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Item No: 7.2

Application: 201631

Agent: Paul Belton, Carter Jonas LLP

Proposal: Redevelopment of the site to provide a Cinema (use class D2), active leisure units (D2), a hotel (C1), restaurants (A3) and/or hot food takeaways (A5), including drive through units, and/or a Public House (A4) in the alternative as well as flexible A3/A5 and/or D2 floorspace in the alternative, together with the provision of a single decked car park, a landscaped plaza with associated hard and soft landscaping, cycle parking, service laybys and drop off zones, the creation of a pedestrian and cycle link connecting United Way with Tower Lane and the installation/construction of balancing ponds, substations and associated infrastructure

Location: Colchester Northern Gateway, Land at Cuckoo Farm West, United Way, Colchester

Ward: Mile End

Officer: Chris Harden

Recommendation: Approve subject to completion of a Section 106 legal agreement.

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it is a major full planning application, elements of which are a Departure from the adopted Local Plan. It is also on an area of land that is currently owned by Colchester Borough Council and the proposal has received objections and is recommended for approval. Furthermore, in the event that the Officer recommendation is agreed by Members it would also be necessary to secure a s.106 Agreement to mitigate impacts of the development. Members have to endorse a proposed commitment of the Council to be party to an agreement of this type.

2.0 Synopsis

- 2.1 The issues explored below are the planning context of the application site established through its land use allocation and the previous planning history, together with material considerations pertaining to the planning application. In recognising that elements of the proposed development are partly a Departure from the adopted Local Plan, i.e. proposed cinema and the food and beverage uses, it is considered that material considerations merit a recommendation of approval of the planning application. Approval for a similar scheme but not including the drive through hot food units, was granted in 2017 under application 160825. Policy considerations at a National and Local level remain broadly the same as at the time of the previous approval in respect of this scheme. The Emerging Local Plan is now more advanced and offers additional support to the proposal. The revised NPPF also emphasises the importance of building a strong competitive economy. Accordingly it is considered that the principle of the proposal is acceptable and that, as before, the impact upon Town and District centres is acceptable and the Sequential and Impact Test has been complied with.
- 2.2 The design, scale, form and layout of the proposal is considered appropriate for this context and would have an acceptable impact within the landscape. An appropriate landscaping scheme will be conditioned. The proposal incorporates a mixture of contemporary building forms that are similar in character to the previous approval and incorporate some design improvements, including material detailing. There are no objections from a highway safety point of view and the impact of traffic generation is acceptable, including upon the capacity of A12 junction 28. The impact upon ecology, vegetation and archaeology is considered acceptable. There will be the loss of some Category B trees but this has been justified and a replacement planting scheme will mitigate the impact of this loss. It is not considered there will be any material detriment to neighbouring residential amenity.
- 2.3 If Members agree with the Officer recommendation, it will also be necessary for the proposal to be referred to the Secretary of State under the current call-in procedure owing to the cinema and beverage uses being a technical Departure to the Local Plan, as was the case on the previously approved application.

3.0 Site Description and Context

- 3.1 The application site is approximately 4.97 hectares in size and forms part of the former Severalls land holding identified as the Colchester Northern Gateway (previously known as Cuckoo Farm). The majority of the site is located adjacent to the Weston Homes Community Stadium. Immediately to the north the site is bounded by junction 28 serving the A.12 trunk road, while to the east is the Northern Approach Road identified as Via Urbis Romanae (VUR). The application site is divided by United Way (which links VUR with Boxted Road). The majority of the site is located to the north of this road, with a linear finger of land forming the southern portion of the site that extends from United Way to Tower Lane, which has public right of way and bridleway status. To the south of Tower Lane is the former Severalls Hospital site that has planning permission for residential development and is now largely built out.
- 3.2 The site is generally level, but there are significant differences in height where it meets VUR, the road sitting above the level of the site. United Way is also set at a slightly higher level than the application site.
- 3.3 The majority of the site is currently given over to rough grass, it having been used in the past for agricultural purposes. There are also established hedges and trees on the land that reflect the historic field boundaries associated with the former agricultural use.
- 3.4 To the north of the application site, beyond the trunk road, is the County Council park and ride development, together with a petrol filling station and a fast food restaurant with ancillary 'drive-thru' takeaway facility. To the east, on the opposite side of VUR and to the south, on the opposite side of United Way is the land on which there is a current application 190665 for mixed uses including residential, commercial and health care uses. Permission for the infrastructure element of that site has been granted under application 200079. Facing the application site is the recently completed David Lloyd tennis leisure centre.

