Area letter dated 21<sup>st</sup> December 2021 and Persimmon email dated 11<sup>th</sup> January 2022 14:09).
- Implementation timetables and monitoring programs.

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

### **23. Architectural Detailing**

Notwithstanding the details submitted, no works shall take place (above ground floor slab level in each phase of the development as shown on Phasing Plan PH-130-009 Revision C) until additional drawings (at scales between 1:20 and 1:1) that show details of the architectural detailing of the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. Details shall include window detailing (including details of the depth of reveal and any dormer features); rooflights to be used; chimneys; recessed/projecting/decorative brickwork and cladding; blank and faux windows; Juliet balconies; and any eaves, verge, ridge, and guttering details. The development shall then be implemented in accordance with the approved drawings.

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

#### **24. Utilities**

No works shall take place (above ground floor slab level in each phase of the development as shown on Phasing Plan PH-130-009 Revision C) until details of all new extract ducts, vents, grilles and meter housings have been submitted to and approved, in writing, by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

Reason: In the interests of good design and visual amenity as insufficient detail has been submitted with the application.

#### **25. Details of Utilities Structures**

No works to construct any utility structures (for example, pumping station or electrical cabinets) on site shall take place until details have first been submitted to and agreed in writing by the Local Planning Authority. The details shall include site location, floor plans, elevations, and details of materials to be used. The structures shall then be constructed and installed and approved.

Reason: In the interests of good design and amenity as insufficient details have been submitted with the application.

#### **26. Surface Water Drainage Management and Maintenance**

No occupation of the development shall take place 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) 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. The management and maintenance of the surface water drainage scheme shall then be undertaken as agreed.

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 and pollution hazard.

#### **27. Landscape Management Plan**

No occupation of the development shall take place until 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 has been 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.

## **28. Highway Works**

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

- a) A priority junction off London Road to provide vehicular and pedestrian access to the proposal site. Priority junction shall have but not limited to a minimum 2.4 x 43 metre visibility splay in both directions as measured along the nearside edge of the Port Lane carriageway
- b) Upgrade to Essex County Council specification the two bus stops which would best serve the proposal site, with details first having been submitted to and agreed in writing by the Local Planning Authority prior to first occupation of the development
- c) Improvements to Public Footpath 27 Stanway, with details first having been submitted to and agreed in writing by the Local Planning Authority prior to commencement of the development
- d) Residential Travel Information Packs in accordance with Essex County Council guidance

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

## **29. Details of Cycle Storage**

No occupation shall take place in each phase of the development hereby permitted (as shown on Phasing Plan PH-130-009 Revision C) until cycle parking for at least 1 no. bicycle per dwelling has been laid out within the site in accordance with details that shall have previously been submitted to and agreed, in writing, by the Local Planning Authority. The agreed cycle parking provisions shall thereafter be maintained and made available for this use at all times.

Reason: There is insufficient detail shown to ensure that there is satisfactory cycle parking available at the site at the time that it becomes occupied.

## **30. Street Name Signs**

No occupation shall take place in each phase of the development (as shown on Phasing Plan PH-130-009 Revision C) until street name signs have been installed at the junction of the new highway with the existing road network.

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

## **31. Contaminated Land (Validation Certificate)**

Prior to the first occupation of any of the dwellings in each phase 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 Conditions 14 and 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.

## 32. Unexpected Contamination

In the event that contamination that was not previously identified is found at any time when carrying out the approved development, 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 the Local Planning Authority and where remediation is necessary, a remediation scheme must be prepared, in accordance with the requirements of, and 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 the approved remediation scheme.

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

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

## 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](http://www.colchester.gov.uk/planning) or by using the application form entitled 'Application for approval of details reserved by a condition following full permission or listed building consent' (currently form 12 on the planning application forms section of our website). A fee is also payable, with the relevant fees set out on our website.

### **3. 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. Surface Water Drainage:**

You may require ordinary watercourse consent, please see the following link:

<https://www.essexdesignguide.co.uk/suds/further-guidance/ordinary-watercourse-consent/>

It is recommended that you consider the Essex Green Infrastructure Strategy to ensure that the proposals are implementing multifunctional green/blue features effectively. The link can be found below.

<https://www.essex.gov.uk/protecting-environment>

### **5.Landscape**

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

### **6.Secure By Design**

Essex Police recommend that the applicant/developer incorporate Crime Prevention through Environmental Design and apply for nationally acknowledged and police recommended Secure By Design accreditation.

Essex Police is able to support the applicant to achieve appropriate consideration of the Secure By Design requirements and is invited to contact Essex Police via [designingoutcrime@essex.police.uk](mailto:designingoutcrime@essex.police.uk) .

### **7.Fire Service**

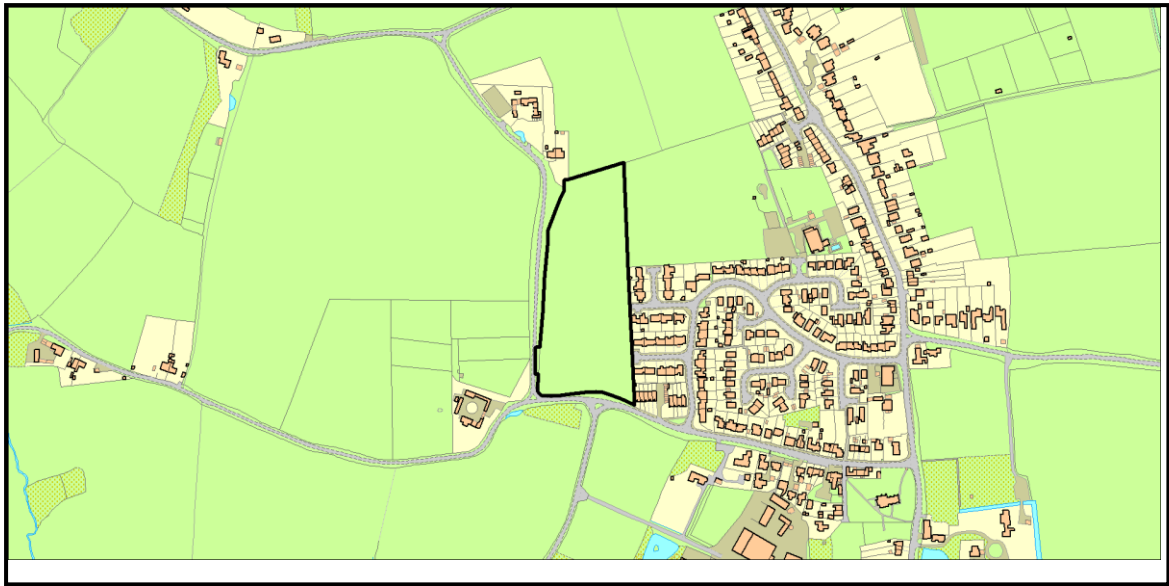
- The applicant/developer is advised that additional water supplies for fire fighting may be necessary for this development. The applicant/developer is urged to contact the Water Technical Officer at Service Headquarters, telephone 01376-576344.
- There is clear evidence that the installation of Automatic Water Suppression Systems (AWSS) can be effective in the rapid suppression of fires. Essex County Fire & Rescue Service (ECFRS) therefore uses every occasion to urge building owners and developers to consider the installation of AWSS. ECFRS are ideally placed to promote a better understanding of how fire protection measures can reduce the risk to life, business continuity and limit the impact of fire on the environment and to the local economy. Even where not required under Building Regulations guidance, ECFRS would strongly recommend a risk based approach to the inclusion of AWSS, which can substantially reduce the risk to life and of property loss. ECFRS 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. Anglian Water**

- Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.
- Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.
- Protection of existing assets - A public sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers will not be permitted (without agreement) from Anglian Water.
- Building near to a public sewer - No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087.
- The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact our Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements.







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**Item No:** 7.2

**Application:** 212646

**Applicant:** Mersea Homes Mersea Homes

**Agent:** Andrew Ransome

**Proposal:** Outline planning application for 30 dwellings and 1ha of public open space and access from Newbarn Road. Some matters reserved.

**Location:** Land to the east of, Newbarn Road, Great Tey

**Ward:** Rural North

**Officer:** Nadine Calder

**Recommendation:** Approval subject to S106 legal agreement and conditions

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

- 1.1 This application is referred to the Planning Committee because it is an application for major development, and the recommendation is for approval subject to a legal agreement. The application has also attracted objections.

## **2.0 Synopsis**

- 2.1 The key issues for consideration are the principle of the proposed development in terms of land use allocation; highway safety; wildlife impact; flood risk and contamination.
- 2.2 The site currently forms an agricultural field bounded by open countryside, public open space and residential development. It is the subject of an emerging allocation for residential development. Based on the information submitted, it is considered that the site is able to accommodate 30 dwellings and a minimum of 1ha of public open space ("POS") without appearing cramped or overdeveloped. The scheme is also acceptable from a highway safety point of view. Subject to appropriate conditions, there is unlikely to be any detriment to the amenity of the surrounding area or significant impact upon existing vegetation, wildlife, flood risk or contamination.
- 2.3 The application is subsequently recommended for approval subject to a legal agreement.

## **3.0 Site Description and Context**

- 3.1 The site extends to 2.9 hectares and currently forms an agricultural field. The land has a gentle gradient that runs in a north to south direction. The site is located to the east of Newbarn Road and to the north of The Street. The site's boundaries with these roads are characterised by a mature hedgerow, which only has a break in the south-western corner of the field.
- 3.2 The site adjoins the existing settlement boundary of Great Tey with residential development within Farmfield Road and Harvesters' Way lying to the east of the site. Dwellings within these roads are accessed from Greenfield Drive.
- 3.3 The north eastern part of the site bounds the village recreational ground, whilst the north western part is located adjacent to the residential curtilage of the dwellings located along Newbarn Road.

## **4.0 Description of the Proposal**

- 4.1 This application seeks outline planning permission with all matters reserved save for access for the provision of 30 residential dwellings (including 30% affordable housing), 1 ha of POS and access from Newbarn Road to the west of the site. The application is supported by an Indicative Land Use Area and Connectivity Plan which seeks approval for the land use parameters. If approved, all future reserved matters would be required to comply with the approved Parameter Plan.

- 4.2 Vehicular access to the site is proposed via a new priority junction with Newbarn Road, located 50m north of the Newbarn Road / Brookhouse Road Y-junction.
- 4.3 The Indicative Land Use Area and Connectivity Plan shows pedestrian and cycle access to Farmfield Road, Harvesters' Close and the public right of way that runs through the existing POS to the north east of the site (PROW 137\_14).

## **5.0 Land Use Allocation**

- 5.1 The site lies outside the defined settlement boundary for Great Tey, and thus within the countryside in the Adopted Local Plan (Site Allocations DPD (2010)). Within the emerging Colchester Borough Local Plan 2017-2033 in Section 2, the site forms part of a housing allocation (Policy SS8 Great Tey, 'Land off Greenfield Drive'), which is identified to accommodate 30 new dwellings and a minimum of 1ha of POS. The weight of emerging Policy SS8 is considered below.

## **6.0 Relevant Planning History**

- 6.1 There is no site history that is particularly relevant to this current application.

## **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
  - SD3 - Community Facilities
  - H1 - Housing Delivery
  - H2 - Housing Density
  - H3 - Housing Diversity
  - H4 - Affordable Housing
  - UR2 - Built Design and Character
  - PR1 - Open Space
  - TA1 - Accessibility and Changing Travel Behaviour
  - TA2 - Walking and Cycling
  - TA3 - Public Transport
  - TA4 - Roads and Traffic
  - TA5 - Parking

ENV1 - Environment  
ENV2 - Rural Communities  
ER1 - Energy, Resources, Waste, Water and Recycling

- 7.3 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:  
DP1 Design and Amenity  
DP3 Planning Obligations and the Community Infrastructure Levy  
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  
DP25 Renewable Energy
- 7.4 Some “allocated sites” also have specific policies applicable to them. The adopted Site Allocations (adopted 2010) policies set out below should also be taken into account in the decision making process:  
n/a
- 7.5 Adopted Local Plan and Emerging Local Plan Status – March 2021

The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The Section 2 Emerging Local Plan remains to complete examination, following hearing sessions held in April 2021. Reconsultation was then undertaken on the major modifications proposed by the Inspector and his final report is now awaited. Section 2 policies must be assessed on a case by case basis in accordance with NPPF paragraph 48 to determine the weight which can be attributed to each policy.

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

The Council can demonstrate a five year housing land supply.

### **Adopted Section 1 Local Plan**

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

The shared Section 1 of the Colchester Local Plan covers strategic matters with cross-boundary impacts in North Essex. This includes a strategic vision and policy for Colchester. Section 2 of each plan contains policies and allocations addressing authority-specific issues.

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

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

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

## **Emerging Section 2 Local Plan**

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

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

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

Section 2 will be afforded some weight due to its advanced stage. However, as it is yet to 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.

## 5 Year Housing Land Supply

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

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

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

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

The Council's latest published Housing Land Supply Annual Position Statement (August 2021) demonstrates a housing supply of 5,597 dwellings which equates to 5.79 years based on an annual target of 920 dwellings (966 dwellings with 5% buffer applied) which was calculated using the Standard Methodology. This relates to the monitoring period covering 2021/2022 through to 2025/2026.

## 8 Five Year Supply Calculation

- 8.1 The table below illustrates the 5-year supply calculation for the district during the period between 2021/2022 through to 2025/2026.

Housing Need OAHN	
Annualised objectively assessed housing need (OAHN)	920
5 year housing requirement (5x920)	4600
5 year housing requirement and 5% buffer	4830
Supply	
Permissioned sites, existing and selected emerging allocations and windfall allowance	5597
Total number of years' worth of housing supply including emerging allocations	
Supply against SM with permissioned sites, existing allocations, windfall and selected emerging allocations	5.79

- 8.2 The calculation above demonstrates that the Council has a sufficient supply of deliverable housing to meet the 5-year requirement. A total of 5.75 years is deliverable within this period.

The LPA's 5YHLS has been tested at appeal and found to be robust, the most recent cases being on Land at Maldon Road, Tiptree (Appeal Ref: APP/A1530/W/20/3248038) and Land at Braiswick (Appeal Ref: APP/A1530/W/20/324575).

In accordance with paragraph 73 of the NPPF, the adoption of the strategic housing policy in Section 1 of the Local Plan the adopted housing requirement is the basis for determining the 5YHLS, rather than the application of the standard methodology.

Given the above, it is therefore considered that the Council can demonstrate a five year housing land supply.

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

#### **General Local Plan Status**

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

Policy SP2 should be referred to when applying the Habitats Regulations requirements to secure RAMs contributions where appropriate. This does not

update the approach that the Council have been implementing but the Policy context has updated status with the adoption of Section 1 which includes a specific policy covering this issue.

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

### **Policy SD2 – Full**

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

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

The Council will seek to ensure that new development makes a reasonable contribution to the provision of related facilities and infrastructure. This will either be through a planning obligation (usually contained within a Section 106 agreement) and/or, if applicable, through a Community Infrastructure Levy (CIL) payment, following adoption of a CIL charging schedule.

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

Is replaced by SP6.

Policy SD2 is no longer relevant.

### **Policy SD1 – In Part**

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

When considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work



proactively with applicants jointly to find solutions which mean that applications can be approved wherever possible and to secure development that improves the economic, social and environmental conditions in the area.

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

Is replaced by SP1.

All other parts of SD1 remain relevant.

### **Policy H1 – In Part**

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

Is replaced by SP3 and SP4.

All other parts of H1 remain relevant.

### **Policy CE1- In part**

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

Is replaced by SP5.

All over parts of CE1 remain relevant.

<b>Section 1 Adopted Policy</b>	<b>Context of Section 1 Policy</b>	<b>Relevant Core Strategy Policy status</b>
<b>Policy SP</b> <b>1</b> Presumption in Favour of Sustainable Development	Restates national Policy	Replaces SD1 - in part.  Following text of SD1 is replaced by SP1.  <i>Colchester Borough Council will promote sustainable development and regeneration to deliver at least 14,200 jobs between 2001 and 2021 and at least 19,000 homes between 2001 and 2023.</i>  <i>When considering development proposals, the Council will take a positive approach that reflects the presumption in favour of</i>

		<p><i>sustainable development contained in the National Planning Policy Framework. It will always work proactively with applicants jointly to find solutions which mean that applications can be approved wherever possible and to secure development that improves the economic, social and environmental conditions in the area.</i></p> <p><i>Planning applications that accord with the policies in this Local Plan (and, where relevant, with policies in neighbourhood plans) will be approved without delay unless material considerations indicate otherwise.</i></p>
<b>Policy SP 2</b> Recreational disturbance Avoidance and Mitigation Strategy (RAMS)	Statutory requirement under the Habitats Regs- Policy provides a new authorisation for contributions	<p>New policy relevant to confirm approach implementing the Habitats Regulations.</p> <p>Full status for decisions post 1.02.2021</p>
<b>Policy SP 3</b> Spatial Strategy for North Essex	Strategic – relies on Section 2 eLP for Spatial hierarchy and Colchester strategy	<p>High level</p> <p>N/A</p>
<b>Policy SP 4</b> Meeting Housing Needs	Sets the housing supply figure for the Plan period at 920 per year. Section to allocate sites and determine the spatial distribution	<p>Replaces H1 - in part.</p> <p>Following text of H1 replaced by SP4.</p> <p><i>The Borough Council will plan, monitor and manage the delivery of at least 19,000 new homes in Colchester Borough between 2001 and 2023.</i></p> <p>All other parts of H1 remain relevant</p>
<b>Policy SP 5</b> Employment	Strategic target – relies on Section 2 eLP to allocated sites	Replaces CE1 – in part.

		<p>Following text from CE1 replaced by SP5.</p> <p><i>The Borough Council will encourage economic development and will plan for the delivery of at least 14,200 jobs in Colchester between 2001 and 2021.</i></p> <p>All other parts of CE1 remain relevant.</p>
<b>Policy SP 6</b> Infrastructure & Connectivity	<p>Strategic and restates national policy</p> <p>Section 2 covers matters specifically</p>	<p>High level/Garden Community – Section A</p> <p>Sections B, C, D and E of policy apply to all allocations and development proposals in the North Essex Authorities area. These sections replace SD2.</p>
<b>Policy SP 7</b> Place Shaping Principles	<p>Strategic / restates national policy and eLP</p> <p>Section 2 covers matters specifically</p>	<p>High level</p> <p>N/A</p>
<b>Policy SP 8</b> Development & Delivery of a New Garden Community in North Essex	<p>New- specific to the Garden Community</p>	<p>Garden Community</p> <p>N/A</p>
<b>Policy SP 9</b> Tendring/Colchester Borders Garden Community	<p>New- specific to the Garden Community</p>	<p>Garden Community</p> <p>N/A</p>

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

- 7.6 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):
- The Essex Design Guide
  - External Materials in New Developments
  - EPOA Vehicle Parking Standards
  - Affordable Housing
  - Community Facilities
  - Open Space, Sport and Recreation
  - Sustainable Construction

## **8.0 Consultations**

- 8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.
- 8.2 The Archaeological Advisor does not object to the proposal subject to a condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed.
- 8.3 The Contaminated Land Officer does not object to the proposed development.
- 8.4 Environmental Protection raise no objection to the application subject to a condition to limit to the hours of work and the submission of a Construction Method Statement.
- 8.5 The Landscape Officer does not object to the proposed development subject to conditioning the submission of additional information at reserved matters stage to illustrate the visual impact of the proposals from key viewpoints through Type 1 visualisations.
- 8.6 Private Sector Housing state that at this outline stage they have no comments. They will want to comment when the dwelling layouts and elevations, etc. are submitted.
- 8.7 The Tree Officer does not object to the proposal subject to the submitted tree report being made an approved document and conditioning all trees shown for retention to be retained.
- 8.8 The Urban Designer states that the quantum of development proposed appears broadly acceptable, however, the proposed location for the vehicular access cannot be supported in design terms. Additionally, the proposed spatial strategy as shown on the Indicative Land Use Area and Connectivity Plan is not considered appropriate in design terms and as such, this plan should not form part of any approval.
- 8.9 Anglian Water raise no objection to the proposal subject to informatives.
- 8.10 The Environment Agency has not provided any comments to the proposed development at the time of writing this report.
- 8.11 Essex County Council Highways raise no objection to the proposal subject to conditions including the submission of a construction traffic management plan, the provision of a priority junction off Newbarn Road to provide vehicular and pedestrian access to the site, the a minimum 3.5-metre-wide footpath/cyclepath between the site and the Farmfield Road and Harvesters' Way carriageways and the provision of Residential Travel Information Packs.

Further requests, to be covered via the S106 Legal Agreement, were also made and these are set out in Section 15 of this report.