4.0 Description of the Proposal

- 4.1 This full planning application seeks permission for the following:
- Redevelopment of the site to provide a Cinema (use class D2),
 - Active leisure units (D2),
 - a hotel (C1),
 - restaurants (A3) and/or hot food takeaways (A5), including drive through units, and/or a Public House (A4) in the alternative as well as flexible A3/A5 and/or D2 floorspace in the alternative,
 - provision of a single decked car park,
 - a landscaped plaza with associated hard and soft landscaping, cycle parking, service laybys and drop off zones, the creation of a pedestrian and cycle link connecting United Way with Tower Lane

- the installation/construction of balancing ponds, substations and associated infrastructure.
- 4.2 Regarding the layout of the development, the 90 bed, four storey hotel and the A3 restaurant buildings are set in two curved blocks towards the Eastern end of the site, adjacent to the proposed attenuation pond. Public open space is proposed between this restaurant block and the proposed buildings comprising the cinema, active leisure units and two more restaurant units. This would be hard and soft landscaped. **Appendix 1** shows the proposed floorspace of the respective elements alongside the floorspace previously approved under similar application 160825.
- 4.3 The westernmost part of the site would, as before, comprise a two storey car park. Overall, 758 car parking spaces would be provided on site along with 114 cycle spaces. To the North of the multi-storey car park the two drive-thru buildings would be located with their associated parking and maneuvering areas.
- 4.4 In terms of the proposed opening hours, 24 hour use is sought for the drive thru restaurants and the hotel. Regarding the cinema, active leisure and restaurant/takeaway units located within the main part of the development, a repeat of the hours of operation agreed in respect of the 2018 Approval, is sought, as follows these being as follows:
- Sunday – Thursday 0630am, -02.00am
 - Fridays, Saturday and Sundays (where followed by a Bank Holiday or other statutory holiday) – 06.30am – 03.30am
- 4.5 Owing to the nature and extent of the development proposal it is accompanied by an Environmental Statement. The Statement has been submitted to meet the requirements of the Town and Country Planning (Environmental Impact Assessment) (Amendment) Regulations 2017. Issues covered include flood risk, noise, leisure impact assessment, ecology, arboriculture, landscape impact, archaeology, transport and a travel plan. Details of the application submission and the Environmental Statement are available to view on the Council's website.
- 4.6 Included within the submitted application are also the following documents and reports:
- BREAM Assessment Report
 - Design and Access Statement
 - Energy Strategy
 - Landscape strategy
 - Statement of Community Involvement
 - Utilities summary report

5.0 Land Use Allocation

- 5.1 Within the adopted Local Development Framework the site for this proposal is located within the North Colchester Strategic Employment Zone which itself forms part of the North Colchester Growth Area.
- 5.2 Within the Emerging Local Plan the site is in the following zone: Policy NC1: North Colchester and Severalls Strategic Economic Area Zone 2.

6.0 Relevant Planning History

- 6.1 The most relevant Planning History

160825 Latest approval:

- Erection of Use Class A3/A5 restaurant/hot food takeaway units (in the alternative) totalling 3 808 sq. m (of which no more than 400 sq. m shall be used as A5 floorspace within a single unit)
- Erection of a Use Class C1 hotel (80 beds)
- Erection of a Use Class D2 Cinema (12 screens)
- Erection of Use Class D2 leisure units (3 286 sq. m)
- Erection of Use Class A3/D2 restaurant/leisure uses (in the alternative) (688 sq. m)

160623 Reserved matters application following outline planning permission O/COL/01/1622 for the erection of Use Class A3 restaurant units (10,400sq m), erection of Use Class C1 hotel (80 beds), provision of a landscaped piazza and associated landscaped areas, erection of an ancillary multi-storey car park and the provision of separate drop off/parking areas. Approved 24/11/16

Background relevance:

152711- Application for variation of condition 05 of planning permission O/COL/01/1622 which would entail allowing floorspace previously assigned for A3 uses to be developed for D2 uses. (Jan. 2016)

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 also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

- 7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

- SD1 - Sustainable Development Locations
- SD2 – Delivering Facilities and Infrastructure
- SD3 - Community Facilities
- CE1 - Centres and Employment Classification and Hierarchy
- CE3 - Employment Zones
- UR1 - Regeneration Areas
- UR2 - Built Design and Character
- PR1 - Open Space
- PR2 – People-friendly Streets
- TA1 - Accessibility and Changing Travel Behaviour
- TA2 - Walking and Cycling
- TA3 - Public Transport
- TA5 - Parking
- ENV1 - Environment
- ER1 - Energy, Resources, Waste, Water and Recycling

- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):

- DP1 Design and Amenity
- DP2 Health Assessments
- DP3 Planning Obligations and the Community Infrastructure Levy
- DP4 Community Facilities
- DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses
- DP10 Tourism, Leisure and Culture
- DP17 Accessibility and Access
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage
- DP21 Nature Conservation and Protected Lanes
- DP25 Renewable Energy

- 7.4 Further to the above, the adopted Site Allocations (adopted 2010) policies set out below should also be taken into account in the decision-making process:

- SA NGA1 Appropriate Uses within the North Growth Area
- SA NGA3 Employment Uses in the North Growth Area
- SA NGA4 Transport measures in North Growth Area

- 7.5 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:

Air Quality Management Guidance Note
Community Facilities
Vehicle Parking Standards
Sustainable Construction
Open Space, Sport and Recreation
External Materials in New Developments
Cycling Delivery Strategy
Sustainable Urban Drainage Systems Design Guide
North Colchester Growth Area Supplementary Planning Document

Myland Design Statement

- 7.6 The Myland and Braiswick Neighbourhood Plan has been completed and is adopted by Colchester Borough Council as part of the Development Plan.
- 7.7 Submission Colchester Borough Local Plan 2017-2033:
The Council is developing a new Local Plan that has been submitted to the Planning Inspectorate (October 2017). An Inspector has been appointed and the formal examination commenced in January 2018. The examination is ongoing.

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

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

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

A key Emerging Plan is Policy NC1: North Colchester and Severalls Strategic Economic Area Zone 2 which includes the application site.

8.0 Consultations

- 8.1 **Spatial Policy Team** have made the following comments (precised- full comments incorporated in the officer's report [see Principle section])

8.2 The following comments reflect and as necessary update Planning Policy comments made to the following applications:

Site History: Applications ref: 152711 and 160825

Policy Background

Adopted Local Plan

The site lies within an area designated in the adopted Local Plan as the North Colchester Strategic Employment Zone. The following policies are of particular relevance to the planning policy considerations of changing the balance of uses within a Strategic Employment Zone:

- Core Strategy Policy CE1 (plus Table CE1b) (Centres and Employment Classification and Hierarchy)
- Core Strategy Policy CE3 (Employment Zones)
- Development Policies Policy DP5 (Appropriate Employment Uses and protection of Employment Land and Existing Businesses)
- Site Allocations Policy SA NGA 3 (Employment uses in the North Growth Area)

Previous comments made on application 160825 noted that adopted policies had been affected by changing policy in the NPPF and that the consideration of the proposed town centre uses should be guided by the sequential test and impact tests contained in the 2012 NPPF, with the caveat that other material considerations also needed to be taken into account.

Emerging Local Plan

This provides a revised spatial strategy for the Northern Gateway area which changed its profile to introduce a role for it as a Borough-wide sports and leisure hub.

Policy NC1: North Colchester and Severalls Strategic Economic Area Zone 2 includes the application site.

Policy considerations

Previous application 160825

Site allocated for Employment use

Comments on 160825 noted that the proposal for leisure uses would still allow employment land delivery targets in North Colchester to be met.

Sequential test and impact assessment

On 160825, the Council concluded Tollgate Village did not emerge as a sequentially preferable site because it did not meet the market and locational requirements of the sequential test as it was specific to a named operator with specific requirements generic to the type of operation and with limited potential for other operators to occupy the scheme. Also concluded Northern Gateway would not have a significant impact on any Town or District Centre.

Policy observations on current proposal 201631

The current proposal is broadly similar in nature to the earlier extant planning permission. Leisure Impact Assessment within the EIA that has not identified any significant impacts arising from leisure uses on the Town Centre or on the viability of the cinema scheme being developed in the Tollgate District Centre. The variations in the accommodation schedule and mix of uses not considered to raise any new policy issues concerning the principle of development.

- 8.3 **The Highways Agency** “offers no objection” and states: “We have reviewed the Transport Assessment submitted with the application, the proposal will not have a severe impact upon the Strategic Road Network, we note that Essex County Council have recommended a travel plan we fully support that recommendation.”

- 8.4 **The Highway Authority** has made the following comments:

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

- Submission of a Construction Management Plan;
- Contribution to a bus service;
- Bus stops provision and turning facilities;
- Visibility splays;
- Access arrangements at Junction 28;
- Appropriate pedestrian links;
- Travel Plan.