- 8.12 Essex County Fire & Rescue Service raise no objection.
- 8.13 Essex Police would like to see this development to achieve a Secured by Design – Homes award.
- 8.14 The Lead Local Flood Authority has no objection to the proposal subject to conditions, including the submission of a detailed surface water drainage scheme for the site, a scheme to minimise the risk of off-site flooding caused by surface water run-off and ground water during construction works and prevent pollution, a maintenance plan detailing the maintenance arrangements and ensuring that yearly logs of maintenance are kept.
- 8.15 The Minerals and Waste Planning Authority has no comment to make in relation to this application as the area of the proposed development site located within the sand and gravel Mineral Safeguarding Area is below the minimum Minerals Local Plan 2014: Policy S8 threshold of 5ha.
- 8.16 Natural England has no objection to the proposed development subject to the relevant mitigation being secured.

## **9.0 Parish Council Response**

- 9.1 The Parish Council support this application subject to the following:
  - Clarification of responsibility of ongoing maintenance and the ownership of public open spaces; the ownership and responsibility for maintenance should be the responsibility of a suitably funded body, able to carry on its satisfactory management in perpetuity.
  - Clarification of responsibility for ownership and maintenance of trees and hedges.
  - Concerned that the developer's data provided is 3 years old.
  - Improvements to the road junction at Earls Colne Road and Chappel Road are necessary.
  - Road repairs to Greenfield Drive will be required as this will be used as an alternative access point to the development.
- 9.2 Additional comments were made stating that the Parish Council supports the Indicative Land Use Area and Connectivity Plan which reflects the result of the Neighbourhood Plan survey conducted throughout the parish and that they wish that the affordable housing should be integrated with private dwellings throughout the development.

## **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 24 letters from 19 households were received, either objecting to the proposed development or making a general observation. The reasons for commenting are summarised as follows (with the full extent of comments being available on the website):

- Overdevelopment;
- Loss of privacy;
- Loss of natural light;
- Loss of view;
- Increase traffic;
- Increase noise;
- Increase in light pollution;
- Site is located outside the village envelope;
- Great Tey has no amenities;
- The development would spoil the lovely country village;
- Existing lanes were not made for more traffic;
- There are no pavements along the roads;
- Development would make the roads more dangerous for walking;
- Great Crested Newts have been spotted in Newbarn Road;
- Proposal would increase pollution;
- Village struggles with drainage system;
- Disappointing that no wider improvements to cycling area are made;
- 30 houses in addition to 15 approved on brook Road exceeds the total number of additional dwellings accepted in Policy SS8;
- Limited access to public transport;
- Pressure on GPs, health, social and dental services;
- Village can absorb new housing but this needs to be achieved through a truly representative local Neighbourhood Plan;
- Additional pressure on electrical infrastructure which is unstable during poor weather;
- Digital communication is poor;
- Continued loss of green spaces;
- Additional pressure for schools;
- Decrease local farming opportunities;
- No streetlights – introducing lighting would add to the visual impact of the development on the rural nature;
- There are no smaller homes in the village – proposal should include starter homes; and
- Should be affordable homes or bungalows.

## **11.0 Parking Provision**

11.1 This is an outline application; however, the application confirms that parking is proposed to be policy compliant. Cycle parking for each dwelling would need to be provided within the curtilage of each dwelling.

- 11.2 This matter would be addressed via reserved matters and a condition is proposed to ensure the reserved matters submission will satisfy the Council's adopted parking standards for cars and cycles.

## **12.0 Accessibility**

- 12.1 This application is in outline form only with the design, layout and appearance of the proposed dwellings being a reserved matter. Notwithstanding this, for current allocations the accessibility standard would be expected to meet Building Regulations 2015 Part M4 Cat 2 for all affordable housing with the exception of upper floor dwellings. This is in lieu of Lifetime Homes as set out in Policy DP12. This could be secured via the S106 Agreement.

## **13.0 Open Space Provisions**

- 13.1 The application includes 1ha of public open space, which is in line with emerging policy requirements.
- 13.2 However, this is an outline application with all matters except access reserved. Details of the layout and landscaping of the scheme would therefore be provided as part of a reserved matters application rather than at this stage.

## **14.0 Air Quality**

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

## **15.0 Planning Obligations**

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

### **Archaeology - £15,153**

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

£753 for enhancement of the Colchester HER

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

### **Communities - £86,184.90**

Great Tey Parish Council Village Hall and Great Tey Community Swimming Pool. Contribution would be made towards Village Hall and the specific items listed (i) through to (v) set out below and all monies unspent directed to the swimming pool.

- (i) Remove stage and repair floor - would increase capacity and make more useable;
- (ii) Upgrade kitchen and increase servery area - would provide modern

- space to enable community hub/coffee bar as requested by residents;
- (iii) Replace and upgrade bi-fold doors - enable easier partition and better soundproofing to make spaces available for use at same time also increase income;
- (iv) Renew storage use to enable storage for new users; and
- (v) Provide more folding circular tables for hub and computers etc.

This calculation is based on 30 x 3 bed units. The calculation would be updated once the actual mix of unit sizes are known (for the purposes of the S106 Agreement, the request would need to be tariff based). This figure may increase or decrease accordingly.

#### **Parks & Recreation - £61,966.00 per 1ha**

Maintenance sum for Public Open Space if adopted by CBC

#### **Affordable Housing - obligation**

9 Affordable Units being requested.

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

## **16.0 Report**

### Principle of Development / Local Plan Overview

- 16.1 The proposal is outline with all matters other than access reserved. These comments therefore relate solely to the principle of the proposed development in relation to the current and emerging policy context.
- 16.2 In the context of the Adopted Local Plan (Core Strategy / Site Allocations) the site is located on greenfield land and therefore contrary to key policies in the Development Plan. However, as the site is allocated for housing development in the emerging Local Plan, which is very advanced in its preparation, a pragmatic approach is suggested with very significant weight to be given to the emerging Policy context rather than that of the current Adopted Plan.

### **Adopted Development Plan**

- 16.3 The relevant elements of the Adopted Local Plan comprise the Section 1 Shared Strategic Local Plan (adopted February 2021), the Core Strategy (Focused Review 2014) and the Site Allocations DPD. It must be acknowledged that the site lies outside of the settlement boundary in the current adopted Local Plan and as such it is contrary to key policies including ENV1 and the distribution elements of SD1 and H1 of the Core Strategy. All other elements of Policies SD1 and H1 are superseded by Policies in the Section 1 Strategic Plan including SP1, SP3 and SP4. Both SP3 and SP4 provide the strategic overview for housing growth and delivery directing towards the emerging Section 2 Local Plan to provide more details in respect of the spatial strategy and housing distribution. It is therefore reasonable and justified for the primary policy context for determining this application to be the



emerging Local Plan, provided that the relevant policies can be afforded sufficient weight.

### **The emerging Local Plan**

- 16.4 The Council is now well advanced in preparing a new Local Plan. Section 1 of the plan is adopted. The emerging Local Plan was submitted to the Planning Inspectorate in October 2017. The emerging Local Plan includes a Shared Strategic Section 1 (with Braintree and Tendring District Councils) and a Section 2 which includes Colchester specific policies and allocations. The Local Plan has been subject to two separate examinations, Section 1 was adopted in February 2021.
- 16.5 The emerging Section 2 Local Plan is yet to examination with hearing sessions held in April 2021. The Council are currently awaiting the Final Report from the Inspector following a six-week public consultation on the Main Modifications considered necessary to make the Plan sound. This ended on 18<sup>th</sup> November 2021, and it is anticipated the Adoption of Section 2 will be March / April 2022. Weight must therefore be given to the eLP.
- 16.6 Policy SS8 was subject to Main Modifications (MM62) with proposed changes shown below in bold;

Amend the policy in relation to Greenfield Drive as follows:

*"In addition to the infrastructure and mitigation requirements identified in policy PP1, development will be supported on land within the **policy** area identified on the policies map which provides:*

- (i) 30 new dwellings with **pedestrian and cycle** access off Greenfield Drive (Harvesters' Way and/or Farmfield Road) **and vehicle access from Newbarn Road**; and*
- (ii) A minimum of 1ha of public open space adjacent to existing public open space.*

***The emerging Neighbourhood Plan is intended to shape the character of the development."***

- 16.7 One representation was received to this Main Modification in response to the consultation. Whilst the Inspector has to consider the representations received, the point raised in this case was a matter of principle concerning the sustainability of Great Tey and also referenced comments made in relation to this current application which is not a matter for the Inspector. In respect of the more general concerns expressed around sustainability and the principle of development, this was considered comprehensively as part of the Local Plan Examination and the Inspector's Modifications were in respect of detailed policy points rather than principle. It is therefore considered that this does not raise anything new, and the representation does not specifically relate to the amended elements within the policy, so it is appropriate to consider that the wording of Policy SS8 is extremely unlikely to be further amended by the Inspector and it is reasonable to reference the amended wording of Policy SS8 as set out above and included in the Main Modifications consultation schedule

for the purposes of considering this application. Comments regarding weight to be afforded to this and other relevant emerging policies is addressed below.

- 16.8 The Framework also advocates consideration of other factors including the weight which can be afforded to emerging local plans 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 Framework (the closer the policies are to policies in the Framework, the greater the weight that may be given). For the purposes of considering this planning application, it is considered that the emerging Section 2 Local Plan as a whole is afforded significant weight. The policy comments which follow, therefore primarily relate to the emerging Section 2 Local Plan and any other matters as relevant.

### **Shared Strategic Section 1 Local Plan (Adopted February 2021)**

- 16.9 The key Policies relevant to the principle of this proposal include;
- SP1 - Presumption in Favour of Sustainable Development.
  - SP2 - Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
  - SP3 - Spatial Strategy for North Essex
  - SP4 - Meeting Housing Needs
- 16.10 As adopted Policies these all are afforded full weight. As the site is allocated for housing development in the emerging Section 2 Local Plan, it is considered that the proposal complies with Policies SP1, SP3 and SP4. In respect of SP2, it will be necessary for this to be complied with and the Local Planning Authority being satisfied that the Habitats Regulations are complied with.

### **Emerging Section 2 Local Plan**

- 16.11 The key Policies relevant to the principle of this proposal include;
- SG1 Colchester's Spatial Strategy
  - SG2 Housing Delivery
  - SS8 Great Tey
- 16.12 These policies were all subject to Main Modifications. In the case of SG1 and SG2 these proposed changes are not substantial to the intention of the policies and primarily reflect consequential changes as a result of the final content of Section 1 and other matters referred to elsewhere in the plan (such as with reference to policies related to Other Villages and the Countryside to ensure consistency through the plan). These are not therefore relevant to this application. Representations were very limited with a small number objecting specifically to the proposed changes and matters of principle within the Policies or reference to other locations within the Spatial Strategy. Again, none of these points have any bearing of the intention of the policy or implications of it in respect of this proposal. The position in relation to Policy SS8 is explained

further above. As the representation does not raise any fundamental matters which have not previously been addressed, it is considered that very significant weight can be afforded to Policy SS8 as amended by the Main Modification (MM62). Therefore, these key policies (as amended in the Main Modifications schedule) relevant to the principle of the proposal the subject of this application can all be afforded significant weight.

16.13 The proposal is for outline permission for 30 dwellings with everything other than access being reserved matters. Policy SS8 includes requirements in respect of the number of houses on this site specified as 30 and also to access considerations requiring pedestrian and cycle access off Greenfield Drive (Harvesters' Way and/or Farmfield Road) and vehicle access from Newbarn Road. The Planning Statement clearly indicates that these elements are fully complied with in the proposal the subject of this application. The policy also requires provision of 1ha of POS and although this is for the reserved matters, the application makes reference to a commitment to provide this in the future reserved matters application. There is no reason to question this, and it will be a matter to consider at the time a reserved matters application is determined. It is therefore confirmed that the proposal is fully compliant with the relevant policy requirements set out in amended Policy SS8 which it is confirmed should be afforded very significant weight.

16.14 In summary, although the proposal is contrary to the key policies in the Adopted Local Plan, it is fully supported by the recently Adopted Section 1 Strategic Policies and the well advanced emerging Section 2 Local Plan. Having considered the relevant policies against paragraph 48 of the Framework it is appropriate to afford very significant weight to the emerging Local Plan Policies in the determination of this application. In this context, it is concluded that Policy support can be given to the proposal the subject of the application subject to the local planning authority being satisfied that the requirements under Policy SP2 in relation to RAMS can also be met.

#### Design, Layout and Scale

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

16.16 Notwithstanding the above, the proposed development was reviewed by the Council's Urban Designer who noted that design considerations are limited to whether the quantum of development proposed is appropriate in the context of the site and whether the application demonstrates that the site is capable of accommodating the quantum of development proposed in an appropriate manner.

16.17 The application site is allocated within the emerging Local Plan as an extension to the existing settlement, to provide 30 dwellings and a minimum of 1ha of

POS. In this context the site falls within the settlement boundary and the principle of development is accepted. The site is located on the western rural edge of the existing settlement and consists of open countryside. The site sits adjacent to dwellings, highway connections and public open space within the existing settlement. Given the site's position immediately adjacent to the existing settlement, it provides a logical location for the incremental expansion of the existing settlement in design terms.

- 16.18 However, in light of the prevailing rural character of the site, the use of a rural system of spatial organisation should be adopted to provide a scheme that is dominated by landscape features. At the proposed density of 17dph it is considered that the site is likely capable of accommodating the proposed quantum of development without contradicting its context and existing character.
- 16.19 The application seeks to establish a means of access to the site. The emerging Local Plan originally required access be taken from Harvesters' Way or Farmfield Road. During the examination of the emerging Local Plan, modifications were requested to the policy that required access to be taken from Newbarn Road. It is rumoured that the modifications reflect the requirements of an emerging Neighbourhood Plan, however the Neighbourhood Plan appears to be at a very early stage and cannot be afforded weight. The weight to be given to each respective policy is a matter of planning balance.
- 16.20 The Urban Designer notes that, in design terms, the benefits of taking access from Harvesters' Way and/or Farmfield Road far outweigh any for taking access from Newbarn Road. Given that two carriageways currently run up to and terminate at the site's eastern boundary, it would appear logical to continue the respective carriageways into the site to provide vehicular access. This would also enable new dwellings to be located adjacent to existing dwellings, as would be logical, without the need for increased provision of grey infrastructure. Providing vehicular access from the east of the site would also provide enhanced connectivity to the existing settlement and remove the necessity to erode the character of the adjacent rural lane through the removal of vegetation along the site's future rural edge and widening of the existing carriageway.
- 16.21 Notwithstanding the above, modifications made to Policy SS8 set out that vehicular access to the site should be taken off Newbarn Road. The Urban Designer's comments are fully noted and understood, however, with the proposed development being in compliance with the emerging policy requests, it would be unreasonable to object to the proposed access in design terms as there is no policy conflict that would justify a refusal on that basis.
- 16.22 The Urban Designer does acknowledge that, if an access point from Newbarn Road is considered appropriate within the planning balance, the proposed position appears optimal, given that it requires removal of less existing green infrastructure and a shorter length of carriageway to be widened.

16.23 The application is supported by an Indicative Land Use and Area Plan which sets out the spatial strategy for the proposed development and is submitted for approval. This spatial strategy is however considered to fail to integrate the site with the existing settlement both physically and functionally. This is a result of the fact that the open space serves to sever the proposed scheme from the existing settlement. This approach reduces the suitability of the site as an extension to the existing settlement in design terms. Built form should be positioned with a direct relationship to existing built form, this could be achieved by breaking down the POS into smaller elements, some of which could be repositioned.

16.24 In order to be looked upon favourably, the spatial strategy for the proposal should respond to its context, by reflecting the existing settlement pattern and adopting a rural spatial strategy that is landscape led. It should also consider the following points:

- Blue and green infrastructure should form an integrated part of the layout and overall design.
- The landscape should dominate the built environment, and both should be utilised to enclose the public realm and create a series of distinct spaces. An appropriate relationship must be established between the height of both buildings and trees and the width of the spaces between them.
- The proposal should provide high levels of pedestrian permeability, connectivity and priority.
- Street trees should be included within the public realm where possible, in order to ensure their long term retention.
- POS should be included at a variety of scales, including smaller more intimate/informal/incidental areas.
- Areas of POS should be fronted by dwellings in order to provide activity and natural surveillance.
- The western boundary of the site will form the future rural edge of the settlement, as such the existing hedge line should be retained, enhanced and buffered by an element of open space.
- Features of the landscaping, architecture and placement of built form should combine to create a distinct and legible character within the site that contribute to an overall sense of place.
- Built form should establish a site wide identity that responds to the site's context and reinforces/enhances the local vernacular.
- A clear road hierarchy should be established and reinforced by adopting a varied surface material for shared surfaces and utilising a variety of frontage treatments for plots.
- Back to back distances should comply with the Essex Design Guide (15-25m dependent on relationship between units).
- Focal/nodal buildings should be included to enhance legibility within the site.
- Consideration should be given to the proposal's carbon footprint, for both the long and short term. This should include consideration of energy consumption and energy generation (i.e. construction methods, materials, building orientation and openings, utilities, renewables, etc.).

- 16.25 In summary, whilst the proposed access of Newbarn Road may not be the most desirable in design terms, it is held to be acceptable due to its policy support. The submitted Indicative Land Use Area and Connectivity Plan however is not considered to provide an appropriate spatial strategy and it is therefore recommended that this does not become an approved document, should planning permission be granted for the proposed development.

#### Landscape and Trees

- 16.26 Landscape is another matter that is reserved for consideration at reserved matters stage. The application however is supported by a Landscape and Visual Appraisal which assesses the potential landscape and visual constraints and opportunities of the site and its context. The Council's Landscape Advisor confirmed that the landscape aspect of this outline application, with all matters save access reserved, would appear satisfactory.
- 16.27 The Landscape and Visual Appraisal includes three Illustrative Landscape Strategies (Options 1-3) which outline three different spatial strategies for the site. The Landscape Advisor notes that Option 3, from a strictly landscape perspective, would be the preferred option as it maximises the space for landscape buffers and opportunities for passive surveillance.
- 16.28 The Landscape Advisor requests that, as the layout is refined and fixed under reserved matters the visual impact of the proposals from certain key viewpoints will need to be illustrated through Type 1 visualisations, clearly showing the outline/extent of the proposed development, including height and spread, and the impact of any mitigation planting proposed on those viewpoints illustrated over time to maturity. This could be conditioned in this instance.
- 16.29 The site also contains a number of existing trees, as a result of which an Arboricultural Impact Assessment was submitted. This was considered by the Council's Arboriculture Officer and agreed in principle.
- 16.30 It is concluded that the development, subject to conditions, can be carried out without causing material harm to existing trees and soft landscaping features, with the details of the landscape aspect relating to the proposed development being determined by way of a reserved matters application.

#### Highway Matters

- 16.31 Access is the only matter to be considered as part of this outline application. Vehicular access to the site is proposed to be provided to the west of the site by creating a new priority junction onto Newbarn Road. A detailed access drawing is submitted in support of the application, and this shows that visibility splays to a minimum of 2.4m x 43m to the south and a minimum 2.4m x 50m to the north can be achieved from this access.
- 16.32 Pedestrian and cycle access would also be provided off Newbarn Road by way of a 2m wide footway. It is however also the intention to connect the site to the

existing infrastructure network to the east of the site and provide pedestrian and cycle access off Farmfield Road and Harvesters' Way.

16.33 The Highway Authority has raised no objection to the proposed development subject to conditions relating to the provision of a Construction Traffic Management Plan, the development not being occupied prior to the priority junction off Newbarn Road providing vehicular and pedestrian access to the site with the above mentioned visibility splays being completed and the provision of Residential Travel Packs. These conditions are considered to be reasonable and necessary to make the proposed development acceptable and would therefore need to be imposed on any planning permission that may be granted.

16.34 As parking and cycling provision are not matters for consideration at this outline stage, conditions are proposed requiring the reserved matters to comply with the Council's adopted parking and cycle standards.

#### Impact on Neighbour Amenities

16.35 The impact of the proposed development on the residential amenities of existing neighbours as well as future occupiers of the site will be assessed as part of the reserved matters application. Concerns can be mitigated through the detailed design.

#### Impact on the Surrounding Area

16.36 The application site is allocated for residential purposes in the emerging Local Plan and is located to the west of existing residential development. As such, it is held that the proposed residential development of the site would not have an adverse impact on the surrounding area.

#### Drainage and Flood Risk

16.37 Core Strategy Policy SD1 and Development Plan Policy DP20 require proposals to promote sustainability by minimising and/or mitigating pressure on (inter alia) areas at risk of flooding. Policy DP20 also requires all development proposals to incorporate measures for the conservation and sustainable use of water.