- 8.5 **Natural England** has confirmed that it has “no objection to the proposal on the basis of potential impacts on statutory nature conservation sites. The Council's attention is also drawn to standing advice with regard to protected species and also the opportunity to provide green infrastructure and biodiversity and landscape enhancements to improve the potential ecological value of the site.”

- 8.6 **ECC as SUDS authority** has confirmed it has no objection to the proposal subject to the imposition of conditions on a grant of planning permission:

The conditions relate to:

- Surface water drainage;

- Offsite flooding;
 - Maintenance arrangements and yearly logs.
- 8.7 **The Environment Agency** have made no observations (previously confirmed no objections).
- 8.8 **Historic England** has advised that it does not wish to comment on the application.
- 8.9 **The Council's Landscape Officer** has suggested revisions to wildflower and long grass areas and that landscape proposals should be developed further.
- 8.10 **Environmental Protection** have no objections and recommend conditions relating to :
- Hours of work;
 - Site boundary noise levels;
 - Control of fumes and odour;
 - Light Pollution;
 - Hours of delivery;
 - Substation.
- 8.11 **Contaminated Land Officer** states:

The above is included on the planning file and is acceptable for Environmental Protection's purposes. I note that some potential sources of contamination requiring further ground investigation and risk assessment have been identified. It has been considered that there are a lack of ground gas sources and that gas monitoring is therefore unlikely to be required, but will be kept under review during the proposed investigations. It has been concluded that the site is of overall low contamination risk for the proposed development and it has been recommended that these investigations and risk assessments (and any resultant remediation, where relevant) should occur post planning.

Based on the information provided, this conclusion would seem reasonable.

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

- ZGX - Contaminated Land Part 1 of 4 (Site Characterisation)
- ZGY - Contaminated Land Part 2 of 4 (Submission of Remediation Scheme)
- ZGZ - Contaminated Land Part 3 of 4 (Implementation of Approved Remediation Scheme)
- ZG0 - Contaminated Land Part 4 of 4 (Reporting of Unexpected Contamination)
- ZG3 - *Validation Certificate*

8.12 **The Council's Archaeologist** states: No material harm will be caused to the significance of below-ground archaeological remains by the proposed development. There will be no requirement for any archaeological investigation.

8.13 **Tree Officer** initially stated that additional information was required to justify tree loss.

Following receipt of additional information, the following comment was made:

"I can agree all the comments made within this document.
As such I can agree the proposed tree loss subject to the landscape officer being in agreement with the landscape strategy."

8.14 **The Council's Urban Designer** has made comments relating to the following:

- Western elevation of parking structure and connectivity;
- Public realm;
- Scale & Materials options of the cinema and bowling alley;
- Landscaping and physical enclosure to the North and South of the leisure curve;
- Definition of public plaza;
- North Eastern access vista;
- Totem advert detail.

8.15 **Anglian Water** states: there are no objections and states: "

"There are assets owned by Anglian Water or those subject to an adoption agreement within or close to the development...and would ask that the following text be included within your Notice should permission be granted." The suggested text will be included with the decision notice.

8.16 **Transport and Sustainability Team** makes the following observations

It is good to see the commitment to employ a Travel Plan Coordinator for the site. However there are a number of areas of the Travel Plan that need revisiting- recommendations are listed.

"In summary the development is going to attract a large number of vehicle movements through having a large number of parking spaces that will be free to staff and users. We would like to see a robust approach to the Travel Plan to mitigate this impact and really encourage behaviour change."

Comments about cycle parking, safe crossing and buses are also made.

8.17 The Ramblers state:

“Comment: Walking to the south, east & west has been considered. Little effort has gone into creating or connecting to walking possibilities to the north. How about routes for the hotel guests to meander? How about residents of Boxted & Langham using the facilities? How about making sure that the A12 is permeable to all? In particular making the junction safe to pedestrians and creating routes towards the sports facilities area and Runkin's Corner.”

8.18 Essex Police state:

“...with regard this planning application in respect of the potential for Designing Out Crime in pursuance of the guidance offered within National Planning Policy Framework (NPPF).

The applicant and the Essex Police are already involved in constructive pre-application consultation and Essex Police is content the ethos of Crime Prevention Through Environmental Design (CPTED) is being addressed adequately.”

8.19 Essex Police Counter Terrorism Officer states

“I would be interested to have further involvement and discussion about this development as it progresses. Part of my role as a Counter Terrorism Security Advisor is to ensure the ongoing security of our crowded places and engagement in developments such as this plays a big part in that. I believe there are factors such as Hostile Vehicle Mitigation (HVM) and blast effects on glazing which need to be considered. Please feel free to contact me should you wish to do so.”

8.20 In addition to the details reported above, the full text of all consultation responses is available to view on the Council's website.

9.0 Parish Council Response

9.1 Myland Community Council made the following comment:

“Reason for comment: Support the proposal

Comment: MCC maintains its support of this important development but wishes to continue to express its concerns over the access to the car park from the current blind exit on Junction 28 of the A12 which will be exacerbated on Colchester United match days and concert events.”

10.0 Representations

10.1 One letter of objection has been received which makes the following points:

- previously the promoters were made to agree to support a bus service. Now appears that layby within site is supposed to be shared between a

bus stop, a set down and pick up car point, and delivery lorries (meaning not clear?). Not evident how this is to be done nor does it look practicable.

- Should be requirement to extend layby as necessary if turns out to be inadequate. (If condition is possible). [As it is not a public highway (?) ECC will presumably not be involved in what happens here?]
- Promoters seem keen to have buses stop on the NAR (VUR) instead, 400 yards away at point where they have to run across the road when returning home. Will scarcely encourage bus use. Nor is there any sign that ECC has agreed to provide stops on that road anyway.
- Promoters presumably hope that existing P&R service can be used instead of them having to fund a separate service. However, experimental evening P&R service of 2018-2020 is unlikely to be restored given usage was only 1-2 per bus (dependent on London commuters who are now far fewer).
- The chronic financial deficit into which the ill-advised Colchester scheme as a whole has now pushed the ECC P&R 'account' means (in combination with the impending LA money crisis at large) that no heavy subsidies will be possible henceforth.
- In principle, sharing the NG service with other developments so NG promoters do not bear the full cost is no bad idea, as higher usage would make the service more viable. Should be noted that the Severalls Hospital development service is imminent. ECC/CBC/operators quarterly meetings, which are supposed to be especially focused on getting services into new developments in a rational way, still have a record of 100% failure!

The full text of all of the representations received is available to view on the Council's website.

11.0 Parking Provision

- 11.1 The proposed development would be served by 758 car parking spaces (includes 8 rapid electric charging points and 15 active with potential for 171 to be converted) and 114 cycle parking spaces.

12.0 Accessibility

The proposal has the ability to comply with the provisions of the Equalities Act in respect of access.

13.0 Open Space Provisions

- 13.1 The nature of the development is such that there is no specific policy requirement for open space provision to accompany the proposals. There is however a significant area of public open space included.

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. It should be noted that the issue of impacts of the proposed development on air quality is an element

that was considered in the Environmental Statement submitted as part of the planning application. Furthermore this has not given rise to concerns from the Council's Environmental Protection team.

15.0 Development Team and Planning Obligations

15.1 This application is classed as a "Major" application and therefore there was a requirement for it to be considered by the Development Team. It was considered that Planning Obligations should be sought via Section 106 (S106) of the Town and Country Planning Act 1990. The Obligations that would be agreed as part of any planning permission would relate to the following.

15.2 From liaison between the applicant company, ECC and officers, the s106 agreement would seek to achieve the Bus Service Level criteria as outlined in the Highways Section of this report (or variation that is agreed by ECC and CBC):

- Public Transport - Contribution to fund bus improvements (current requested sum £543,000).

15.3 Other:

- (i) Agreement with regard to target a number of job opportunities in leisure and hospitality on jobseekers/returners/college leavers in the Borough.
- (ii) Contribution to ensure litter from site does not impact upon amenity outside of the site.

15.4 Lastly the S106 agreement would include a clause whereby the developer would agree to sign a 'no poaching' agreement that would prevent relocations of Class A3 uses from the town centre to the application site.

15.5 Parks and Recreation have recommended Maintenance contribution of £170,177 if amenity areas are to be adopted. The agent has confirmed the areas are not to be adopted

16.0 Report

Principle of the Development

16.1 Principle - Summary

In terms of the principle of the uses proposed on site, the current proposal is broadly similar in nature to the earlier extant planning permission (160825) which could be implemented as a fallback option. This is a material planning consideration. The site lies within an area designated in the adopted Local Plan as the North Colchester Strategic Employment Zone. Local Plan policies and National Planning Policies remain very similar and the Emerging Local Plan is at a more advanced stage which adds further support to the principle of the proposal. The

revised National Planning Policy Framework (2019) also emphasises the importance of encouraging economic growth by ‘building a strong competitive economy’ (Section 6). The drive-thru units are an additional element not included in the previous scheme but do not undermine policy support.