16.38 The site lies within Environment Agency Flood Zone 1, however a Flood Risk Assessment is required as the site exceeds 1 hectare. The application is therefore supported by a Flood Risk Assessment and Drainage Strategy. The submitted information has been reviewed by Essex County Council as the Lead Local Flood Authority ("LLFA") who raised no objection to the proposed development in principle. As the application is in outline form only, with all matters except access reserved, a detailed surface water drainage scheme for the site would need to be secured via condition. Additional conditions requested by the LLFA, such as the submission of a scheme to minimize the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution; a maintenance plan detailing the

maintenance arrangement of the surface water drainage system; and the maintenance of yearly logs of maintenance, are considered to be relevant and necessary in order to make the development acceptable. Subject to these conditions, it is held that the proposed development would comply with the aims of the above-mentioned policies.

- 16.39 In addition to the above, Anglian Water confirmed that Great Tey Water Recycling Centre will have available capacity for the flows of this development and consequently, raised no objection to the proposed development.

#### Ecology

- 16.40 Section 40 of the Natural Environment and Rural Communities Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity and a core principle of the Framework is that planning should contribute to conserving and enhancing the natural environment. Development Plan Policy DP21 seeks to conserve or enhance biodiversity and geodiversity in the Borough while paragraph 174 of the Framework seeks to minimise impacts on and provide net gains for biodiversity.
- 16.41 The application is supported by a Preliminary Ecological Appraisal which found that the site is not the subject of any conservation designation nor is its development likely to impact off-site designations or habitats. The site contains habitats of low ecological significance, with isolated interest for several species' groups including nesting birds, foraging/commuting bats and transient reptiles. Hedgerows represent good connecting habitat for a range of wildlife. The habitats on site are broadly not conducive for legally protected species and that no further surveys would be required.
- 16.42 Given that the report was over 2 years old at the time of the application submission, an updated report was requested. This has since been submitted and should be read alongside the Preliminary Ecological Appraisal for completeness. The update to the Preliminary Ecological Appraisal did not identify any new constraints and it is therefore considered that the recommendations set out within the Preliminary Ecological Appraisal, together with any new recommendations provided within the updated Preliminary Ecological Appraisal, remain applicable.
- 16.43 These recommendations, which are proposed to be conditioned, together with the fact that the proposal would provide a minimum of 1ha of POS, would ensure that the proposed development would provide significant biodiversity net gains in accordance with national and local policy requirements.
- 16.44 In addition to the above, and in line with the requirements of Section 1 Policy SP2, a RAMS wildlife mitigation payment would be provided for £127.30 per dwelling. This payment could be secured via the S106 agreement that would be required to secure the necessary financial contributions to mitigate the proposed development.



### Archaeology

- 16.45 Both Core Strategy Policy ENV1 and Development Plan Policy DP14 seek to conserve and enhance Colchester's historic Environment. 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.
- 16.46 Prior to the determination of this application for outline planning permission, the applicant was advised to carry out an archaeological geophysical survey and trial trenching evaluation. Both have taken place, and the results of the evaluation have been submitted in support of this application.
- 16.47 The evaluation has discovered significant archaeological remains dating to the Bronze Age and early Iron Age, comprising ditches, pits and postholes indicative of late prehistoric occupation. A comparatively large assemblage of Bronze Age pottery was recovered. Notably some of the identified postholes clearly form a pattern representative of a prehistoric structure.
- 16.48 Any permission granted should therefore 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.

### Contaminated Land

- 16.49 Development Plan Policy DP1 requires new development to undertake appropriate remediation of contaminated land. The Contaminated Land Officer confirmed that the submitted Phase 1 Geoenvironmental Desk Study Report is acceptable for Environmental Protection's purposes. It is noted that no potential sources of contamination have been identified. Based on the information provided, this conclusion would appear reasonable and no conditions relating to contamination matters are therefore recommended for the proposed development.

### Other Matters

- 16.50 The Recommended Decision (as set out below) has been shared with the Agent and (pre-commencement) conditions have been agreed under the Town and Country Planning (Pre-commencement Conditions) Regulations 2018.

## **17.0 Conclusion**

- 17.1 To summarise, the proposal to provide 30 residential dwellings and a minimum of 1ha of POS on this site is acceptable in principle and the proposed access arrangements have been found to be acceptable on highway safety grounds. The final details of the scheme will have to be the subject of a submission of detail within the appropriate reserved matters and these will have to demonstrate that the design, layout, appearance and landscaping element of the proposed development are acceptable.

## **18.0 Recommendation to the Committee**

18.1 The Officer recommendation to the Committee is for:

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

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

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

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

### **2. ZAD - Time Limit for Outline Permissions Part 2 of 3**

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

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

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

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

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

### **4. ZAM - \*Development to Accord With Approved Plans\***

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

1118.L.001 (A)	Site Location Plan
1830/08 Rev2	Proposed Site Access Priority Junction
1830/08A Rev2	Proposed Site Access Priority Junction
1830/08B Rev1	Proposed Site Access Swept Path Assessment

Arboricultural Impact Assessment and Preliminary Method Statements (Reference No. TPSarb1510420, dated 10<sup>th</sup> September 2021)

Preliminary Ecological Appraisal prepared by Hybrid Ecology Ltd (Version 1, dated August 2019) updated through Update to Preliminary Ecological Appraisal (by Hybrid Ecology Ltd, dated 2<sup>nd</sup> March 2022).

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

## **5. Non Standard Condition - Archaeology**

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

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

- a. The programme and methodology of site investigation and recording.
- b. Provision to be made for analysis of the site investigation and recording.
- c. Provision to be made for reporting, publication and dissemination of the analysis and records of the site investigation.
- d. Provision to be made for archive deposition of the analysis and records of the site investigation.
- e. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
- f. The scheme of investigation shall be completed as agreed and approved in writing by the Local Planning Authority.

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

## **6. Non Standard Condition - Updated Landscape and Visual Appraisal**

No works shall take place until an updated version of the Landscape and Visual Appraisal lodged 12th November 2021 has been submitted to and agreed, in writing, by the Local Planning Authority. This updated Appraisal satisfactorily analysing the visual impact of the proposals from key viewpoints (2, 3, 4, 5, 6, 7 & 8) and illustrating that impact through Type 1 visualisations (clearly showing the outline/extent of development – i.e., outlining extent of developments height and spread) and the impact of any mitigation planting proposed on those viewpoints illustrated over time to maturity.

Reason: To ensure that a suitable Landscape Strategy is agreed in order to guide the detailed landscape design proposals, this to help to satisfactorily integrate the development within its surrounding context in the interest of landscape, townscape and visual amenity.

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

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

- Finished levels or contours, where notable changes are proposed.
- Means of enclosure.

- Car parking layouts and other vehicle and pedestrian access and circulation areas.
- Hard surfacing materials.
- Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.).
- Proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. Indicating lines, manholes, supports etc.).
- Planting plans (drainage and building foundation detailing shall take account of the position of the trees as so indicated).
- Written specifications.
- Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.
- Implementation timetables and monitoring programs.

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

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

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

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

#### **9. ZAN - Site Levels Plan**

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

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

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

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

the parking of vehicles of site operatives and visitors;  
hours of deliveries and hours of work;  
loading and unloading of plant and materials;  
storage of plant and materials used in constructing the development;

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

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

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

- Limiting discharge rates to 2.3 l/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.
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

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

being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

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

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

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

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

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

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

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

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

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

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

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.

**15. Non-Standard Condition - Upgrade to Bus Stops**

Prior to the first occupation of the development hereby permitted, the two bus stops which would best serve the proposal site shall be upgraded to Essex County Council specification. The details of the works shall be submitted to, and agreed in writing, by the Local Planning Authority, prior to commencement of the development.

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

**16. Non-Standard Condition - Provision of footpath/cyclepath**

Prior to the first occupation of the development hereby permitted, a minimum 3.5-metre-wide footpath/cyclepath shall have been provided and completed between the site and the Farmfield Road and Harvesters' Way carriageways.

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

**17. Non Standard Condition - Priority Junction**

Prior to the proposed access being brought into use, a priority junction off Newbarn Road to provide vehicular and pedestrian access to the proposal site shall be provided or completed. The priority junction shall have but not limited to a minimum 2.4 x 43 metre visibility splay to the south and 2.4 x 50 metre visibility splay to the north as measured along the nearside edge of the Newbarn Road carriageway. The visibility splays shall then be retained and maintained free from obstruction clear to ground thereafter.

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

**18. ZJX - \*Internal Estate Road Junction\***

Prior to each internal estate road junction being first used by vehicular traffic, that junction shall be provided with a clear to ground level visibility splay with dimensions of 25 metres by 2.4 metres by 25 metres on both sides. Such visibility splays shall be retained and maintained free of any obstruction clear to ground in perpetuity.

Reason: To ensure intervisibility between users of the highway at or approaching the road junction in the interests of highway safety.

**19. ZJF - \*Cycle Parking TBA\***

Prior to the first occupation of the development hereby permitted, details of the provision for the storage of bicycles sufficient for all occupants of the development shall be submitted to and agreed, in writing, by the Local Planning Authority. The agreed cycle parking provisions shall thereafter be maintained and made available for this use at all times.

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

## **20. Non Standard Condition - Individual vehicular accesses**

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

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

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

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

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

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

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

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

## **23. Non Standard Condition - Footways**

All footways should be provided at no less than 2 metres in width.

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

## **24. Non Standard Condition - Off street car parking**

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

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

## **25. ZIV - \*Garages 6m Back\***

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

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



## **26. Non Standard condition - Internal carriageway layout**

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

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

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

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

Weekdays: 08:00 – 18:00

Saturdays: 08:00 – 13:00

Sundays and Bank Holidays: no working

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

## **28. ZPE - Limits to Hours of Construction Deliveries/Worker Traffic**

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

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: no deliveries

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

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

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

Reason: In the interests of delivering sustainable economic growth.

## **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. ZT1 – Informative on Street Naming & Numbering**

For the safety of residents, it is the developer's obligation to ensure that

1. street name signs are in place before the first property is occupied on any new street, and
2. each property is marked with a house number visible from the highway before occupation.

### **3. ZTA - Informative on Conditions Stating Prior to Commencement/Occupation**

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

### **4. 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.

### **5. ZTG - Informative on Section 106 Agreements**

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

### **6. ZUJ - Informative on Archaeology**

PLEASE NOTE The submitted scheme of archaeological investigation should be in accordance with an agreed brief. This can be procured beforehand by the developer from Colchester Borough Council. Please see the Council's website for further information: <http://www.colchester.gov.uk/article/13595/Archaeology-and-the-planning-process>

### **7. Non Standard Informative - Landscape**

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

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

PLEASE NOTE that the applicant is advised by Essex County Council Highway Authority that all housing developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to The Advance Payments Code, Highways Act, 1980. The Developer will be served with an appropriate Notice by Essex County Council within 6 weeks of building regulations approval being granted and prior to the commencement of any development must usually provide them with guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specifications sufficient to ensure future maintenance as a public highway.

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

All work within or affecting the highway should be laid out and constructed by prior arrangement with and to the requirements and satisfaction of the Highway Authority, details to be agreed before commencement of the works. An application for the necessary works should be made to

[development.management@essexhighways.org](mailto:development.management@essexhighways.org)

## **10. Highway works**

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

## **11. Creation of new street**

All residential developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to the Advance Payments Code, Highways Act 1980. The developer will be served with an appropriate notice within 6 weeks of building regulations approval being granted and prior to commencement of the development must provide guaranteed deposits, which will ensure the new street is constructed in accordance with a specification sufficient to ensure future maintenance as highway by the Highway Authority

## **12. EV Charging points**

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

## **13. Anglian Water - Connection to public sewer**

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

## **14. Anglian Water - Protection of existing assets**

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

## **15. Anglian Water - Building near to a public sewer**

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

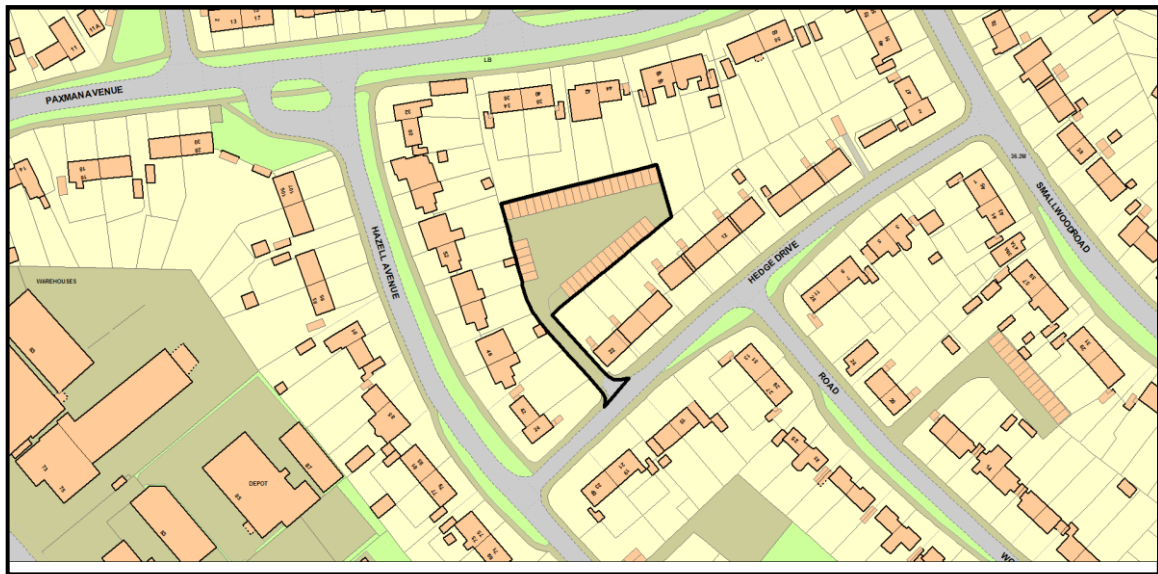
## **16. Anglian Water – Sewer adoption**

The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the

Water Industry Act 1991), they should contact Anglian Water's Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements.

### **17. Adapted Homes**

There is a request to meet the continued need for adapted homes in Colchester. The developer is strongly advised to include this in their designs and the Registered Provider, when chosen, is advised to liaise with the Council's Affordable Housing Officer to discuss opportunities for Colchester Borough Council funding the uplift in cost.



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### Item No: 7.3

**Application:** 220150

**Applicant:** Colchester Colchester Borough Council

**Agent:** Mrs Rebecca Howard

**Proposal:** Redevelopment of site to involve the demolition of the existing garages on site, and provision of 3 no. new dwellings

**Location:** Land to the rear of, Hedge Drive, Colchester

**Ward:** Shrub End

**Officer:** Nadine Calder

**Recommendation:** Approval/Refusal

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

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

## **2.0 Synopsis**

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

## **3.0 Site Description and Context**

- 3.1 The application site lies within the defined settlement limits for Colchester. It currently accommodates three flat-roofed blocks of garages which are offered for rent (managed by Colchester Borough Homes). A total of 39no. garages are on site. The garages appear to be in a reasonable state of repair.
- 3.2 The site is irregular in shape, with no road frontage. It is bounded by residential development to all sides. Access to the site is gained off Hedge Drive in the south eastern corner of the site.

## **4.0 Description of the Proposal**

- 4.1 The proposal includes the demolition of the existing garages and the construction of two 2-bedroom semi-detached dwellings and one 2-bedroom bungalow (Cat 3) with associated landscaping, parking and private amenity provision. The proposal is to be 100% affordable and would be owned by Colchester Borough Council and managed by Colchester Borough Homes.
- 4.2 In terms of the external appearance of the development, the scheme would comprise a pair of semi-detached properties and a detached bungalow. The palette of materials includes red brick, buff brick, and rockpanel cladding.

## **5.0 Land Use Allocation**

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

## **6.0 Relevant Planning History**

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

## 7.0 Principal Policies

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

### 7.2 Local Plan 2017-2033 Section 1

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

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

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

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

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

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

SD1 - Sustainable Development Locations

H1 - Housing Delivery

H2 - Housing Density

H3 - Housing Diversity

H4 - Affordable Housing

UR2 - Built Design and Character

ER1 - Energy, Resources, Waste, Water and Recycling

- 7.4 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:  
DP1 Design and Amenity  
DP12 Dwelling Standards  
DP16 Private Amenity Space and Open Space Provision for New Residential Development  
DP17 Accessibility and Access  
DP19 Parking Standards

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

- 7.6 The site does not lie in a Neighbourhood Plan Area.

- 7.7 Submission Colchester Borough Local Plan 2017-2033:  
The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The Section 2 Emerging Local Plan is at an advanced stage having undergone examination hearing sessions in April 2021 and recent consultation on modifications. Section 2 will be afforded some weight due to its advanced stage. However, as it is yet to complete full and final examination, the exact level of weight to be afforded will be considered on a site-by-site basis reflecting the considerations set out in paragraph 48 of the NPPF. Proposals will also be considered in relation to the adopted Local Plan and the NPPF as a whole.

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

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

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

## **8.0 Consultations**

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



- 8.2 The Archaeological Advisor does not object to the proposal subject to a condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed.
- 8.3 The Contaminated Land Officer does not object to the proposed development subject to conditions, including site characterisation, submission of remediation scheme, implementation of approved remediation scheme, reporting of unexpected contamination and a validation certificate.
- 8.4 Environmental Protection raise no objection to the proposal subject to conditions, including the submission of a construction method statement and limits to hours of work and an informative relating to EV charging points.
- 8.5 The Landscape Advisor does not object to this proposal subject to conditions.
- 8.6 The Highway Authority does not object to the proposal subject to conditions, including the provision of vehicular turning facilities for service and delivery vehicles, the provision of turning area and off street parking prior to the first occupation of the proposed development, provision of details for cycle storage and the provision of a construction management plan.

## **9.0 Parish Council Response**

- 9.1 This area is non-parished.

## **10.0 Representations from Notified Parties**

- 10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. The full text of all of the representations received is available to view on the Council's website. However, a summary of the material considerations is given below.
- 10.2 Four neighbouring occupiers and the Colchester Cycling Campaign commented on the application, either objecting or making a general observation. The concerns that were raised (and are relevant to this application) can be summarised as follows:
- No to any building/development on this site;
  - Garages are all (or mostly) occupied;
  - Do not want my rear garden wall knocked down, leaving garden open to a building site;
  - Do not wish to lose the garage I rent;
  - First floor side facing window to be obscure glazed to avoid overlooking of neighbouring gardens; and
  - Convenient secure cycle parking should be provided at one space per bedroom

## **11.0 Parking Provision**

- 11.1 The Vehicle Parking Standards SPD, to which Development Policy DP19 refers, provides the parking standards for residential development. The adopted standard for dwellings of two or more bedrooms is a minimum of two car parking spaces per dwelling plus a minimum of one secure covered cycle space per dwelling (unless a secure area can be provided within the curtilage of the dwelling). Visitor car parking is also required at a rate of 0.25 spaces per dwelling (rounded up to the nearest whole number).
- 11.2 The proposal provides two parking spaces per dwelling plus one visitor space and the proposed provision therefore complies with the adopted standards. However, the scheme affects tenanted garages. This will be further assessed in the main body of the report below.

## **12.0 Accessibility**

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

## **13.0 Open Space Provisions**

- 13.1 The proposed dwellings have adequate amenity space overall.

## **14.0 Air Quality**

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

## **15.0 Planning Obligations**

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

## **16.0 Report**

### Principle of Development

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

### Affordable Housing Need

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

### Design, Layout and Impact on Surrounding Area

- 16.4 At the heart of the National Planning Policy Framework (the Framework), there is a presumption in favour of sustainable development. Good design is a key aspect of sustainable development and the Framework indicates that new development should respond to local character and should reflect the identity of its surroundings. This is reflected in Development Policy DP1 and Core Strategy Policy UR2. These policies state that all proposals should be well designed, having regard to local building traditions, and should be based on a proper assessment of the character of the application site and the surrounding built and natural environment.
- 16.5 Owing to the site's set back from Hedge Drive to the rear of the built frontage, it represents a backland form of development. The site is surrounded by residential rear gardens belonging to dwellings fronting Paxman Avenue to the north and east, Hedge Drive to the south and Hazell Avenue to the west. There would be no public views available towards the proposed dwellings. The proposal comprises of a pair of semi-detached dwellings and a detached bungalow. The surrounding area is characterised by mainly semi-detached or terraced dwellings/bungalows of no particular architectural merit. The external materials for the proposed development include a mixture of red brick and buff brick with rockpanel cladding to add visual interest to the development. The arrangement of the cladding feels a little awkward however, it does help breaking down the mass of the building and given the limited public visibility of the development, it is not considered that this element of the proposal would result in any significant material harm to the visual amenity of the surrounding area. The use of brick for the main bulk of the proposed development would ensure that the proposal respects the existing built development that surrounds the site, with the introduction of contrasting materials elevating the appearance of the proposed development.
- 16.6 Paragraph 134 of the Framework makes it clear that great weight should be given to proposals that help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.

Whilst the design of the proposed development in itself is not outstanding, as referred to in the Framework, it is considered that a more contemporary approach to the proposed development would create some visual interest in an area that is otherwise very repetitive in design and appearance. The visual amenity of the surrounding site would therefore be improved, even if this amenity is only private and not public due to the backland location of the development. As a result, the proposal is held to be acceptable in terms of its overall design, appearance and impact on the surrounding area.

#### Impact on Neighbour Amenities

- 16.7 The proposed development would be located amongst existing residential development. Consideration needs to be given as to how the proposal would affect the occupants of nearby residential properties in terms of loss of light, privacy and overbearing impacts.
- 16.8 Neighbouring properties along Hedge Drive to the south east of the site are bungalows whereas neighbouring properties to the north and west are two storey dwellings. The scheme has been designed to reflect and respect adjoining neighbouring properties by way of providing a bungalow adjacent to the south eastern boundary of the site and raising the building height to two storey to the north of this.
- 16.9 The proposed two storey dwellings would be located at a 90 degree angle to existing properties to the north with the bungalow facing neighbouring properties to the south east of the site at a slightly lesser degree angle. The single storey nature of the bungalow would however alleviate any potential concerns with regards to the orientation of this property. The dwellings are proposed a significant distance from the nearest neighbouring properties and this would ensure that there would be no unacceptable impacts in terms of loss of light or overbearing impacts on neighbouring occupiers. The proposal has also been carefully considered with regards to retaining the privacy of existing neighbours and future residents of the proposed development. The two storey dwellings therefore only benefit from one first floor side facing window and this would serve the landing, i.e. a non-habitable room. As such, the proposed development would not negatively impact the privacy of future occupiers of the proposed development. The bungalow would benefit from windows serving habitable rooms in the flank wall, however, the single storey nature of this development would again ensure that no loss of privacy would occur as a result of these.
- 16.10 With regards to the proposed residential use on the site, it is considered that this is more compatible with the surrounding area than the current garage site. The proposal to create three residential dwellings on this site is held to have the potential to create less comings and goings (and associated noise and disturbance) to and from the site which would have a positive impact on the amenities of neighbouring occupiers of the site.

- 16.11 Taking into account the above, it is concluded that the proposed development is acceptable with regard to impact on the amenities of existing neighbouring occupiers as well as future occupiers of the proposed development.

#### Parking and Highway Safety

- 16.12 Adopted parking standards require two parking spaces per dwelling, plus 0.25 visitor parking spaces per dwelling. On this basis, the development would require a total of seven parking spaces, and this is provided as shown on the submitted drawings. Secure cycle storage can be provided within the rear gardens of the individual plots. The development would utilise an existing and active vehicular access and adequate turning facilities within the site are provided. The development has therefore not attracted any objections from the Highway Authority on highway safety or efficiency grounds. As such, the proposed development is held to be acceptable in this regard subject to relevant conditions.
- 16.13 The proposed scheme however affects tenanted garages. The proposal results in the loss of 39 garages. The garages are unallocated to local residents. They are managed by CBH and are rented out. Information submitted as part of the application states that 26 of the garages are rented out to tenants. It is however not known whether the garages are used for storage or parking purposes, and whether those renting the garages are local.
- 16.14 The worst-case scenario includes a maximum of 26 cars in need for displacement although this figure is likely to be much lower given that it is highly unlikely that all 26 garages are used for the parking of a car and/or rented by local residents.
- 16.15 The Car Parking Displacement Survey that was submitted in support of this application states that at the time of their visits, which were carried out on a Tuesday at 1.30pm and on a Sunday at 9am, there was sufficient capacity in the immediate surroundings of the site (i.e. within a 100m radius) for additional roadside parking and that the displaced cars would not increase the parking stress within the surrounding area to a significant level.
- 16.16 Whilst it is less than ideal to displace vehicles from off-street into the highway, it is considered that the absence of any demonstrable harm to highway safety and efficiency, combined with the benefits of the scheme, which include a 100% affordable housing provision, would result in the proposed development being acceptable in this instance. Furthermore, it should be noted that the Council, where possible, is willing to work with affected residents to find alternative solutions to mitigate the loss of their rented garage.

### Private Amenity Space

- 16.17 Development Policy DP16 requires that all new residential development shall provide private amenity space to a high standard, with secure usable space that is also appropriate to the surrounding context. The minimum requirement for 2-bedroom houses is 50m<sup>2</sup> of private amenity space per dwelling. These requirements are echoed in emerging Section 2 Policy DM19.
- 16.18 The submitted site plan clearly shows that the development provides not only policy compliant private garden spaces, but that the proposed spaces are of a high standard with the siting, orientation, size and layout making for a secure and usable space. The proposed arrangement is therefore appropriate in its context.
- 16.19 Policy DP16 also states that *“all new residential development will pay a commuted sum towards open space provision and maintenance.”* No exception is made in relation to developments of affordable housing. Indeed, Supplementary Planning Document “Provision of Open Space, Sport and Recreational Facilities” specifies that *“the standards, outlined above, are to be applied to all additional new residential Units. (...) New development includes most specialised types of housing including agricultural dwellings, affordable housing and also staff accommodation since all will create additional demands for open space.”*
- 16.20 No Unilateral Undertaking or Monitoring Fee has been submitted with regard to addressing this policy. Consequently, the proposal presents a minor conflict with adopted policy. However, in similar previous cases at Council owned garage sites given permission in the past, the Council waived the commuted sum in order to make the provision of 100% affordable housing schemes viable. Given that the developer is the service provider, the requirement for contributions is effectively negated. It does not set a precedent for private market housing as this does not provide 100% affordable housing.
- 16.21 In addition, CBC is the provider and maintainer of public open spaces and is also the landowner. In this capacity, it has the power to provide and maintain the land for public benefit for the foreseeable future anyway. As maintenance of public open space is undertaken from the Council's overall budget, there would be no net gain to the community by requiring payment of open space contributions as it would simply take money from one part of the budget and move it to another.
- 16.22 In conclusion, the scheme provides acceptable private amenity space and open space provisions.

### Landscape and Trees

- 16.23 Development Plan Policy DP1 and emerging Section 2 Policy DM15 require development proposals to demonstrate that they respect and enhance the character of the site, context and surroundings including its landscape setting.
- 16.24 There are a number of trees and hedgerows on the boundaries of, but outside, the site and accordingly, a Tree Constraints Plan was submitted with the application which identified the existing landscape features to be of some amenity value.
- 16.25 The site currently contains garages and hardstanding in close proximity to these features, all of which are proposed to be retained. As such, it is considered that the development can be implemented without undue impact on retained trees and hedgerows. Notwithstanding this, a Tree Protection Plan has been submitted setting out how the existing landscape features are proposed to be protected during construction works. Subject to the recommendations set out in this document being adhered to (which could be conditioned), it is considered that the proposed development is acceptable in terms of its impact on existing landscape features.
- 16.26 Provision of new soft landscaping features is also made to the front gardens of the properties and along the western boundary of the site. A satisfactory landscaping scheme could be secured via condition and the development is therefore considered to be acceptable in terms of its landscape impact.

### Heritage Impacts

- 16.27 The proposed development will be situated directly on top of the projected line of the main Colchester to Gosbecks Roman road. Roadside ditches were identified in trial trenches at Alderman Blaxill School a short distance to the north east in 2017. There is therefore considerable potential for the proposed development to impact on Roman remains of significance.
- 16.28 Accordingly, 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. This was accepted by the agent and subject to this, it is considered that the development would be acceptable from a heritage perspective.

### Other Matters

- 16.29 Refuse and recycling storage facilities will be provided within the individual plots with a communal bin collection point proposed at the end of the access drive for collection days. The proposed arrangements will not have any adverse impact on the visual amenity of the surrounding area.
- 16.30 The application site is located within Flood Zone 1 and consequently, the site is unlikely to be susceptible to flooding and the development would not contribute to surface water flooding.

- 16.31 The site has been used for garaging for some years and therefore a Ground Contamination Report was submitted with this application. The Contaminated Land Officer is satisfied with this report and concludes that the site could be made suitable for its intended use subject to conditions which have been accepted by the agent. There are therefore no objections to the proposal on the basis of contamination.
- 16.32 Concerns were raised by neighbouring occupiers that the demolition of the garages would leave their gardens exposed given that the garages currently form part of their boundary. The agent confirmed that no garden will be left exposed, with temporary fencing being installed to secure neighbours' gardens immediately after the demolition of the garages. Once the development is completed, the temporary fence will be replaced with a permanent fence/brick wall.
- 16.33 A payment of £127.30 per dwelling will be made in contribution towards the measures in Recreational disturbance Avoidance and Mitigation Strategy (RAMS) for the Essex Coast to avoid and mitigate adverse effects from increased recreational disturbance to ensure that Habitat Sites are not adversely affected and the proposal complies with the Habitat Regulations.

#### Planning Balance

- 16.34 The Framework confirms that the purpose of the planning system is to contribute to the achievement of sustainable development, identifying three dimensions to sustainable development: an economic, social and environmental dimension. In respect of the first of these, the current proposal would provide economic benefits through the creation of temporary employment during the construction phase. The provision of additional and more modern affordable housing within the Borough generally satisfies the social dimension. The social role of sustainable development is also described as fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs. The proposal is considered to satisfy this objective due to the development being generally well designed. In respect of the third dimension (environmental), the proposal would remove an underused garage site and provide additional landscaping features (which would be the subject of a pre-commencement condition). The proposed development is considered to be of an enhanced visual quality when compared to the existing development on the site and would deliver much needed affordable homes in the Borough.
- 16.35 The proposed development is therefore considered to represent sustainable development. There is also sufficient evidence to be confident that overall, the development would not cause significant harm to the amenity of nearby residents, create noise pollution or have a severe impact upon the highway network.



## **17.0 Conclusion**

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

## **18.0 Recommendation to the Committee**

- 18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following condition:

### **1. ZAA - Time Limit for Full Permissions**

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

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

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

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

HEDGED-IWD-XX-XX-DR-A-1000 Rev P01 (Existing Location Plan)

HEDGED-IWD-XX-XX-DR-A-2000 Rev P01 (Proposed Site Plan)

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

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

HEDGED-IWD-02-XX-DR-A-2051 (Proposed Elevations – Plots 2-3 (Block 02)

EAS-109.3 TPP (Tree Protection Plan (TPP))

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

### **3. ZBB - Materials As Stated in Application**

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

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

### **4. Z00 - Archaeology**

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

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

- a. The programme and methodology of site investigation and recording.
- b. The programme for post investigation assessment.
- c. Provision to be made for analysis of the site investigation and recording.

- d. Provision to be made for publication and dissemination of the analysis and records of the site investigation.
- e. Provision to be made for archive deposition of the analysis and records of the site investigation.
- f. Nomination of a competent person or persons/organisation to undertake the works. The site investigation shall thereafter be completed prior to development, or in such other phased arrangement, as agreed, in writing, by the Local Planning Authority. The development shall not be occupied or brought into use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

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

#### **5. Z00 – Hard and soft landscaping**

No works shall take place until a scheme of hard and soft landscape works for the publicly visible parts of the site has been submitted to and agreed, in writing, by the Local Planning Authority. This scheme shall include any significant changes in ground levels and also proposed planting, details of any hard surface finishes and external works. The implementation of all the landscape works shall comply with the recommendations set out in the relevant British Standards current at the time of submission. The approved landscape scheme shall be carried out in full prior to the end of the first planting and seeding season following the first occupation of the development or in such other phased arrangement as shall have previously been agreed, in writing, by the Local Planning Authority. Any hard or soft landscape works which, within a period of 5 years of being implemented fail, are removed or seriously damaged or seriously diseased shall be replaced, like for like, in the next planting season with others of similar specification/size/species/mix, unless the Local Planning Authority agrees, in writing, to a variation of the previously approved details.

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

#### **6. ZFE – Landscape management plan**

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

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

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

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

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

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

## **8. Z00 – Provision of Size 3 turning head**

Prior to commencement of the proposed development, details for the design of the proposed vehicular turning facilities for service and delivery vehicles of at least size 3 dimensions shall be submitted to, and approved in writing by, the Local Planning Authority. The approved facilities shall be provided prior to the first occupation of the development hereby approved and shall be retained and maintained free from obstruction thereafter.

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

## **9. ZGX - Contaminated Land Part 1 of 4 (Site Characterisation)**

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

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

(ii) an assessment of the potential risks to:

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

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

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

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

#### **10.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

#### **11.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.

#### **12.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 9 and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 10, 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 11.

### **13.ZG3 - \*Validation Certificate\***

Prior to the first occupation of the development, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 12.

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

### **14.Z00 – Provision of turning area and off street parking**

The development shall not be occupied until such time as the turning area and off street parking has been provided in accord with the details shown in the approved drawing number HEDGED-IWD-XX-XX-DR-A-2000 Rev P01 (Proposed Site Plan). The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

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

### **15.Z00 - Cycle Parking**

Prior to first occupation of the development hereby approved, details of the number, location and design of cycle parking facilities shall be submitted to and approved, in writing, by the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.

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

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

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

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working.

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

## 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](http://www.colchester.gov.uk/planning) or by using the application form entitled 'Application for approval of details reserved by a condition following full permission or listed building consent' (currently form 12 on the planning application forms section of our website). A fee is also payable, with the relevant fees set out on our website.

### 3.INS – Non Standard Informative on Landscape

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

### 4.INS – Non Standard Informative on Archaeology:

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

### 5. INS – Non Standard Informative on 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.

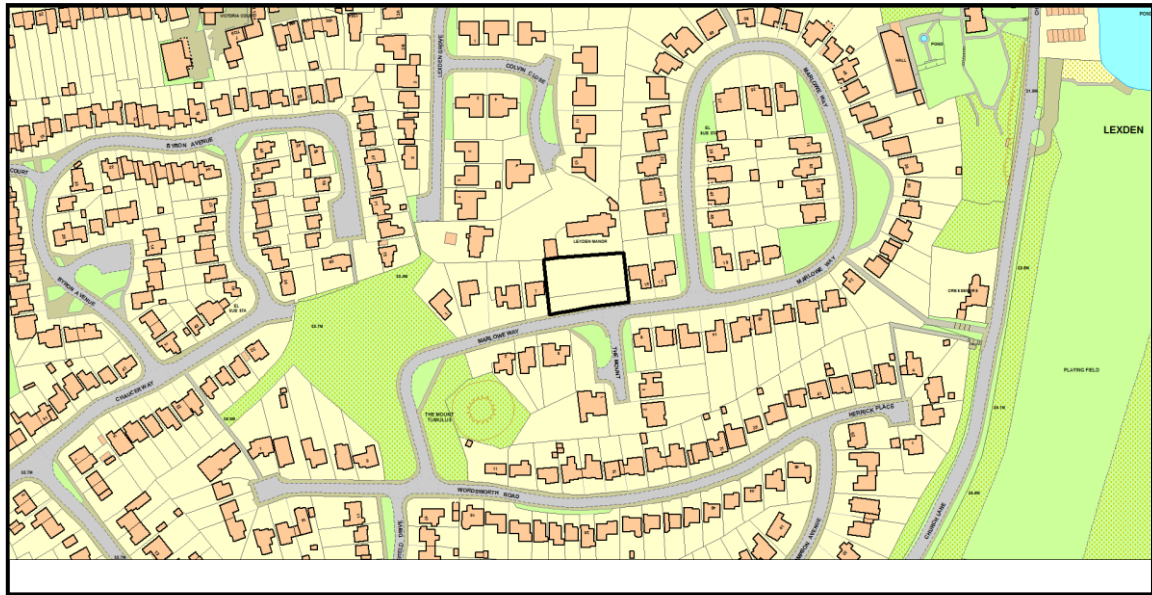
The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org).

#### **6.INS – Non Standard Informative on EV Charging Points**

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







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**Item No:** 7.4

**Application:** 212888

**Applicant:** Mr D Cave

**Agent:** C Exley, Stanley Braggs

**Proposal:** Construction of three 4-bedroom detached houses, each with an integral garage, plus individual private driveways connecting to Marlowe Way. Retention of two TPO trees.

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

**Ward:** Prettygate

**Officer:** Chris Harden

**Recommendation:** Approval

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

- 1.1 This application is referred to the Planning Committee because it has been called in by Councillor Cllr Buston who raises the following concerns: that the proposal is contrary to Local Plan policies relating to open space, built design, amenity, community facilities and retention of open space and to the provisions of the NPPF (well designed places). Full comments are outlined in the consultations section of this report.

## **2.0 Synopsis**

- 2.1 The key issues for consideration are the layout, scale, form and design, and impact upon neighbouring residential amenity, highway safety and vegetation.
- 2.2 The application is subsequently recommended for approval. In summary, the site is within the settlement limits and is in a sustainable location so accords with Local Plan Policy in principle. It is considered the site can adequately accommodate the three proposed dwellings without them appearing cramped or being out of keeping with the character of the street scene. It is not considered the proposal represents overdevelopment as the sizes of each plot are comparable with other plots in the vicinity and satisfy relevant plan policies concerning private amenity space.
- 2.3 It is not considered the loss of this currently open area can justify a refusal in principle as there is adequate space for landscaping across the frontage of all plots and the scheme proposes retention of the TPO trees. The Planning Committee resolution/deliberations on the previously refused scheme did not raise an overall objection to the principle of development on the site in this respect.
- 2.4 The design, scale and form of the dwellings is considered acceptable, and the height of the dwellings has been reduced compared to the previously refused scheme. Their scale, including height and main gable proportions relate satisfactorily to the scale and form of other dwellings in the vicinity and the dwellings themselves have appropriate elements of design and detailing, including fenestration. The design revisions are therefore considered to overcome the concerns raised on the previously refused scheme to the detailed design and form of the dwellings.
- 2.5 The dwellings are also considered to be adequately spaced and set off either side boundary. Views of Lexden Manor to the rear are achievable through the gaps. There are no objections on the grounds of highway safety, with adequate visibility splays in either direction and provision for adequate parking on the site. There is adequate amenity space for each new dwelling. It is not considered there would be a significant impact on neighbouring residential amenity from the proposed dwellings in terms of overbearing scale, loss of light or overlooking or in respect of noise and disturbance.

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

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

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

- 4.1 The proposal is for the construction of three No. 4-bedroom detached houses, each with an integral garage, plus individual private driveways connecting to Marlowe Way. It would include the demolition of a modern brick boundary wall to Lexden Manor, which has already been partly removed. This element was permitted development. The two protected (TPO) trees at the front of the site would be retained.

### **5.0 Land Use Allocation**

- 5.1 Settlement Limits

### **6.0 Relevant Planning History**

- 6.1 210304 Demolition of brick boundary wall to Lexden Manor. Construction of three 4-bedroom detached houses, each with integral garage, plus individual private driveways connecting to Marlowe Way. Retention of two TPO trees.

Refused: *"The proposed three dwellings, by reason of their detailed design, form and scale (including being higher than the adjacent properties) would be out of keeping with and harmful to the character of the established streetscene and surroundings."*

- 6.2 210331 land adj Lexden Manor – Erection of 1 No.5 bed house. Approved & implemented.
- 6.3 192337 Conversion of Lexden Manor to create 5 flatted units. Approved
- 6.4 COL/89/1308, Conversion of the main dwelling into flats and additional cottages and apartments in the grounds. Refused. Appeal dismissed

### **7.0 Principal Policies**

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

## 7.2 Local Plan 2017-2033 Section 1

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

- SP1 Presumption in Favour of Sustainable Development
- SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
- SP3 Spatial Strategy for North Essex
- SP4 Meeting Housing Needs
- SP7 Place Shaping Principles

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

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

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

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

SD1 - Sustainable Development Locations  
SD2 - Delivering Facilities and Infrastructure  
H1 - Housing Delivery  
H2 - Housing Density  
H3 - Housing Diversity  
H4 - Affordable Housing  
UR2 - Built Design and Character

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

DP1 Design and Amenity  
DP3 Planning Obligations and the Community Infrastructure Levy  
DP4 Community Facilities  
DP12 Dwelling Standards  
DP14 Historic Environment Assets  
DP15 Retention of Open Space and Indoor Sports Facilities

DP16 Private Amenity Space and Open Space Provision for New Residential Development  
DP17 Accessibility and Access  
DP19 Parking Standards  
DP20 Flood Risk and Management of Surface Water Drainage  
DP21 Nature Conservation and Protected Lanes

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

N/A

- 7.6 Neighbourhood Plan N/A

- 7.7 Submission Colchester Borough Local Plan 2017-2033:

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

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

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

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

## **5 Year Housing Land Supply**

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

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

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

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

The Council's latest published Housing Land Supply Annual Position Statement (August 2021) demonstrates a housing supply of 5,597 dwellings which equates to 5.79 years based on an annual target of 920 dwellings (966 dwellings with 5% buffer applied) which was calculated using the Standard Methodology. This relates to the monitoring period covering 2021/2022 through to 2025/2026.

## 8 Five Year Supply Calculation

- 8.1 The table below illustrates the 5-year supply calculation for the district during the period between 2021/2022 through to 2025/2026.