- 16.2 In addition to previous impact assessment work, the current application is supported by a Leisure Impact Assessment within the EIA that has not identified any significant impacts arising from leisure uses on the Town Centre or on the viability of the cinema scheme being developed in the Tollgate District Centre. The independent Leisure Impact Assessment has confirmed that “the application proposals meet the sequential and impact tests set out in the NPPF (and PPG)” and that “There are no sequentially preferable sites capable of accommodating the proposed development; and no existing centre is likely to face a ‘significant adverse impact’ on its vitality and viability and/or planned investment as a result of the proposed development.”
- 16.3 It is considered that the variations in the accommodation schedule and mix of uses to respond to changes in the leisure market are not considered to raise any new policy issues concerning the principle of development that have not already been afforded consideration in the determination previous application. The proposal can therefore be supported in principle.

16.4 *Principle- Key policies*

By way of specific Local Policy background to confirm support of the proposal, the site is located within the North Colchester Growth Area and forms part of an identified Regeneration Area. As mentioned above, the site is also part of the North Colchester Strategic Employment Zone (SEZ). Previous analysis undertaken on behalf of the Council has established that this SEZ is the highest rated employment site (CBC Employment Land Needs Assessment 2015). In the case of the North Colchester SEZ the relevant adopted policy in the adopted Site Allocations document of the Local Plan is:

SA NGA3 – Employment Uses in the North Growth Area which identifies the range of uses that would be acceptable in the SEZ as follows:

(a) Research and Development, Studios, Laboratories, High-Tech (B1b), Light Industrial (B1c), General Industrial (B2), Storage and Warehousing (B8). Any such development will be restricted by way of condition to prevent change of use to B1a.

(b) Display, repair and sale of vehicles and vehicle parts, including cars, boats and caravans.

(c) Indoor sport, exhibition and conference centres.

(d) A limited amount of retailing only where this is ancillary to another main use in Class B1b, B1c, B2 or B8.

(e) Services and facilities to meet the needs of employees in the Employment Zone.

(f) Business Uses (B1, B1a) only where already consented

(g) At Cuckoo Farm planning permission exists for a range of uses including a hotel (C1), a public house/restaurant (A3/4) a health and fitness centre (D2) and business units (B1).

- 16.5 Having regard to the above policy the application does not entirely accord with the Local Plan land use allocation (as was the case previously) in the currently adopted local plan e.g. the proposed cinema and the food and beverage uses. Accordingly, the planning application has again been advertised as a Departure from the Plan. To reiterate, in the event that the recommendation to Members is agreed, the resolution on the proposal will have to be referred to the Secretary of State in order that a decision can be made as to whether the proposal is to be called-in for determination by the Secretary of State. This appears unlikely in the context of the extant permission.
- 16.6 In respect of the above policy and as noted at the time of the previous application 160825, it is concluded following further assessment by the Council's Policy team that **the proposal for the leisure uses within the latest application would still allow employment land delivery targets in North Colchester to be met.** As before it is concluded that the extent of the employment use allocation in the Northern Gateway SEZ reflects the Council's latest employment land supply and demand evidence, which is contained in the January 2015 Employment Land Needs Assessment (ELNA) and May 2017 Employment Land Trajectory. The 2015 study found that overall, Colchester had a sufficient quantitative supply of employment land to meet future demand to 2033. This finding was echoed in the Inspector's conclusion on the Stane Park appeal, which found no justification for safeguarding employment land on a 6.8 ha site in the Stanway SEZ due to lack of demand and sufficiency of supply elsewhere.
- 16.7 The 2015 ELNA study recommended that the Council should consider rationalising the existing and future supply of industrial space by seeking to concentrate this space in the Borough's key locations and areas of strongest market demand. The study identified Northern Gateway as the highest-ranking location in its evaluation of Colchester employment sites. Development of allocations for the Northern Gateway area has accordingly reflected this potential. The Council has been proactive in further enhancing the market desirability of the area by improvements to digital connectivity to attract inward investment. On that basis, higher density office development is considered deliverable, so land requirements for business use land reflect the lower need created by tall office buildings rather than land-hungry warehouse/logistics developments.
- 16.8 The May 2017 Employment Land Trajectory shows two sites adjacent to the application site providing approximately 48,000 sqm of office floorspace

on 8.2 ha. This is considered to be an appropriate proportion of the 39.4 ha of employment land to be delivered in Colchester in the plan period (outside of Garden Communities). The proposal is therefore not considered to undermine the above policy.

- 16.9 In terms of the Emerging Local Plan, this is at a more advanced stage than at the time of the previous approval and offers further support to the principle of this proposal. Policy NC1 is a material consideration weighing in favour of the proposed application and states as follows:

Policy NC1: North Colchester and Severalls Strategic Economic Area Zone 2 includes the application site.