Housing Need OAHN	
Annualised objectively assessed housing need (OAHN)	920
5 year housing requirement (5x920)	4600
5 year housing requirement and 5% buffer	4830
Supply	
Permissioned sites, existing and selected emerging allocations and windfall allowance	5597
Total number of years' worth of housing supply including emerging allocations	
Supply against SM with permissioned sites, existing allocations, windfall and selected emerging allocations	5.79

- 8.2 The calculation above demonstrates that the Council has a sufficient supply of deliverable housing to meet the 5-year requirement. A total of 5.75 years is deliverable within this period.

The LPA's 5YHLS has been tested at appeal and found to be robust, the most recent cases being on Land at Maldon Road, Tiptree (Appeal Ref: APP/A1530/W/20/3248038) and Land at Braiswick (Appeal Ref: APP/A1530/W/20/324575).

In accordance with paragraph 73 of the NPPF, the adoption of the strategic housing policy in Section 1 of the Local Plan the adopted housing requirement is the basis for determining the 5YHLS, rather than the application of the standard methodology.

Given the above, it is therefore considered that the Council can demonstrate a five year housing land supply.

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

The Essex Design Guide  
External Materials in New Developments  
EPOA Vehicle Parking Standards  
Backland and Infill  
Affordable Housing  
Open Space, Sport and Recreation  
Sustainable Construction  
Cycling Delivery Strategy  
Urban Place Supplement  
Sustainable Drainage Systems Design Guide  
Managing Archaeology in Development.  
Developing a Landscape for the Future  
Myland Parish Plan AND Myland 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 Cllr Buston states:

“The Application is contrary to the following policies :

(1) CBC Policy PR 1 : Open Space : Which provides that the Council will protect and enhance (inter alia) the existing network of green links, open spaces....etc, and secure additional areas where deficiencies are identified. The proposal does not either promote or achieve this.

(2) CBC Policy UR2 : Built Design and Character : The proposed dwelling, by reason of its inappropriate design, form and scale , would be out of keeping with and harmful to the character of the established street scene and surroundings

(3) CBC Policy DP1 : Design and Amenity : The proposal represents an unacceptable impact on amenity. It does not respect or enhance the character of the site, its context or surroundings in terms of its architectural approach, particularly proportions townscape and/or landscape setting, and detailed design features. The development does not protect existing public and residential amenity or respect or enhance the landscape and other assets that contribute positively to the site or the surrounding area. This development would not positively contribute to the public realm

(4) CBC Policy DP 4 : Community Facilities: This proposal removes Community facilities by removing the amenity open space. The involvement of the local

community has not been sought in identifying the importance of local facilities.  
 (5) CBC Policy DP 15 : Retention of Open Space : The proposal would result in the loss of an area important for its amenity or contribution to the green infrastructure network or to the character of the area in general. The public amenity space provides a valuable visual break in the built environment.  
 (6) CBC Policy DP 16 : Open space provision : No alternative provision has been proposed in the application.  
 (7) NPPF 12 : Well Designed Places : Para 130 : The removal of open and publicly accessible amenity space - used for over 50 years - will not function well or add to the overall quality of the area.”

### 8.3 Highway Authority states:

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

- Vehicular access
- No unbound materials.
- Boundary hedge shall be planted a minimum of 1m back from the highway boundary etc
- Car parking provision.
- Cycle storage
- Construction Management Plan

### 8.4 Environmental Protection state:

Should planning permission be granted Environmental Protection wish to make the following comments: suggest conditions as follows (precised, full conditions in condition section)

- Construction Method Statement
- Limits to Hours of Work
- EV Charging points

### 8.5 Colchester Cycling Campaign states:

Convenient secure cycle parking should be provided at one space per bedroom that is as convenient as the car garages  
 NB The use of car garages for cycle parking is not advised because any space left over is rarely suitable. Many cycle lockers and hangars are available, c.f. Cyclehoop The Dutch commonly provide space in utility rooms.

### 8.6 Archaeologist: “report approved, no further work needed, full discharge – I had already been sent it directly by CAT.”

### 8.7 Lexden Conservation Group states: Object to the proposal:

- The Lexden Conservation Group objects to this latest revised planning application for the same reasons as the previous two applications, because the request is basically the same.



- Loss of wildlife habitat: the surrounding area is rich in wildlife with birds, bats, stag beetles, foxes and the occasional badger making their way up from Lexden Park. This strip of land formed part of a wildlife corridor from Lexden Park to the woodland at the end of Marlowe Way. This land was always assumed to be owned by the Council who maintained it for 50 years and in that respect was considered public open space. To lose it would be a great loss of amenity to the local residents and wildlife. The local area has already lost a significant number of trees and wildlife habitat due to the development within the grounds of Lexden Manor.
- The trees on this piece of land, which have TPOs, have already been reduced by the developers so they are smaller than the root system. These roots will be very close to the proposed houses and drives so would, no doubt, soon succumb to the damage caused to them by building works and future pruning.
- David Attenborough states: "It is surely our responsibility to do everything within our power to create a planet that provides a home not just for us, but for all life on Earth."
- Impact on character: Marlowe Way was designed with green open spaces which give the road its unique character. Policy DP1 provides that all development must respect and enhance the character of the site. This plan is detrimental to the character of Marlowe Way and for residents and wildlife. To lose it could set a precedent for other strips of land, not only in Marlowe Way, but in Poets Corner as well.
- Design: The proposed design is not only overcrowded but still very different in style to the other houses in Marlowe Way.
- Overdevelopment of the site: the gardens of these houses are still very small in relation to the size of the houses which also reduces the green areas for wildlife. The plans in this new application show the green open space as being the same as now but does not show the driveways of the proposed houses or that house no.3 has been moved forward.
- With new estates in Colchester being created with green areas, and the Government encouraging 'pocket parks', it is against current thinking to take away a precious green area in Poets Corner enjoyed for over 50 years by wildlife, local residents, their children and their pets.

## 8.8 Tree officer states:

### Survey and Analysis

#### 1.1 Regarding the proposed development and the Arboricultural Impact Assessment provided:

#### 1.2 I am in agreement with the survey and AIA.

#### 1.3 If the recommendations within the report are followed the impact on trees to be retained will be minimal and these trees will continue to be of value to the street scene.

1.4 It is advised that a schedule of arboricultural monitoring and site supervision is agreed prior to permission being granted such that a pre-commencement condition for this is not required.

## 2.0 Conclusion

2.1 In conclusion, I am satisfied with the arboricultural content of the proposal subject to the above.

## 3.0 Recommendation

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

## 9.0 Parish Council Response

9.1 Non-Parished.

## 10.0 Representations from Notified Parties

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

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

- Loss of undeveloped open space. Valuable green & dog walking space.
- Green spaces important for health and well being.
- Loss of wildlife.
- Increased traffic, parking problems. Parking inadequate. (DP19).
- Opposite T junction- highway safety problems.
- Design, materials out of keeping. Too modern.
- Too close to tree and concerned about their future health. Could die.
- Appear overcrowded.
- Overdevelopment
- Other development sites left in mess.
- Clearance of site before permission granted.
- TPS report downgrades vegetation.
- CGI pictures misleading. Inaccuracies.
- Will be rubber stamped by Cttee.
- Breaching Human Rights- noise/peace.
- Contrary to DP1, DP12 & DP14- not enhance site and surroundings.
- Will set precedent for loss of other open spaces.
- Overlooking. Why so little window area to rear?
- Loss of light.

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

- No material objections to the development.
- Houses in same density and size as existing houses on the road/estate, whilst the building materials are not sympathetic with the overall look that is easily rectified.
- Space available was obviously intended to have 3 houses - there are 3 house numbers 'missing'.
- Residents being 'nimby' as few, if any, objected to the very large house built in the grounds of the existing Manor, which has left the Manor House with a very small garden and removed a large area which had been left to 'wild'.
- Will tidy up messy area and look so good, Marlowe Way has lovely open space as you come in, mainly used by dog walkers.
- the new build on Masefield Drive looks so good , let's all move on in 2022.

## **11.0 Parking Provision**

11.1 2 car spaces per dwelling.

## **12.0 Accessibility**

12.1 With regards to the Equalities Act, the proposal has the potential to comply with the provisions of Policy DP17 (Accessibility and Access) which seeks to enhance accessibility for sustainable modes of transport and access for pedestrians (including the disabled), cyclists, public transport and network linkages.

## **13.0 Open Space Provisions**

13.1 N/A

## **14.0 Air Quality**

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

## **15.0 Planning Obligations**

15.1 This application is not classed as a "Major" application and therefore there was no requirement for it to be considered by the Development Team. A Unilateral Undertaking is required to secure contributions for RAMS, Community Facilities and Sport/Recreation.

## 16.0 Report

### Principle

- 16.1 As the site lies within the settlement limits the proposal should be judged on its planning merits in accordance with the hierarchical settlement elements of the adopted Local Plan policies SD1 and H1 of the adopted Local Plan and Policy SP1 of the Emerging Local Plan which aim to direct such development to the most sustainable locations.
- 16.2 Settlement policies and the NPPF indicate a presumption in favour of sustainable development (which includes this site).
- 16.3 The Council is able to demonstrate a five year housing land supply and as such paragraph 11(d) of the NPPF is not engaged.

### Layout, Loss of open space, Design and Impact on the Surrounding Area

- 16.4 With regard to the planning merits of the proposal, it should be noted that the Planning Committee at the time of the previous refusal (210304) decided to refuse the proposal on the design, scale and form of the dwellings being harmful to the character of the street scene. It did not refuse the scheme on the grounds of the loss of the open space itself or the principle of residential development on the site. It is considered that this revised proposal now represents an acceptable layout that is in keeping with the character of the area and does not represent an overdevelopment of the site. Again, the positioning and layout of the three dwellings is similar to the density of other development in the vicinity and garden sizes comply with and indeed exceed the standards outlined in Policy DP16 (eLP DM19). The dwellings have been designed and positioned so that there will be visible gaps between the dwellings and between the side boundaries so the proposal will not appear cramped or represent an overdevelopment. Glimpses of Lexden Manor beyond will also be possible. It should be noted that Lexden Manor is not Listed nor Locally Listed and it is not considered that the proposal could be refused on the grounds of the proposal's impact upon its setting, particularly having regard to the presumption in favour of sustainable development embodied in the NPPF.
- 16.5 As with the previously refused scheme, there will clearly be some loss of open space although there will still be significant grassed areas retained at the front of the site, punctuated by the driveways. The two TPO trees at the front will also be retained and protected. A condition to ensure the front areas are not fenced off will also be applied and so the site would retain a significant element of open, green spaciousness. It is not considered that the existing open space is of such significance in the street scene in terms of its amenity value or contribution to the character of the area that would warrant its retention in its entirety. The loss of this open space did not form part of the previous refusal reason as the Planning Committee overall did not object in principle to its development. The proposal would therefore not conflict with Policies DP1 and DP15 (eLP Policies SP7 and DM15) in this respect.

- 16.6 Consideration of the design, scale and form of the dwellings needs particular care given that they are somewhat visually different from the designs of the surrounding properties. Overall, the dwellings are considered acceptable in this respect. The height of the dwellings has been reduced compared to the previous scheme so that the new dwellings would be the same height as the existing dwellings either side of the plot. One of the dwellings has a gable facing the road and the other too have front facades and this is considered to give the dwellings an appropriate level of variety. Gable widths have also been narrowed during this submission so that they are similar to gable widths of existing dwellings in the vicinity.
- 16.7 The dwellings are considered to have their own contemporary detailing and styling whilst still relating well to the overall character and scale of existing dwellings on this part of the estate. With the use of high quality materials, it considered that these dwellings would represent good design that would not detract from the character of the street scene and surroundings. The precise details of materials can be conditioned and there is the potential to introduce a little variety.
- 16.8 Overall, in terms of layout, design and impact on surroundings the proposal it is considered the proposal would therefore comply with Policy UR2 (eLP SP7) of the Local Plan Core Strategy which provides that the Borough Council will secure high quality and inclusive design in all developments to make better places for both residents and visitors.
- 16.9 The proposal is considered to comply with Policy DP1 of the Local Plan Development Policies document adopted 2010 (with selected Policies revised July 2014) which provides that all development must be designed to a high standard and respect the character of the site, its context and surroundings including in terms of layout. Policy DM15 of the emerging Local Plan has similar provisions.
- 16.10 The proposal is considered to comply with the provisions of the Backland and Infill SPD and is in general accordance with the Essex Design Guide. It is also considered to comply with the revised NPPF section 12 which promotes well-designed places.
- 16.11 It should be noted that if the scheme is implemented, the previously approved scheme for the conversion of Lexden Manor to flats (192337) could not be implemented as the sites overlap and the required communal garden could not be provided for the flats. However, it is understood that it is the approved dwelling within the grounds (210331) that is being implemented.

Garden space:

- 16.12 Adequate amenity space for the new dwellings has been shown to be provided in accordance with Policy DP16 (eLP DM19). Indeed, garden space compares favourably with neighbouring properties. Policy DP16 (eLP DM19) provides that for dwellings with four or more bedrooms, a minimum of 100m<sup>2</sup> should be provided and in this case the dwellings are provided with over 100m<sup>2</sup> each (ranging from 136-150m<sup>2</sup>) which further emphasises that this is not an overdevelopment of the site.

Impact on Neighbour Amenities:

- 16.13 It is not considered there would be a significant impact upon neighbouring residential amenity from the proposal. The dwellings are positioned far enough from the side boundaries of neighbouring properties to avoid an overbearing impact. The Council policy sets out that a 45-degree angle of outlook from the mid-point of the nearest neighbouring windows should be preserved and it is considered that this proposal satisfies this requirement.
- 16.14 Similarly, there are no concerns regarding loss of light. The combined plan and elevation tests are not breached, and the proposal therefore satisfies the Council's standards for assessing this issue as set out in the Essex Design Guide.
- 16.15 Additionally, the proposal does not include any new windows at first floor level that would offer an unsatisfactory angle of overlooking that harmed the privacy of the neighbouring properties, including their protected sitting out areas as identified in the above SPD. The 1<sup>st</sup> floor windows on the side elevation of plot 3 would just face the blank gable of the neighbouring property rather than look into private amenity space. With regard to 1<sup>st</sup> floor openings on the side elevation of plot 1 a condition can be applied to ensure that openings are obscure glazed and non-opening where they are not above 1.7 m above floor level. These serve a landing and bathroom. The same condition can be applied to the rear 1<sup>st</sup> floor openings on Plot 1-3 plot 3 (which have been minimised in any case) in order to avoid overlooking the amenity space of Lexden Manor and its rear windows. The residential amenity of the occupants of the new dwellings would still be acceptable with the application of the obscure glazing condition at 1.7 m.
- 16.16 The objections received regarding construction works are noted and appropriate conditions can be applied to minimise disruption including a construction management plan and control over hours of working. Environmental Protection have made no objections.
- 16.17 The proposal would thus comply with Policy UR2 (better places for residents and visitors expected) and DP1 which provides that all development should avoid unacceptable impacts upon amenity, including the protection of residential amenity with regard to noise and disturbance and overlooking. Policy DM15 of the emerging Local Plan has similar provisions.

#### Highway Matters:

- 16.18 The Highway Authority have raised no objection to the scheme subject to conditions which can be applied. The proposal complies with Policy DP19 (eLP DM22), with space for 2 car parking spaces for each dwelling.
- 16.19 Appropriate visibility splays in either direction have been provided for the access points and the lamp post at the front of plot 3 is avoided. The neighbour's concerns on highway safety and parking issues have been noted. However, given the lack of objection by the Highway Authority it is not considered the proposal could be refused on the grounds of intensification of vehicular activity in this location which it is noted is opposite a junction. The Highway Authority can be advised of the request that was previously made concerning the possible introduction of double yellow lines and it will be the decision of the Highway Authority to determine whether this is required.
- 16.20 The Essex Design Guide provides that "The overarching aim is to ensure that in new residential and mixed-use environments, the circulation and movement of people is pleasant, convenient, safe, responds to local context and combines with good place-making. Motorised vehicle movement must efficiently service development without predominating..." It is considered that the proposal conforms with these aims of the Essex Design Guide. It would also not cause a severe impact upon the Highway network, as referred to in the NPPF (para.111).
- 16.21 A Construction Management Plan condition can be applied. In order to minimise noise, disturbance and highway issues. An informative can also be applied to bring to the applicant's attention that grassed areas and verges in the vicinity should not be damaged.

#### Impact Upon Vegetation:

- 16.22 The proposal is considered acceptable in terms of its relationship to the two TPO trees at the front of the site. The driveways are sited far enough away from the root protection areas and the dwellings positioned to avoid future pressure for removal/ trimming of the trees. The Tree officer has confirmed agreement with the survey and AIA and states that if the recommendations within the report are followed the impact on trees to be retained will be minimal and "these trees will continue to be of value to the street scene." It is considered that a condition can be applied to secure a schedule of arboricultural monitoring and site supervision.
- 16.23 It is also concluded within the AIA that owing to the nature of the Raywood Ash trees it is "likely that future cyclical works will be required on a 6- 8-year cycle depending on vigour to maintain the structure of the tree" due to inherent structural weakness caused by weak and tight branch unions. Accordingly it is recommended that the contents of the AIA are made an approved document. Overall given the above, it is considered that the impact upon the TPO trees will be very limited and that they can be satisfactorily retained within this

development. The proposal is therefore considered to comply with Policy DP1 in this respect which aims to respect such natural assets.

- 16.24 No other trees are affected by this development. Some unprotected vegetation was removed previously outside this planning application.

Wildlife issues:

- 16.25 As the site is not overgrown and no older or timber framed buildings would be demolished it is not considered that a phase 1 Ecological survey is required. Whilst the comments about impact upon wildlife are noted it is not considered there is a justification to refuse the proposal in this respect given the nature of the site and its surroundings, particularly as the site is a mixture of existing garden land and maintained space. Accordingly, it is not considered the scheme is contrary to policy DP21 which aims to protect and enhance biodiversity. Policy ENV 1 of the emerging Local Plan has similar provisions.
- 16.26 A RAMS wildlife payment has been referenced in the completed Unilateral Undertaking as new dwellings would be created in a Zone of Influence for coastal sites subject to national designations as required by the Habitat Regulations to mitigate any adverse impacts. This payment will need to be made prior to commencement of development. An appropriate Habitat Regulation assessment has been undertaken.

Unilateral Undertaking:

- 16.27 A Unilateral Undertaking is required to be completed in order to secure the required SPD contributions for community facilities and sport & recreation facilities and this has been completed.

Environmental and Carbon Implications

- 16.28 The Council has declared a Climate Emergency and has committed to being carbon neutral by 2030. The purpose of the planning system is to contribute to the achievement of sustainable development as defined in the National Planning Policy Framework. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are economic, social and environmental objectives. The consideration of this application has taken into account the Climate Emergency and the sustainable development objectives set out in the NPPF. It is considered that, on balance, the application can contribute to achieving sustainable development. The site is considered to be in a sustainable location and would minimise carbon emissions from trips generated to access services.



## Other

- 16.29 Finally, in terms of other planning considerations, the proposed development does not raise any concerns. The Council's archaeologist is happy with the submitted archaeological investigation report. (Policy DP14 & eLP DM16). The site is not within a flood zone so there is no flood risk issue (DP20). A surface water drainage condition can be applied.

## **17.0 Conclusion**

- 17.1 In conclusion the proposal is considered acceptable for the following reasons:

- The site is within the settlement limits and is in a sustainable location so accords with adopted and emerging Local Plan Policy.
- The site can adequately accommodate the three proposed dwellings without them appearing cramped or being out of keeping with the character of the street scene.
- It is not considered the loss of this currently partly open area can justify a refusal on grounds of streetscene and there is space for frontage landscaping on the frontage of the development and the scheme secures the retention of the TPO trees. The Planning Committee resolution/deliberations on the previously refused scheme did not raise an objection in principle of development on the site in this respect.
- It is not considered the proposal represents overdevelopment as the sizes of each site are comparable with other plots in the vicinity.
- The design, scale and form of the dwellings is considered acceptable and overcomes the concerns raised on the previously refused scheme. location. Their scale, including height relates satisfactorily to the scale of other dwellings in the vicinity. The main gables relate satisfactorily to the gable widths of other dwellings in the vicinity and the dwellings themselves have appropriate elements of design detailing, including fenestration.
- The dwellings are adequately spaced and set off each side boundary. Views of Lexden Manor to the rear are achievable through the gaps.
- There are no objections on the grounds of highway safety, with adequate visibility splays in either direction and provision for adequate parking on the site.
- There is adequate amenity space for each new dwelling. It is not considered there would be a significant impact on neighbouring residential amenity from the proposed dwellings in terms of overbearing, loss of light or overlooking or in respect of noise and disturbance.
- No vegetation of significance would be affected and the TPO trees can be adequately protected.

## **18.0 Recommendation to the Committee**

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions

### **1. ZAA - Time Limit for Full Permissions**

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

### **2. ZAM – Development In accordance with Approved Plans**

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers: 6817/1103B, 1105A, 1108A, 1109A, 1203B, 1204, 1605, 1606, 1607, 1608, 1609 Rec'd 17.2.22, Arboricultural Impact Assessment (which shall be complied with throughout the lifetime of the development works) Rec'd 29.10.21.

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

### **3. ZBC- Materials To Be Agreed**

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

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

### **4. Non Standard Condition- Vehicular Access**

Prior to first occupation of the proposed development, each of the proposed vehicular accesses shall be constructed at right angles to the highway boundary and to a width of 5.5 metres and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

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

### **5. Non Standard Condition - Visibility Splays**

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

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

#### **6.Non Standard Condition - Parking/Turning Area**

The development shall not be occupied until such time as the car parking areas for each dwelling, indicated on the revised drawings has been hard surfaced and sealed. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

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

#### **7.Non Standard condition - Cycle storage.**

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

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

#### **8.Non Standard Condition- Travel Information Packs.**

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

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

#### **9.Non Standard condition- No Unbound Materials**

No unbound materials shall be used in the surface treatment of the proposed vehicular access throughout.

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

#### **10. ZPA Construction Method Statement**

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

details for:

the parking of vehicles of site operatives and visitors;

hours of deliveries and hours of work;

loading and unloading of plant and materials;

storage of plant and materials used in constructing the development;

the erection and maintenance of security hoarding including decorative

displays and facilities for public viewing, where appropriate;

wheel washing facilities;

measures to control the emission of dust and dirt during construction;  
and  
a scheme for recycling/disposing of waste resulting from demolition  
and construction works.

Reason: In order to ensure that the construction takes place in a  
suitable manner and to ensure that amenities of existing residents are  
protected as far as reasonable and in the interest of highway safety.  
(see informatives).

#### **11. Non Standard Condition - Construction and Demolition**

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

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working.

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

#### **12. Non Standard Condition - Refuse and Recycling**

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

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

#### **13. ZFI- Tree or shrub planting**

The development hereby permitted shall not be occupied until details  
of tree and/or shrub planting and an implementation timetable have  
been submitted to and approved, in writing, by the Local Planning  
Authority. This planting shall be maintained for at least five years  
following contractual practical completion of the approved  
development. In the event that trees and/or plants die, are removed,  
destroyed, or in the opinion of the Local Planning Authority fail to  
thrive or are otherwise defective during such a period, they shall be  
replaced during the first planting season thereafter to specifications  
agreed in writing with the Local Planning Authority.

Reason: To ensure an appropriate visual amenity in the local area.

#### **14. Z00 – Electric Charging Points**

Prior to first occupation of the dwellings, one electric vehicle charging point shall be provided for each dwelling and thereafter retained as such.

Reason: To encourage the use of sustainable transport.

#### **15. ZDF- Removal of PD- Obscure Glazing.**

Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), the 1<sup>st</sup> floor windows in the West side elevation of plot 1 and the rear first floor windows of plots 1-3 shall be non-opening and glazed in obscure glass to a minimum of level 4 obscurity both to a level a minimum of 1.7 m above floor level before the development hereby permitted is first occupied and all shall thereafter be permanently retained in this approved form.

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

#### **16.ZCL- Surface Water Drainage**

No works shall take place until details of surface water drainage shall have been submitted to and approved, in writing, by the Local Planning Authority. No part of the development shall be first occupied or brought into use until the agreed method of surface water drainage has been fully installed and is available for use.

Reason: To minimise the risk of flooding.

#### **17. ZDD- Removal of RD Rights-**

Notwithstanding the provisions of Article 3, Schedule 2 Part 1 Classes A-E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no additions, roof alterations, outbuildings or enclosures or other structures (the latter that are forward of the houses hereby approved) shall be erected except in accordance with drawings showing the design and siting of such structures/alterations which shall previously have been submitted to and approved, in writing, by the Local Planning Authority.

Reason: In the interests of avoiding an overdevelopment of the site preserving the open character of the front of the site.

#### **18. Arboricultural Monitoring**

Prior to commencement of development, precise details of a schedule of arboricultural monitoring and site supervision shall be submitted to and agreed in writing by the Local Planning Authority. The approved details shall thereafter be complied with in their entirety.

Reason: In the interests of protecting the amenity value provided by the trees on the site.

## 19.0 Informatives

19.1 The following informatives are also recommended:

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

2. All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to: SMO1 – Development Management  
Essex Highways Ardleigh Depot,  
Harwich Road,  
Ardleigh,  
Colchester,  
Essex  
CO7 7LT

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

### **4.ZTA - Informative on Conditions Stating Prior to Commencement/Occupation**

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

### **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.

**6. \*\*The applicant is advised to ensure that existing verges and grassed areas in the vicinity of the site should not be damaged by vehicles associated with the construction works hereby approved.\*\***





7.5



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:** 7.5

**Application:** 211878

**Applicant:** Marks Tey Ltd.

**Agent:** Mr Michael Ward

**Proposal:** Erection of building for use as builders' merchants (sui generis) and/or B8 storage and distribution use, ancillary office space, provision of external yard for use associated with builders' merchants and/or B8 storage and distribution use, with associated access, infrastructure and parking. Clearance of existing site and demolition of remaining buildings/structures.

**Location:** 228 Old London Road, Marks Tey, Colchester, CO6 1HD

**Ward:** Marks Tey & Layer

**Officer:** Majid Harouni

**Recommendation:** Approval

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

- 1.1 This application is referred to the Planning Committee because of the Sui Generis nature of the application, the Parish Council's concerns and objections received.

## **2.0 Synopsis**

- 2.1 This application seeks full planning permission for the demolition of the existing buildings on site and erection of a 999sqm building for use as a builder's merchants (sui generis) and or B8 use (storage and distribution) with ancillary office space, customers counter, external storage yard, associated access infrastructure, bicycle shelter, provision for 14 vehicle parking spaces including provision for 5% electric charging points, a disabled space and provision for 20 additional vehicle parking spaces along the eastern boundary of the application site for used by the wider Anderson commercial estate. In addition, provision has been made for ancillary HGV parking spaces, a cycle parking shelter for six bicycles and a refuse storage facility.
- 2.2 The builders' merchant compound would have two ingresses one for HGVs from the northern boundary from the southeast corner for smaller vehicles (cars/vans and bikes). Egress access for all vehicles would be from the southwest corner of the site onto the Old London Road.
- 2.3 The principle of the planning application, in delivering new commercial unit in a sustainable location with predominantly commercial and employment related use is supported. The site is allocated in the adopted plan within the Site Allocations DPD (2010) as an existing employment site. Appropriate uses being set out in Development Policy DP5. Whilst the proposal involves a modest amount of office floor and retail counter space, this is not considered to have a detrimental impact on the site's primary economic function in accordance with Core Strategy Policy CE1 (Centres and Employment Classification and Hierarchy) promotes economic development through the regeneration and intensification of previously developed land. Policy CE3 states that Employment Zones will accommodate business developments that are not suited to Mixed-Use Centres, including industry and warehousing.
- 2.4 The proposal is considered to introduce a well-designed and contextually appropriate building that would relate and enhance the remainder of the Anderson commercial site. The development would contribute to local employment opportunities and provide support for local building industry and wider Colchester economy in accordance with Development policies DP1 and DP5 of the adopted local Plan.
- 2.5 The proposed development is considered to have been designed to minimise the impact on neighbouring amenities and would not affect daylight, sunlight and privacy or outlook of neighbouring properties to an unacceptable extent. As such, the application is considered acceptable and in accordance with Development Policy DP1 (Design and Amenity) of the adopted local Plan

2.6 The proposal is considered to be in a sustainable location and measures have been designed and incorporated into the scheme to address sustainable urban drainage, ecology, landscaping and noise issues in accordance with planning policies. The proposal does not involve any off-site highway works.

2.7 The application is subsequently recommended for approval subject to planning conditions

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

3.1 The application site is an approximately square-shaped area of land measuring 1 hectare that forms part of a much larger (5 hectares) employment land area. The site contains a two-storey office building to the front and a large storage building to the rear together with the associated parking area.

3.2 The ingress vehicular accesses are proposed along the south-eastern and northern boundaries and egress along the south-western boundary.

3.3 To the east of the site, beyond the access road into the site, are residential dwellings, which are accessed from either Old London Road or The Crescent. Beyond this is an area of open land that also forms part of the Local Employment Zone allocation within the adopted Local Plan. To the south of the site is Old London Road and then the A12, and to the north is the wider commercial estate, beyond which is the railway line. To the west of the site is an area of open land that also forms part of the Local Employment Zone allocation. Beyond this is Palmers Farmhouse, a Grade II listed farm building and a horticultural nursery.

3.4 The site is not in an isolated location, public transport and railway station are within a short walking distance. The site is located in a highly accessible and sustainable location well served by sustainable transport modes and close to the A12/A120 trunk road network.

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

4.1 This application seeks full planning permission for the erection of a building for use as a builders' merchants (sui generis) and/or B8 storage and distribution use with ancillary office space, provision of an external yard for use associated with the builders' merchants and/or B8 storage and distribution use, with associated access, infrastructure and parking

### **5.0 Land Use Allocation**

5.1 The site forms part of the larger Anderson site Employment Use identified in Colchester Borough Council's adopted Site Allocations DPD (2010).

## **6.0 Relevant Planning History**

6.1 The following applications are most relevant:

- Application LEX/154/71: To cover piece of land with Dutch barn type of timber storage shed – Approved on the 24th May 1971;
- Application COL/88/2290: Erection of two storey office building – Approved on the 3rd February 1989; Application 202058: Application for prior notification of proposed demolition – Approved on the 15th October 2020; and Application 200388: Redevelopment of site including demolition, refurbishment and new/replacement buildings for employment purposes (B1, B2 and B8), hard surfacing and parking – Withdrawn on 7th May 2021.
- 211788 the erection of four blocks to create 9 individual commercial units comprising industrial (Class E(c and g), B2 and B8) and provision for associated estate access, car parking, HGV parking, cycle shelter, refuse storage, residents parking, diversion of the existing PROW, landscaping, ecology mitigation, suds and off-site highway works under section 278 of the Highway Act. Application considered at 20/01/2022 Planning committee and deferred for discussion with the applicant about highway, overdevelopment of the site, landscaping and provision of pedestrian and cycle access from the east to A120.

## **7.0 Principal Policies**

7.1 Regard has been given to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that applications are determined in accordance with the development plan unless material considerations indicate otherwise. In this case the development plan consists of the Colchester Borough Core Strategy (adopted 2008, reviewed 2014), Development Policies (adopted 2010, reviewed 2014) and the Site Allocations (adopted 2010).

The National Planning Policy Framework (NPPF) must be considered 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. The following policies are most relevant to this application:

SD1 - Sustainable Development Locations

CE3 - Employment Zones

TA1 - Accessibility and Changing Travel Behaviour

TA2 - Walking and Cycling

TA3 - Public Transport

TA4 - Roads and Traffic

TA5 - Parking

ENV1 - Environment

ENV2 – Rural Community

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

DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses

DP17 Accessibility and Access

DP18 Transport Infrastructure Proposals

DP19 Parking Standards

DP20 Flood Risk and Management of Surface Water Drainage

DP25 Renewable Energy

- 7.4 Adopted Local Plan and Emerging Local Plan

Submission Colchester Borough Local Plan 2017-2033:

### **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 with hearing sessions in April 2021 and consultations undertaken on suggested modifications in late 2021. Consultation responses on the modifications were reported to the Inspector and his final report is now awaited imminently. Section 2 of the Plan may then be formally adopted. 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 Section 1 Local Plan. Policies SD1 and CE1 are partially superseded by policies SP4 and SP5 in relation to the overall housing and employment requirement figures. The remaining elements of policies SD1 and CE1 are relevant for decision-making purposes.

### **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 completed hearing sessions in April. The final Inspector's report is awaited on Part 2 of the ELP. Section 1 of the plan is therefore considered to carry full statutory weight.

- 7.5 CBLP Section 2 Site specific Policy SS11: Marks Tey has been subject to modifications by Inspector to include the land to the east of the former Andersons Timber Yard site as a Local Employment Area (Policy SS11: Marks Tey) following modifications suggested by the Inspector as part of the Section 2 CBLP examination. This reinstated the application site as an employment allocation. The modified policy now reads:

7.6 Policy SS11: Marks Tey

“14.192 The site known as Anderson’s has been retained as a Local Employment Area.

Growth within the Marks Tey area will largely be guided by the following documents in addition to this Local Plan:

The Anderson’s site is allocated as a Local Economic Area as shown on the Policies Map. This policy should be read in conjunction with the generic Neighbourhood Planning policy SG8.”

7.7 Other Emerging Local Plan Policies that are relevant include the following:

SP1 Presumption in Favour of sustainable development

SP4 Providing for Employment and Retail

SP5 Infrastructure and Connectivity

SP6 Place Shaping Principles

SG1 Colchester’s Spatial Strategy

SG3 Economic Growth Provision

DM6 Economic Development in Rural Areas and Countryside

DM15 Design and Amenities

DM23 Flood Risk and Water Management

7.8 Appendix 1 contains additional information regarding the Emerging Local Plan policies superseded by the Emerging Local Plan.

7.9 Marks Tey Parish Council has produced a Neighbourhood Plan which is now at an advanced stage.

Following the submission of the Marks Tey Neighbourhood Plan to the Council, the Plan was published, from 22 February to 5 April 2021, inviting representations, in accordance with The Neighbourhood Planning (General) Regulation 2012 - Regulation 16.

An Inspector was appointed by Colchester Borough Council with the consent of Marks Tey Parish Council, to independently examine the Marks Tey Neighbourhood Plan and to prepare a report of the examination.

The Examiner’s Report which was issued on 29 October 2021 concluded that subject to modifications recommended by the examiner being made, the Marks Tey Neighbourhood Plan met the Basic Conditions set out in legislation and should proceed to a referendum. A core objective of the plan states:

**Business and Employment.** Regenerating the main sites in the parish, particularly through environmental improvements including the London Road parade of retail businesses. **Also helping to turn the now closed Andersons timber merchants and surrounding area into a modern industrial area. (bold emphasis added).**

The NP contains a site specific policy as follows:

**“POLICY MT15 – ANDERSON EMPLOYMENT SITE AND FORMER BY-PASS NURSERIES SITE**

The Anderson Employment site shown on Map 6.10 is allocated for employment uses. Development is anticipated to come forward in 2028.

The following site-specific requirements apply:

- all schemes must maintain or enhance residential amenity for neighbouring houses or for future occupiers of any new residential development;
- all schemes must incorporate a new pedestrian and cycle way connection providing a safe and attractive route from Marks Tey Parish Hall through to Dobbies Lane;
- access to and from the site is via an improved direct access on to the A12 and once the planned improvements to the A12 by Highways England have been implemented and the adjacent existing road has been detrunked; and
- provision of a work-place travel plan in line with Essex County Council guidance

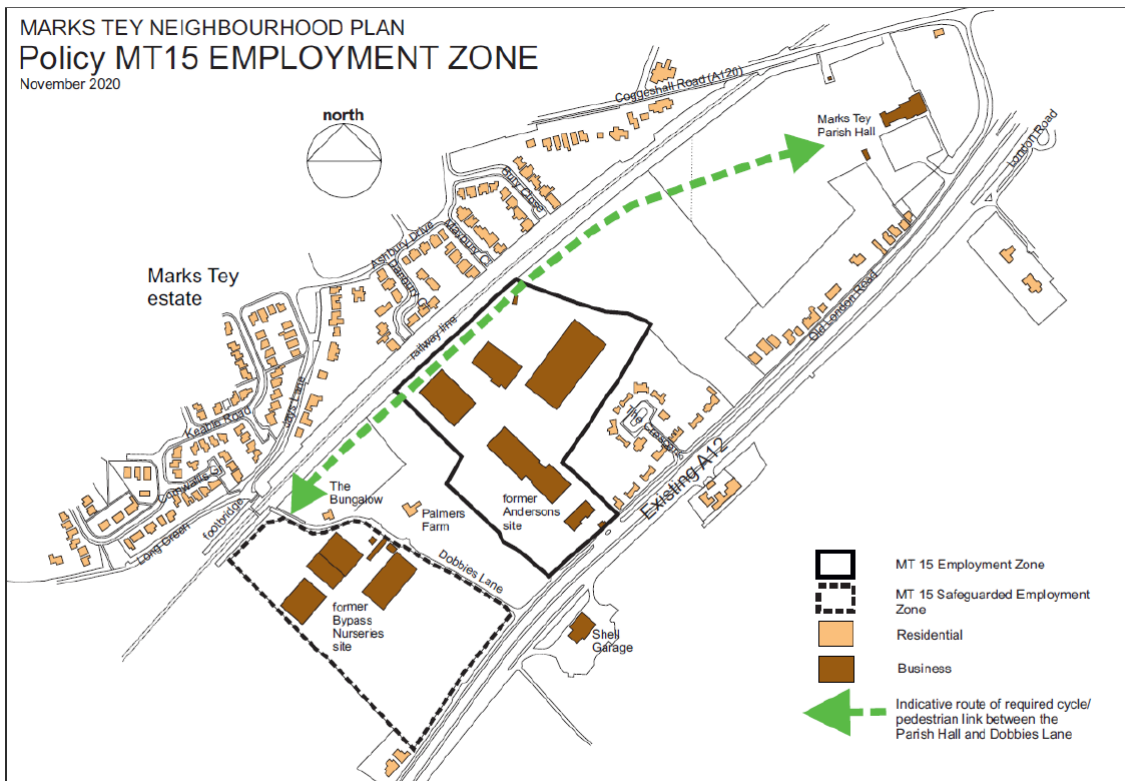
Subject to any scheme not prejudicing the primary function of the site as employment sites, limited residential development will be allowed where this is needed to make redevelopment of this site viable.

The adjacent former By-Pass Nurseries site shown on Map 6.10 is safeguarded for employment use subject to those uses being consistent with the existing edge of settlement rural location. All schemes must maintain or enhance residential amenity and landscape character.”

It is considered the Draft NP is relevant and can be given some weight given its advanced stage, pending the referendum on the plan which has yet to be formally made. The examiner modified the policy to include the current application site within the allocation (see below and in the report section titled ‘Principle of Development’. In essence this modification was required to reflect the current allocation in the adopted and emerging Section 2 CBLP 2017-2033 (Policy SS11: Marks Tey).

The plan below is an extract from the Marks Tey NP policy which has since been updated to include the application site to the immediate east of the former Anderson’s site.





Map 6.10 - Policy MT15 – Anderson employment site and former by-pass nurseries site

As a direct consequence of this modification to the CBLP Section 2 Policy SS11, the Marks Tey Neighbourhood Plan examiner suggested that the MTNP policy MT15 should also be modified to include the land to the east of Anderson site as part of the policy allocation to achieve conformity with the current adopted site allocation in the adopted LDF Site Allocation DPD as a Local Employment Site and the Section 2 CBLP Local Economic Area allocation in the modified Policy SS11: Marks Tey. The MTNP was submitted to referendum on the 17 March 2022.

7.10 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
- Cycling Delivery
- Sustainable Drainage Systems Design Guide
- Developing a Landscape for the Future
- Planning Out Crime
- Air Quality Management Guidance Note, Areas & Order

## 8.0 Consultations

8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below.

### 8.2 Landscape Officer

In order to better complement the rural edge character of the site, the existing native hedgerow enclosure along the A12 and to frame both access points and the built form, the landscape proposed to the site frontage should be amended to:

- 1- Realign the proposed 2.4m high paladin fencing back to follow a line directly along the front of the parking bays.
- 2- Plant up to the planting bed strip in front of the realigned paladin fencing with a native single species Hawthorn (*crataegus monogyna*) hedge, and proposed this be maintained at a minimum height of 2.5m,
- 3- Revise the 8 trees propose to the site to Acer Campe, to better complement existing field hedgerow tree cover.
- 4- Revised the proposed Emorsgate wildflower meadow mix alongside the front hedge to Emorsgate mix EH1. As a related point, delete the area of wildflower proposed along the northeast corner of the site as wildflower meadow areas would only be expected in suitably large, natural areas; perhaps substitute with native ground cover.

#### Conclusion:

This application cannot be supported on landscape grounds as it may cause harm to its landscape setting. To fully consider the proposals and mitigate the envisaged harm, the above points will need to be satisfactorily addressed.

It is requested that to minimise the impact of the proposal on the surrounding countryside and public highway, the site boundaries to be landscaped and by 2.4m high hedge. These are matters that can be secured as part of a detailed landscape scheme in compliance with conditions

### 8.3 Environmental Protection contamination

There is no objection to the proposal subject to the following conditions regarding contamination, operating time including delivery time and informative: The conditions have been negotiated by EP with the applicant to ensure that the operational needs and protection of amenity are reconciled.