Policy for Zone 2: The area defined on the policies map as zone 2 (adjacent to the Stadium) is being developed by the Council as a leisure/community hub and will be safeguarded for a mix of uses including sport, leisure and recreation. Uses will be permitted where they clearly demonstrate the potential for job creation and provided that they do not undermine or constrain the main purpose of the economic function of the wider area. Uses may include an appropriate scale of leisure and commercial space, open space and green infrastructure to enhance connectivity. No retail use will be permitted unless it is ancillary to another use and meets the requirements of the sequential test and impact test if required.

- 16.10 This policy reflects the contribution that the Northern Gateway site could make as a sustainable and comprehensively planned location to deliver on Local Plan objectives for the delivery of employment land; new sports and leisure facilities; and associated infrastructure improvements. The Northern Gateway is well-located at a key growth area for urban Colchester and benefits from good transport access, including public transport/road access to the Town Centre via the Northern Approach Road and bus corridor as well as adjoining junction 28 of the A12. Accordingly, the proposal is considered to be in line with this Policy NC1 of the Emerging Local Plan. Other principle policies are outlined in the Policies section and Planning Policy consultation section of this report and point to support for this application.

16.11 *Principle- Sequential test and impact assessment*

Following a series of legal and consultant opinions on the previously approved application 160825, the Council concluded that while the Tollgate site could be considered sequentially preferable, ultimately Tollgate Village did not emerge as a sequentially preferable site because it did not meet the market and locational requirements of the sequential test as it was specific to a named operator with generic requirements to this type of operation and limited potential for other operators to occupy the scheme. Work completed on town centre impact did not find that the proposed development at Northern Gateway would have a significant impact on any Town or District Centre. (Appendix 2 contains an extract from the Committee report from the approved 160825 outlining the

considerations assessed at time in respect of the sequential test and impact upon the Town centre.) The same conclusion is considered to apply to the current application which is similar to that previous approval.

16.12 The revised NPPF Section 7 aims to ensure that the vitality of town centres is maintained and, as with the previous proposal, the current proposal is concluded to be acceptable in this respect for the reasons outlined above and as expanded upon below.

16.13 More specifically Paragraph 86 of the NPPF states that the sequential test should be applied:

“...to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.”

Paragraph 87 requires applicants and local planning authorities to demonstrate flexibility on issues such as format and scale when applying the sequential test.

Paragraph 89 refers to the impact test:

When assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m² of gross floorspace). This should include assessment of:

- a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
 - b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme). Paragraph 90 makes it clear that a planning application should be refused where it fails to satisfy the sequential test or is likely to have a significant adverse impact on one or more of the considerations in NPPF paragraph 89.
- 16.14 The conclusions of the Independent Leisure Impact assessment for the current application (copies of full report available on the Council's website) state:
- “ We assess that, whilst the proposed development will draw trade from Colchester Town Centre (in particular cinema and F&B expenditure), it is unlikely to have a significant adverse impact on the Town Centre's cinema and F&B offer. This recognises:

- (a) The Odeon continues to operate despite (i) Curzon opening in 2017 and (ii) the planning permissions granted, and the operators confirmed for new large-format cinemas at Northern Gateway (Cineworld) and Tollgate Village (The Light) respectively. It remains the case that there is no evidence to suggest Odeon would be forced to close due to a loss of trade to the Northern Gateway, which we accept provides an opportunity to deliver a cinema experience not currently available in Colchester. We reach the same judgement in respect of Curzon, which opened in the light of a competition 'risk' from Northern Gateway and Tollgate Village and offers a much smaller, boutique-style cinema experience than the cinema proposals for the Northern Gateway.
- (b) The F&B offer at the Northern Gateway (no A3/A5 operators identified) is likely to comprise casual dining operators that would complement – and cater for visitors to – the cinema, hotel and active leisure uses. Whilst the proposed development would draw trade from existing A3/A5 uses in Colchester Town Centre, it is unlikely to have a significant adverse impact on this sector given the scheme would function (differently) as a major regional leisure hub. Our judgement also considers the fact that the revised application includes a substantial reduction in A3/A5 floorspace (compared to the 2018 Approval) and introduces two drive-thru restaurants, which are unlikely to directly compete with the Town Centre on a like-for-like basis.
- “Overall, therefore, we assess that the application proposals meet the sequential and impact tests set out in the NPPF (and PPG) based on the information provided by LSH. There are no sequentially preferable sites capable of accommodating the proposed development; and no existing centre is likely to face a ‘significant adverse impact’ on its vitality and viability and/or planned investment as a result of the proposed development.”