### 8.4 Environmental protection amenity

Has no objection subject to the following conditions:

#### ZGA - \*Restriction of Hours of Operation\*

The use hereby permitted shall not be open to customers outside of the following times:

Weekdays: 06:30-18:00

Saturdays: 07:30-16:00

Sundays and Public Holidays: 10:00-16:00

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

ZGB - \*Restricted Hours of Delivery\*

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

Weekdays: 07:30-19:00 (with HGVs permitted to leave site from 06:00 from the south-west exit only)

Saturdays: 07:30-16:00

Sundays: 10:00-16:00 **(No HGV movements)**

Public Holidays: 10:00-16:00 **(Only site-based HGVs permitted to leave and return to site)**

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.

Restriction of external activity

There shall be no external yard activity outside of the following times:

Weekdays: 06:30-19:00 (except for pre-loaded HGVs permitted to leave site from 06:00)

Saturdays: 07:30-16:00

Sundays and Public Holidays: 10:00-16:00

### Restriction of car park

There shall be no use of the first 7 no parking bays to the Old London Rd elevation (defined as 40m from the gable end of the first residential property) before 07:00 am.

### Trade collection area

The trade collection point shall be in the position marked on the approved plans.

### Acoustic fencing

The acoustic fencing on the site perimeter shown on the approved plans shall be erected to a height of 3m and have a non-reflective coating on the section parallel to the nearest façade of the dwelling adjacent to the site entrance on the dwelling side.

A second acoustic fence 3m in height shall be erected between the front perimeter and the entrance gate adjacent to the car park, marked on the plan as a palisade fence.

Both acoustic fences shall be either a purpose-designed product or designed by a competent person and have a no-gap construction and minimum mass of 10kg/square metre and shall be maintained in good condition thereafter.

### 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 noise and vibration;
- measures to control the emission of dust and dirt during construction; and a scheme for recycling/disposing of waste resulting from demolition and construction works.

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

### ZPD - Limits to Hours of Work

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

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working.

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

### Additional noise conditions:

HGVs and delivery vehicles shall use the entrance and exit shown on the approved plans.

The unloading area shall be located on the far south-west of the site as shown on the approved plans.

Forklift trucks shall be fitted with **white** noise 'smart' **reversing** alarms.

### ZGG - Site Boundary Noise Levels (for fixed plant, equipment, machinery)

Prior to the first use or occupation of the development as hereby permitted, a competent person shall have ensured that the rating level of noise emitted from the site's plant, equipment and machinery shall not exceed 0dB(A) above the background levels determined at all boundaries 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.

### ZGR - \*Light Pollution\*

Any lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) shall fully comply with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note for zone EZ2 RURAL, SMALL VILLAGE OR DARK URBAN AREAS and be switched off when the business is not operating, except for low level security lighting.

Note: All luminaires should be directed downwards or shielded in order to reduce glare at nearby residential premises.

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

#### Highway England

#### 8.5 Offer no objection subject to the following conditions:

No part of the development hereby approved shall be brought into use unless and until the Travel Plan has been approved in writing by the Local Planning Authority who shall consult with Essex County Council as Highways Authority. The Travel Plan shall be in line with prevailing policy and best practice and shall as a minimum include:

- The identification of targets for trip reduction and modal Shift
- The methods employed to meet these targets
- The mechanisms for monitoring and review
- The mechanisms and review
- The penalties to be applied in the event that targets are not met
- The mechanisms for mitigation
- Implementation of the travel plan to an agreed timescale or timetable and its operation thereafter
- Mechanisms to secure variations to the Travel plan following monitoring and reviews

Reason: To ensure that the A12 and A120 trunk roads continue to serve their purpose as a part of a national system for through traffic in accordance with Section 10 of the Highways Act 1980, and to satisfy the reasonable requirements of road safety

A travel plan is required to encourage sustainable travel behaviour to and from the proposed development in accordance with national planning policy to encourage sustainable travel and to ensure that the A12 continue to serve its purpose as a part of a national system for through traffic in accordance with Section 10 of the Highways Act 1980, to satisfy the reasonable requirements of road safety.

Whilst not a condition of grant of permission the developer should, in conjunction with National Highways make every endeavour to close the existing substandard access between Old London Road and the A12, known locally as the Andersons access.

Initially, had no objection for the application to be approved subject to a condition seeking a travel plan and an informative regarding stopping up of Anderson access to A12. NH subsequently withdrew this requirement for a Travel Plan on the basis that as the site will employ less than 25 staff a travel plan would have very little impact, therefore they are content that the condition not be imposed in this case. However, NH suggest that the

DC0901MW eV4

developer should be encouraged to get staff to travel to and from the site by sustainable means.

Essex Highway Officer

- 8.6 From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to the following requirement:

If there are 50 or more employees, no occupation of the development shall take place until a travel plan in accordance with Essex County Council guidance has been provided or completed.

Reason:

To ensure the application site is accessible by more sustainable modes of transport such as public transport, cycling and walking, in accordance with Policy DM10 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

The applicant has stated that this development will potentially employ only 25 full-time people.

Essex Ecology Officer

- 8.7 No comments received.

Archaeological Officer

- 8.8 There are no known archaeological sites of significance nearby as noted by the applicant's archaeological Desk Based Study. In this instance, no archaeological requirements are recommended.

Sustainable Urban Drainage Officer

- 8.9 Has no objection and recommends an informative to be added to any permission.

Anglia Water

- 8.10 No representation has been received.

Essex Fire and Rescue

- 8.11 Access for Fire Service Purposes is considered satisfactory subject to fire service access and water supplies for fire-fighting purposes to the proposed development being fully compliant with Building Regulation Approved Document B, B5 (This would include Fire Service vehicle access to building due to storage in the yard).

### Natural England

- 8.12 Has no comment to make.

### HSE Website Response

- 8.13 The proposed development site does not currently lie within the consultation distance of a major hazard site or major accident hazard pipeline; therefore, at present, HSE does not need to be consulted on any development on this site.

## **9.0 Parish Council Response**

- 9.1 At present this area is served by a narrow road unsuitable for HGVs that are unable to pass. This application would significantly increase all vehicular movements adding to the already poor air quality.

With the impending changes to the A12 and junction of 25, Highway England have indicated that the proposed new road layout will further increase the traffic flow around the properties in Old London Road and will with the positioning of the new roundabout, dissect the existing housing. We have put forward proposals to Highway England to provide direct access to the former Andersons site but Highway England have rejected these on the ground of cost. As Bypass nurseries are served by the same stretch of narrow road the same would apply to both sites.

In view of this, we are unable to support any further developments in this area until infrastructure improvements have been made and measures are taken to improve air quality in this and the surrounding areas.

If this application is approved or goes to appeal the Parish Council would request working hour conditions, Monday to Friday 7:30 to 17:30 and Saturday 7:30 to 12:00 and no access on Sunday.

## **10.0 Representations from Notified Parties**

- 10.1 The application has been advertised on-site and by individual neighbour notification to the owners and occupiers of the neighbouring properties.
- 10.2 Six letters of representation have been received expressing concern about the proposal. A summary of the material considerations is as follows:
- The proposal will generate a large number of HGV movements and the old London Road is not suitable for the proposed development.
  - The cumulative HGV movement of the existing uses together with the proposed development and the proposed phased 2 will impact the Old London Road and A12 highway safety.
  - The old London Road cannot cope with the proposed traffic
  - Use of direct access to the A12 is dangerous
  - The proposal will worsen the air quality and noise situation for the local residents.



## **11.0 Parking and cycling provision**

- 11.1 The application forms part of a wider employment site with existing vehicular access from Old London Road. The proposal has made provision for 14 car parking spaces including 2 disabled spaces and provision for HGV parking for the sole use of the builder's merchant business. In addition, further 20 car parking spaces have been proposed along the site eastern boundary for the benefit of the users of the wider Anderson business site.

The proposal has also made provision for a cycle shelter for 6 bicycles.

## **12.0 Accessibility**

- 12.1 The proposal has made provision for 2 disabled car parking spaces.

## **13.0 Air Quality**

- 13.1 Having regard to the air quality impact assessment, there is no need for any further air quality mitigation other than the requirement for EV charging points.

## **14.0 Planning Obligations**

- 14.1 This application is not classed as a "Major" application and therefore there is 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 of the Town and Country Planning Act 1990.

## **15.0 Report**

### **Planning Appraisal**

#### Principle of Development

- 15.1 The site is part of an existing commercial estate and allocated for employment use in both the adopted and emerging Local Plan for B1, B2 and B8 use. The Anderson commercial estate contains uses within Class E (formerly Class B1), B2 and B8.
- 15.2 Core Strategy Policies SD1 and CE1 set out that designated employment areas are expected to make a significant contribution towards the delivery of employment in the borough.
- 15.3 Core Strategy Policy CE3 in the sets out the appropriate land use within the employment zones and Development Policy DP5 of the local plan sets out the appropriate employment uses and protection of employment land. The Council employment policies seek to promote the regeneration of the borough through maintenance and promotion of existing employment provision in sustainable, accessible and appropriate locations.
- 15.4 The proposal is to develop the site as a builder's merchant that is regard a Sui Generis use. This type of use shares many characteristics with Class B8 use but also has unique characteristics due to the type of goods it stocks

and the level of outside storage which distinguishes it from warehouse and makes it a “sui generis” use. In this case the application is in respect of both B8 and builders’ merchant use. It appears that a potential occupier has already been identified for the site to use the site as a builders merchant should planning permission be granted.

- 15.5 It is considered that although the proposed use of the site as a builder’s merchant and Sui Generis use would not be within the B1, B2 and B8 uses as specified in the local plan policy, it is none the less a generic employment type use and would ensure the use of the land continue to contribute to employment generation and economy of Marks Tey and Colchester Borough. The applicant has stated that the proposed development would generate up to 25 full time jobs.
- 15.6 The proposed building comprises substantial warehouse space for the storage of building materials for sale. The storage areas are not accessible to the public. These areas constitute a B8 use class in line with the employment classification of policy CE3 of the Core Strategy and DP5 of the local plan.
- 15.7 The proposal includes a small office and trade counter element that will be ancillary and a small component of the operation to the builder’s merchant use. It is considered that their overall size in terms of floor area will not be significant to represent a Class E use. The overall use of the land would be sui generis as it is a mix of B8 and E use and would not result in conflict with employment Policies mentioned above and the site designation/allocation as an employment site in the existing local plan, emerging local plan and Marks Teys Neighbourhood Plan .
- 15.8 Open storage of building materials is also proposed to the north, east and west of the proposed building. The open storage is also considered warehousing/ B8 use.
- 15.9 To conclude on the principal issues, it is considered that the proposed sui generis use with ancillary office floor area and trade counter is primarily focused around storage and distribution activities and constitute an employment generating use that would fulfil the purpose of policies SD1, CE1 and CE3 of the Core Strategy and DP5 of the local plan as well as the provision of the paragraphs 80 and 81 of the NPPF and therefore the principle of the proposal is acceptable.

#### Design and Layout

- 15.10 Adopted local plan Policies UR2 and DP1 state that all development must be designed to a high standard, avoid unacceptable impact on amenity... The proposed building would be positioned along the south-east section of the site in a location approximately similar to the position of the existing two-storey office building (to be demolished) with designated car parking spaces and bicycle storage shelter in front of the proposed building and adjacent to the proposed non-HGV vehicles ingress along the south-eastern boundary of the site. HGV ingress access is proposed along the northern boundary and shared egress access along the southwestern corner of the site.

- 15.11 Additional car parking spaces are also proposed along the eastern boundary of the site for wider use by the Anderson estate as a whole.
- 15.12 The warehouse building would be one big box, broadly rectangular in appearance with a total floor area of 999sqm with no mezzanine floor area which would allow the floor to ceiling storage space.
- 15.13 The building will have a shallow pitched roof with a maximum ridge height of 10.3m and an eave height of about 8.7m.
- 15.14 The building is designed as a 'propped portal' to allow maximum flexibility in design for the end-user's operation. The treatment of rooflines and the use of colour have been carefully considered to draw the eye away from the overall height and mass which reduces the perception of scale.
- 15.15 The external materials proposed for the roof of the building would consist of a composite roofing panel in goose-wing grey. The external walls will be cladded with a half-round profile in ultra-Alaska grey and ultra-silver with all doors, flashings, and roller shutters in Anthracite Grey.
- 15.16 To give greater emphasis and prominence to the main customer access entrance section and south-east corner of the building, the external finished materials proposed would consist of a large glazed double door together with Ultra Alaska Grey composite cladding. Different cladding materials are used to add visual interest and break up the building's visual mass and bulk. Overall, the layouts, scale, design, and external appearance of the building reflects the commercial use and is appropriate in this commercial setting and would correspond in appearance, scale, size and height to other industrial buildings in the rest of the Anderson estate. As such, it is considered that the proposed building would be in keeping with the wider industrial estate setting.
- 15.17 The site will be enclosed by two types of boundary treatments. The frontage with the Old London Road and access to the Anderson estate will be enclosed by 2.4m tall black power coated paladin fencing and the remaining boundaries of the site will be enclosed by 2.4m tall steel palisade fencing. The proposed vehicular accesses to the site will have set back double gates. The proposed means of enclosure are satisfactory in this location and would provide security and comply with SPD Planning Out Crime.
- 15.18 Overall, the proposal is considered to be in compliance with Policies SD1, UR2, ENV1 and ENV2 of the Core Strategy, DP1 of the adopted local plan, adopted SPDs the Essex Design Guide SPD and External Materials in New Developments and paragraphs 124 and 127 of the NPPF subject to an appropriate condition regarding finished materials.

#### Impact upon residential amenity

- 15.19 Concerns have been expressed by the local residents about the increase in the volume of HGV movements, noise and negative impact on the local air quality from the proposal.
- 15.20 It is important to note that the site is allocated for employment use and has been in such use for a long period. It is a brownfield site with lawful use for substantial office and warehousing use as well as commercial vehicles storage use. The current lawful uses of the site, if resumed could potentially generate a greater number of vehicular movements, including transporter lorries, than the proposed development and as such neither the Essex Highway Officer nor National (formerly Highways England) have raised concern in this regard.
- 15.21 Concerning noise issues, it is also important to note that the site forms part of a wider long-established employment site with no operating time restriction on use. In addition, the site is located within a few meters of the busy A12 with high ambient background noise, particularly during the hours of 06:30 am to 08:00 pm during which the proposed builder's merchant is expected to operate. However, this issue has been discussed with the Council's Environmental Protection Team and it is agreed that it is highly likely that the development would generate noise including noise from forklift trucks, HGV loading and unloading of heavy materials. Given the employment nature of the rest of the site and existing noise levels of the surrounding uses, including sources of noise such as road traffic noise, it would not be possible to isolate the source of the noise from the proposed use in order to establish an effective and beneficial noise mitigation measure/barrier.
- However, in order to provide some degree of noise protection for the neighbouring residents of the properties beyond the eastern part of the application site a condition is recommended by the Environmental protection for erection of a noise barrier along the southeast corner of the site to mitigate noise from the proposed use and associated vehicular movements. This would be erected prior to the commencement of the use of the site and retained as such thereafter.
- 15.22 Regarding the air quality concern, it is considered the applicant's proposal to provide 5% electric charging points on-site, providing for 6 rack bicycle shelter and access to public transport would encourage reliance on non-polluting means of travel and public transport. These proposed steps would also help the development to meet climate change challenges and ensure the development is more sustainable.
- 15.23 It is considered based on the proposed measures and the air quality impact assessment there is no need for any further air quality mitigation steps.
- 15.24 It is also considered that no open-air storage and stacking of building materials should be allowed to project significantly above the height of the site's perimeter fence as this would appear visually intrusive and harmful to the character of the area and the setting of the nearby listed building. To mitigate this, it is recommended that a condition be imposed limiting the height of open storage and stacking on the site.

- 15.25 Furthermore, to ensure that the demolition and construction works do not adversely impact on the amenities of the nearby residents a construction environmental management condition is recommended.
- 15.26 Subject to the above condition the proposal is considered to be acceptable and in compliance with relevant policies DP1, DP14 and DP16 of the adopted local plan.

Highway Safety and Parking Provisions (including Cycling)

- 15.27 The application site is located within Anderson Business Estate and is a sustainable location. The site benefits from existing vehicular accesses with good visibility. Old London Road benefits from the pavement on one side of the road and street lighting. Although the application site is within a mile of a bus stop and railway station, it is unlikely that the majority of customers will walk to the application site to use the proposed builders merchants due to the bulky nature of the goods.
- 15.28 The proposal makes provision for separate vehicular access for cars/vans and HGV within Anderson estate. The proposed egress for both car/vans and HGV would be from the existing vehicular access along the southwest corner of the site frontage with the Old London Road. The proposed access arrangements are considered acceptable.
- 15.29 The proposed development would have no adverse impact upon the safe and efficient operation of the surrounding highway network, and there would be no significant transportation impact arising from the proposed development particularly when the trips generated by the last uses of the site (consisting of office use, warehousing, and vehicle storage use) are offset against the proposed trip generation and taken into account. This is confirmed by the Highway Authorities who have not raised objection to the proposed development.
- 15.30 National Highways initially suggested a condition be imposed seeking submission of a travel plan. However, the Essex CC highway officer has indicated that a Travel Plan should be sought when the development generates 50 or more employees. In this instance, the applicant has stated that the proposal would only generate up to 25 full-time jobs. As such it is not considered appropriate to seek a travel plan in this instance and NH also now agree with this approach based on the low numbers of staff.
- 15.31 There would not, therefore, be any conflict with Core Strategy Policy TA4 and Development policy DP18 of the adopted local plan.
- 15.32 The proposal makes provision for 14 on-site car parking spaces including a disabled space. In addition, provision is made for additional 20 car parking spaces, including two electric charging points, along the south-eastern boundary of the Anderson Estate and the application site for use by the occupiers of the commercial estate. In addition, provision has also been made for 3 HGV parking and cycle shelter for 6 bicycles. It is considered that the proposed parking provision would be in accordance with the relevant policy requirements of Policy TA5 of the Core Strategy and DP19 of the local plan. The cumulative number of car parking spaces proposed would help to deal with any unexpected parking demand; and

overall car parking spaces proposed would exceed theoretical parking requirements.

- 15.33 The proposal makes sufficient car parking, cycle parking, and electric vehicle charging points and internal manoeuvring for large vehicles on site. It is considered the proposal to be acceptable and in compliance with the provision of Policies DP17 and DP19 of the local plan.

#### Contamination

- 15.34 Phase 1 Desk Study and Phase 2 Site Investigation report have been submitted. The site had previous uses with a potential cause of contamination of the land. To mitigate any contamination not previously identified and removed from the site appropriate conditions are recommended in accordance with Policy DP2 of the local plan.

#### Drainage

- 15.35 The site falls within flood zone 1 and is not considered to be susceptible to surface water flooding.
- 15.36 The submitted Flood Risk Assessment documents have been considered by the SUDs officer and considered acceptable. An informative regarding implementation of SUDS has been recommended to be added if permission is granted.

#### Landscaping

- 15.37 There is no ground-level vegetation within the site. There are a number of existing trees along the eastern, southern and western boundaries of the site. There are also cluster of small groups of trees within the site that will be removed to provide open space for the development or because they are in poor condition. The proposal is supported by a landscape scheme that helps to soften the impact of the proposal. However, the landscape officer is not satisfied that the submitted landscaping strategy and the type of trees proposed are satisfactory. To ensure that a more suitable landscape scheme is submitted, an appropriately worded condition is recommended. Also, to ensure that the retaining trees are protected during the construction period an appropriate condition for the erection of protective fence outside of the root protection areas of these trees is recommended.
- 15.38 The landscape officer has suggested that the landscaping scheme should include 2 metre high hedging along the site road frontage, although such a screen will soften the site frontage, it would conflict with the sightline of the access and would be prejudicial to highway safety and as such is not promoted.
- 15.39 Overall, it is considered the proposed landscaping to be acceptable subject to conditions for the protection of retaining trees and ensuring that no storage within the root protection area of the trees takes place during and post-construction.

### Ecology

- 15.40 Having regard to the previous uses and the extent of hard surfaced across the site; there is very limited scope for existing habitat and ecology on-site except along the western boundary area of the site.
- 15.41 As indicated above, the proposal will result in some trees to be retained and protected during the construction period. In addition, to ensure that no storage takes place within the root protection area of the trees along the western boundary an appropriate condition is recommended.
- 15.42 The above measures together with the implementation of a landscaping scheme would contribute to the ecology along the boundaries of the site. To ensure that tree removal is carried out to an acceptable standard and the remaining trees are protected during the construction period, further conditions are recommended.

### Heritage

- 15.43 It is considered having regard to the previous uses on land it is unlikely that there will be any archaeology remaining on this site.
- 15.44 Beyond the northwest side of the application is a grade II listed farmhouse. It is considered that provided the height of open storage is restricted that the proposal would not harm the wider setting of the listed building given the industrialised nature of the existing site and intervening vegetation. A condition to restrict the height of any open storage is recommended to avoid any potentially harmful visual intrusion.

## **16.0 Conclusions and Reasons for Approval**

- 16.1 The application site lies within an established and allocated employment estate as such the principle of the proposed use is acceptable. The design and scale of the warehouse building would complement the existing commercial building on the other parts of the Anderson site and thus wider surrounding area without causing harm to the character or appearance of the area or causing highway issues.
- 16.2 Overall it is considered the proposed development will reuse an employment land and bring new employment opportunities in accordance with the relevant policies of the Local Plan and can be properly characterised as sustainable development for the purposes of the NPPF.

## **17.0 Recommendation:**

- 17.1 That Permission is then **GRANTED** subject to the following conditions, with delegated authority for officers to add or amend relevant conditions where necessary:

### **1. ZAA - Statutory Time Period**

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

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

## **2. ZAM - Approved Drawings and Documents**

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers PLO1 Rev F, PLO4 Rev V, PLO5 Rev E, PLO6 Rev F, PLO7 Rev E and 2137-WWA-XX-XX-DR-L-0700-PL04, MT-LE-GEN-XX-DR-CE-500 Rev D received 26/07/2021, 07/10/2021 and 18/11/2021.

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

## **3. Non Standard Condition – External facing and roofing materials**

The external facing and roofing materials to be used shall be those specified on the submitted application form and drawings PLO6 Rev F unless otherwise agreed, in writing, by the Local Planning Authority.

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

## **4. Non Standard Condition – refuse and recycling**

Prior to the first occupation of the development, the refuse and recycling storage facilities as shown on the approved plans PLO4 Rev V shall have been provided and made available to serve the development. 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.

## **5. Non Standard Condition – Demolition and Construction hours]**

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.

## **Contaminated Land conditions**

6. 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

7. 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

8. 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.

9. 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 6, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 7 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 8.

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. 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 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.

## Delivery Hours

11. No deliveries, excepting trade customers, shall be received at, or despatched from, the site outside of the following times:

Weekdays: 07:30-19:00 (with HGVs permitted to leave site from 06:00 from the south-west exit only)

Saturdays: 07:30-16:00

Sundays: 10:00-16:00 **(No HGV movements)**

Public Holidays: 10:00-16:00 **(Only site-based HGVs permitted to enter and return to site)**

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.

## **Operating Hours**

- 12.** The use hereby permitted shall not be open to customers outside of the following times:

Weekdays: 06:30-18:00

Saturdays: 07:30-16:00

Sundays and Public Holidays: 10:00-16:00

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

- 13-** There shall be no external yard activity outside of the following times:

Weekdays: 06:30-19:00 (except for pre-loaded HGVs permitted to leave site from 06:00)

Saturdays: 07:30-16:00

Sundays and Public Holidays: 10:00-16:00

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

### **14- Non Standard Condition – Parking Bays**

There shall be no use of the first 7 no parking bays to the Old London Rd elevation (defined as 40m from the gable end of the first residential property) before 07:00.

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

#### **15- Non Standard Condition – Slab level details**

Prior to the commencement of development above slab level details of the trade collection point by customers shall be submitted in writing together with related drawings for approval by the Local Planning Authority. The development shall be carried out in accordance with the approved details and maintained as such thereafter.

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 as there is insufficient information within the submitted application, and for the avoidance of doubt as to the scope of this permission.

#### **16- Non Standard Condition – Acoustic Barrier**

Prior to the commencement of development above slab level details of the acoustic fencing on the site perimeter to the height of 3m with a non-reflective coating on the section parallel to the nearest façade of the dwelling adjacent to the site entrance on the dwelling side together with a second acoustic fence 3m in height between the front perimeter and the entrance gate adjacent to the car park shall be submitted in writing together with any related drawings to the Local Planning Authority for approval. The approved acoustic fencing shall be installed prior to the commencement of the use of the development hereby permitted and shall be maintained in good condition thereafter.

Both acoustic fences shall be either a purpose-designed product or designed by a competent person and have a no-gap construction and minimum mass of 10kg/square metre.

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.

#### **17- Non Standard Condition – Rating level of noise**

Prior to the first use or occupation of the development as hereby permitted, a competent person shall have ensured that the rating level of noise emitted from the site's plant, equipment and machinery shall not exceed 0dB(A) above the background levels determined at all boundaries 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.

## **Delivery Hours**

### **18 - Non Standard Condition**

HGVs and delivery vehicles shall use the entrance and exit shown on the approved plans.

The unloading area shall be located on the far south-west of the site as shown on the approved plans.

Forklift trucks shall be fitted with **white** noise 'smart' **reversing** alarms.

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.

### **19- Non Standard Condition – Construction Environmental Management**

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

- the parking of vehicles of site operatives and visitors;
- hours of deliveries and hours of work;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- wheel washing facilities;
- measures to control noise and vibration;
- 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.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details unless otherwise agreed in writing by the local planning authority"

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.

### **20 Non Standard Condition – Lighting**

Any lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) shall fully comply with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note for zone EZ2 RURAL, SMALL VILLAGE OR DARK URBAN AREAS and be switched off when the business is not operating, except for low level security lighting.

Note: All luminaires should be directed downwards or shielded in order to reduce glare at nearby residential premises.

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

### **21. Non Standard Condition - Parking**

The commercial unit hereby permitted shall not be occupied, until the area shown on Site layout plan PL04 Rev V, as vehicle parking spaces, motor bikes and bicycle shelter together with electric charging points shall have been provided, surfaced, and drained. Thereafter the parking, cycle spaces and electric charging points shall be kept available and operational for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) (Order) Order 2015 (or any order amending, revoking or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking and cycle storage spaces.

Reason: Development without provision of adequate accommodation for the parking of vehicles, motor bikes and bicycle storage is likely to lead to hazardous on-street parking and be contrary to Policy DP19 of the local plan.

### **22. Non Standard Condition – Landscape and long-term monitoring programme**

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

- Finished levels or contours, where notable changes are proposed.
- Hard surfacing materials.
- Earthworks (including the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform).
- Retained historic landscape features and any proposals for restoration.
- Planting plans (drainage and building foundation detailing shall take account of the position of the trees as so indicated).
- Make on-site sanctuary provision for reptiles'/wildlife mitigation.
- Written specifications.
- Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.

- Implementation timetables and monitoring programs.

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

### **23. Non Standard Condition - Tree protection**

Prior to the commencement of development, the trees scheduled for retention as shown on the approved plan 2137WWA-XX-XX-DR-L-0700PL04 shall have been safeguarded behind protective fencing to a standard that will have previously been submitted to and agreed, in writing, by the Local Planning Authority. All agreed protective fencing shall thereafter be maintained during all works on site and no access, works or placement of materials or soil shall take place within the protected area(s) without prior written consent from the Local Planning Authority.

Reason: To safeguard existing trees within the site in the interest of amenity and ecology.

### **24. Non Standard Condition – Tree protection**

No burning or storage of materials shall take place where damage could be caused to any tree, shrub or other natural feature to be retained on the site or on adjoining land (see BS 5837).

Reason: To protect the health of trees, shrubs and other natural features to be retained in the interest of amenity.

### **25. Non Standard condition – SUDS**

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

- Control of all surface water run-off generated within the development for all events up to and including the 1 in 100 year event inclusive climate change (40%).
- An appropriate amount of treatment in line with the CIRIA SuDS Manual C753.
- A drainage plan highlighting final conveyance and exceedance routes, location and sizing of storage features, discharge/infiltration rates and outfall/s from the site.

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

## **26 – Non Standard Condition – External storage**

No goods, materials or equipments shall be stored, stacked or deposited externally on the site to a height exceeding 4.5 metres as measured from any immediately adjacent ground level.

Reason: The external storage of goods in excess of this height would be visible from outside the site and would have a harmful visual impact on the surrounding areas including the wider setting of the nearby listed building.

### **Informatives**

1) The developer is referred to the 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) In accordance with paragraph 38 of the NPPF Colchester Borough Council takes a positive, proactive and creative approach to development proposals focused on solutions. The Council works with applicants/agents in a positive, proactive and creative and manner by:

Offering a pre-application advice service; Updating applicants/agents of any issues that may arise in the processing of their application;

Where possible suggesting solutions; and

Informing applicants/agents of any likely recommendation of refusal prior to a decision. In this instance, the applicant/agent was updated of any issues after the initial site visit.

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

4) We strongly recommend looking at the Essex Green Infrastructure Strategy to ensure that the proposals are implementing multifunctional green/blue features effectively. The link can be found below. <https://www.essex.gov.uk/protecting-environment>.

5) The applicant is advised that erection of any fixed racking storage structure(s) would require a separate planning permission and such rack(s) would be least visually impactful against the silhouette of the warehouse building northern and western flank elevations.]

6) The developer should, in conjunction with National Highways make every endeavour to close the existing substandard access between Old London Road and the A12, known locally as the Andersons access in the wider interests of highway safety.







Report of	Assistant Director of Policy & Corporate	Author	Nadine Calder 01206 282424
Title	St Leonard Works, Port Lane, Colchester		
Wards affected	Old Heath & The Hythe		

**This report concerns application reference 212810 and seeks approval to allow for the 3.5-metre-wide footway/cycleway along the two sections of the site's Port Lane frontage to be secured via condition rather than the S106 Agreement**

## 1. Decision(s) Required

- 1.1 Members need to agree to change the Highway Authority's request for the 3.5 metre wide footway/cycleway along the southern and western site's frontage with Port Lane to be secured via condition rather than via a Section 106 Agreement.

## 2. Reasons for Decision(s)

- 2.1 This report is in respect of an application made by Man Energy Solutions Uk Limited, Port Lane, Colchester for outline planning permission with all matters reserved save for access for the demolition of all existing building and structures and the creation of a residential development with associated open space and infrastructure, which was granted permission at the Planning Committee of 20<sup>th</sup> January 2022 subject to conditions and a Section 106 Agreement which is currently being drafted.

## 3. Alternative Options

- 3.1 The Committee could resolve not to change the request for the footpath/cycleway to be secured via condition rather than a legal agreement; this would result in a delay of the planning permission being granted due to Essex County Council being required to be party to the S106 Agreement.

## 4. Supporting Information

- 4.1 The current resolution to grant planning permission for the above-mentioned development is subject to a 3.5-metre-wide footpath/cycleway along the site's Port Lane frontages to be secured via a Section 106 Agreement. This is not necessary, as the works could be secured via condition which would negate the need for Essex County Council (as the Highway Authority) to be party to the Section 106 Agreement which could cause undue delay and administrative work.
- 4.2 The works would still be provided and there would be adequate powers in place for the Council to enforce against non-compliance, should there be any issues with this requirement.

## **5. Proposals**

5.1 N/A

## **6. Strategic Plan References**

6.1 There are no Strategic Plan references of direct relevance.

## **7. Consultation**

7.1 No consultation has been undertaken in relation to this particular request.

## **8. Publicity Considerations**

8.1 N/A

## **9. Financial Implications**

9.1 N/A

## **10. Equality, Diversity and Human Rights Implications**

10.1 There are no Equality, Diversity and Human Rights Implications.

## **11. Community Safety Implications**

11.1 There are no Community Safety Implications.

## **12. Health and Safety Implications**

12.1 There are no Health and Safety Implications.

## **13. Risk Management Implications**

13.1 There are no Risk Management Implications.

## **Background Papers**

Application reference 212810 & associated Committee Report 20.01.22

## Planning Committee

Item  
**9**

Date 31 March 2022

Report of	Place and Client Services	Author: Jane Thomps
Title	<b>Deed of Variation s.106 Agreements pursuant to Permissions Ref: 120380 Concerning: The Maltings Student Accommodation</b>	
Wards affected	Old Heath and Hythe	

**This report seeks a variation to the S106 contribution spend project agreed for The Maltings student accommodation development. It is proposed to vary the agreement to allow the contribution to be used towards cycling and walking improvements in the area, better benefitting the accommodation residents.**

### 1. Decision(s) Required

- 1.1 Members are asked to endorse the proposed deed of variation.

### 2. Reasons for Decision(s)

- 2.1 The existing agreement dates back to a planning application (and resultant concepts for s106 use) received in 2013. The specified clauses as agreed are no longer considered to represent the best use of funds as a result of other emerging opportunities that are now deliverable. These new purposes are better aligned to our wider strategic approach and existing works being delivered by both this Council and by Essex County Council as the highway authority.
- 2.2 Officers consider that the existing contribution clause should be amended to include walking and cycling infrastructure improvements in the area that complement other projects that have been delivered and will be delivered in future. This allows enhancements to deliver active travel improvements to benefit resident students more effectively than the existing agreement. To formalise this a Deed of Variation to the s.106 agreement needs to be signed.

### 3. Alternative Options

- 3.1 Not to agree to the Deed of variation will mean the s.106 funds will be tied into schemes which are now considered to be of lesser benefit to residents including students occupying the development.

### 4. Supporting Information

- 4.1 The original s106 agreement sought to mitigate the impact of the development by contributing towards bus discount for student travel as well as a sum for community use.
- 4.2 Since that time, the Council has continued to work on strategic projects around the borough and align these to our strategic strategies, as well as Essex County Council. The evolving sustainable travel projects now present new opportunities for the use of this s106 funding that may represent better value for money and outcomes with more positive impacts for residents. Officers have therefore been in dialogue with The Maltings student accommodation developer and the accommodation manager concerning potential changes to the approved s.106 agreed via planning application 120380
- 4.2 The existing agreement secured measures to support a community event which are not now considered to represent the best use of funds. Officers now consider that the contribution should be amended to include walking and cycling infrastructure improvements in the area as well as facilities which benefit students and local residents to add to community cohesion. This facilitates delivery of active travel improvements which will benefit their students more significantly than those in the existing agreement. To formalise this change, a Deed of Variation needs to be signed.
- 4.3 The Maltings student accommodation manager is supportive of changes as they understand the greater benefit the investment in walking and cycling in the area will bring to the residents and the wider community.
- 4.4 The existing s.106 clause detailed –
- i) Community Development Contribution Purposes – means the use of the Community Development Contribution towards events and activities to be held within the Open Space and in the vicinity of the site for the benefit of the public.*
- ii) Bus Travel Cards – means university bus travel cards enabling students to travel on buses at reduced rates.*
- 4.5 The Community Development contribution totals £85,000. The Council has considered possible events and activities over the years and taken account of local residents' views in a consultation. However no suitable proposal has been identified, and it is now suggested that this fund contributes towards animating the King Edward Quay making it more attractive for people to enjoy the space and encourage walking and cycling in the area and support the outdoor gym proposal which will be provided using the sports contribution.
- 4.6 Although the bus travel cards contribution secured are popular the funds set aside for annual reimbursement is in excess of the costs of the scheme. The excess, which now totals around £120,000, has accumulated over the years and it is now proposed to reassign this fund with the projects which will improve walking and cycling facilities between the development, the town centre and the university, benefitting students and local residents.
- 4.6 Both of these proposals will support measures to encourage walking and cycling between the development, University of Essex campus and the town centre, and no additional contributions are required from the developer, with a sum allocated for the developer's reasonable legal fees from the s.106 contribution.
- 4.7 The developer has applied for a Deed of Variation, which officers support with a view to commissioning alternative walking and cycling improvements in the immediate area. This application was prompted at the request of officers.

## **5. Strategic Plan References**

- 5.1 Promoting sustainability and reducing congestion is an important corporate objective within the Strategic Plan. The delivery of high quality and safe environment is also an important corporate objective. These objectives reflect the climate emergency declared by the Council.

## **6. Consultation**

- 6.1 Legal Services have advised that the required variation falls outside the existing scheme of delegation in relation to s106 agreements and therefore requires Member approval.
- 6.2 The student accommodation manager has been consulted on and supports the proposal.

## **7. Publicity Considerations**

- 7.1 None.

## **8. Financial Implications**

- 8.1 There are no financial implications for the Council as these funds are already secured.

## **9. Equality, Diversity and Human Rights Implications**

- 9.1 None directly arising from this report.

## **10. Community Safety and Health and Safety Implications**

- 10.1 None arising.

Background Papers: S.106 Agreements for permissions ref:12380





## Planning Committee

Item  
**10**

Date 31 March 2022

Report of	Place and Client Services	Author: Jane Thomps
Title	<b>Deed of Variation s.106 Agreements pursuant to Permissions Ref: 160103, 181281 and 191141. Concerning: Host, Magdalen Street Student Accommodation</b>	
Wards affected	New Town and Christ Church	

**This report concerns a proposed variation to the S106 agreed for the Host student accommodation development. It is proposed to vary the agreement to allow the contribution to be used towards cycling and walking improvements in the area, better benefitting the accommodation residents.**

### 1. Decision(s) Required

- 1.1 Members are asked to endorse the proposed deed of variation.

### 2. Reasons for Decision(s)

- 2.1 The existing agreement(s) date back to planning applications (and resultant concepts for s106 use) received in 2016, 2018 and 2019. The specified clauses are no longer considered to represent the best use of funds as a result of other emerging opportunities that are now deliverable. These new purposes are better aligned to our wider strategic approach and existing works being delivered by both this Council and by Essex County Council as the highway authority.
- 2.2 Officers consider that the existing contribution clause should be amended to include walking and cycling infrastructure improvements in the area that complement other projects that have been delivered and will be delivered in future. This allows enhancements to deliver active travel improvements to benefit resident students more effectively than the existing agreement. To formalise this a Deed of Variation to the s.106 agreement needs to be signed.

### 3. Alternative Options

- 3.1 Not to agree to the Deed of variation will mean the s.106 funds will be tied into schemes which are now considered to be of lesser benefit to residents including students occupying the development.

## 4. Supporting Information

- 4.1 The original s106 agreement sought to mitigate the impact of the development by contributing towards upgrading of buses with a catalytic reduction system, along with providing CCTV, bus stop improvements and the provision of real time travel information.
- 4.2 Since that time, the Council has continued to work on strategic projects around the borough and align these to our strategic strategies, as well as Essex County Council. The evolving sustainable travel projects now present new opportunities for the use of this s106 funding that may represent better value for money and outcomes with more positive impacts for residents. Officers have therefore been in conversation with the Host student accommodation developer and the accommodation manager concerning potential changes to the approved s.106 agreed via Planning applications 160103, 181281 and 191141.
- 4.3 The existing agreement listed measures which are not now considered to represent the best use of funds. Officers now consider that the contribution should be amended to include walking and cycling infrastructure improvements in the area. This facilitates delivery of active travel improvements which will benefit their students more significantly than those in the existing agreement. To formalise this change, a Deed of Variation needs to be signed.
- 4.4 The Host student accommodation manager is supportive of changes as they understand the greater benefit the investment in walking and cycling in the area will bring to the their residents and the wider community.
- 4.5 The existing s.106 clause detailed –
- i) contribution towards the upgrading of buses with a catalytic reduction system and/or provision of two CCTV cameras and associated equipment to link the said CCTV cameras into the Council's CCTV network to ensure that the Development is adequately covered by CCTV cameras and/or the upgrading of the bus stop opposite the Site to current Essex County Council Specifications, to include real time passenger information.*
- 4.6 The contribution of £66,000 for the provision of CCTV cameras and associated equipment has been allocated, and £55,000 has been allocated for the bus stop and shelter improvements. The remaining £45,000 could be used for buses catalytic reduction system, but it is not felt that this is now necessary due to some buses using this route have recently had catalytic reduction fitted or have been replaced with newer less polluting models. The upgrading of the two bus stops serving the site's students is now a priority for Essex County Council's Passenger Transport team.
- 4.7 It is now proposed to allocate the remaining £45,000 to support measures to encourage walking and cycling between the development, University of Essex campus and the town centre, and no additional contributions are required from the developer, with a sum allocated for the developer's reasonable legal fees from the s.106 contribution.
- 4.8 The developer has applied for a Deed of Variation, which officers support with a view to commissioning alternative walking and cycling improvements in the immediate area. This application was prompted at the request of officers.

## **5. Strategic Plan References**

- 5.1 Promoting sustainability and reducing congestion is an important corporate objective within the Strategic Plan. The delivery of high quality and safe environment is also an important corporate objective. These objectives reflect the climate emergency declared by the Council.

## **6. Consultation**

- 6.1 Legal Services has advised that the required variation falls outside the existing scheme of delegation in relation to s106 agreements and therefore requires Member approval.
- 6.2 The student accommodation manager has been consulted on and supports the proposal.

## **7. Publicity Considerations**

- 7.1 None.

## **8. Financial Implications**

- 8.1 There are no financial implications for the Council as these funds are already secured.

## **9. Equality, Diversity and Human Rights Implications**

- 9.1 None directly arising from this report.

## **10. Community Safety and Health and Safety Implications**

- 10.1 None arising.

Background Papers: S.106 Agreements for permissions ref:160103, 181281 and 191141.



## 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.*