16.15 The conclusion also comments that the applicant should clarify the latest position in respect of Cineworld’s commitment to the Northern Gateway (following its recent decision to temporarily close its cinemas across the UK)”. Accordingly, the agent has responded to this comment and submitted supplementary information with revised growth rates taking into account the impact of Covid-19. The report shows a projected drop in growth rates in 2020 but a significant rebound in 2021. The report accordingly states “Cineworld remain committed to the scheme and there is a strong expectation that Cineworld will open within the proposed scheme, which will come at a time (i.e. 2022/2023) to when the cinema market has recovered audience numbers.” It is also stated that the applicant is confident another cinema operator could fill the gap in the ‘unlikely event’ that Cineworld cannot proceed. The Independent Consultant agrees with these conclusions.

16.16 Accordingly, overall, given the above planning policy analysis and independent assessment it is considered that the proposal passes the sequential test, as defined in the NPPF and that there would not be a significant impact upon any Town or District Centre, as was also concluded on the previous scheme. The proposal therefore complies with Local Plan and National policy in this respect.

16.17 *Principle - Other material considerations*

The planning policy response to 160825 also noted the following material considerations which weighed in favour of the application and its overall acceptability and these considerations remain relevant to the current application and offer further support to the proposal:

- Delivery of Local Plan objectives -Northern Gateway Masterplan and corporate commitment to delivery of a comprehensively planned package of new employment and leisure facilities and supporting infrastructure.
- Financial benefits - The financial receipts to the public purse may be a material consideration, although at this stage it is not possible to fully assess financial benefits. The scheme will help with repayment of funding for the earlier stadium scheme and associated infrastructure. It will also serve as an anchor to attract further development and inward investment to the wider area.
- Job creation benefits – The proposed development would deliver full time jobs (indicated as 455) along with further direct and indirect economic benefits.

Design, layout, scale and landscape impact

16.18 In terms of the design, layout, scale and landscape impact of the proposal the scheme is considered acceptable. There are a number of Local Plan policies that are relevant to the case:

Core Strategy Policy SA NGA1 – Appropriate Uses within the North Growth Area requires that ‘...All new development should seek to draw on the character of the existing landscape, within and adjacent to individual sites. Proposals should seek a comprehensive integration of identified existing and new green links and desire lines which link both public and private open spaces. All new development will be expected to provide on-site infrastructure as well as provide or contribute towards off site infrastructure improvements to ensure the North Growth Area objectives are achieved.’

16.19 The ‘Vision’ document for the location was produced on behalf of the Council by Allies and Morrison. The vision document was approved by Cabinet in September 2012 and included the following key aspirations:

- A new gateway for Colchester
- A cutting-edge destination for sport and leisure
- A distinctive place defined by memorable buildings and spaces

- An exemplary approach to sustainability

- 16.20 Accordingly it is considered the location of this site at a 'gateway' to the town, requires a development of appropriate presence and quality in order to enhance the overall character of the area and ensure its attractiveness as a destination, both locally and regionally. This is reflected in the relevant Core Strategy policy UR2 provides that the Borough Council will promote and secure high quality and inclusive design in all developments and that the design of development should be informed by context appraisals and should create places that are locally distinctive enhance the built character and public realm of the area. The policy also provides that creative design will be encouraged.
- 16.21 Policy DP1 of the Local Plan provides that all development must be designed to a high standard, including respecting and enhancing the character of the site, its context and surroundings in terms of architectural approach height, scale, massing and must respect landscape setting.
- 16.22 The NPPF has similar provisions and Para 124 emphasises that the creation of high-quality buildings and places is fundamental to what the development process should achieve. It also provides that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area. Section 15 of the framework covers the protection of the wider landscape stating that the planning system should contribute to and enhance the natural and local environment.
- 16.23 Against this Policy backdrop and the context of the surroundings, the architectural approach taken follows an exciting contemporary character, similar to the scheme previously approved. In the context of the surroundings it is considered that this approach remains appropriate. The surrounding form of development generally follows a contemporary approach (for example the Community Stadium, David Lloyd Health and Fitness Centre and nearby commercial development). In addition, the use of this type of architecture, within an extensive green 'parkland' setting has considerable interest and presence.
- 16.24 The overall scale, form and massing of the proposed buildings is considered appropriate for the context. They would have the appropriate level of presence in terms of their scale within the relatively open landscape whilst not be overtly dominating, including when viewed from the A12, junction 28 and from the VUR. They would relate satisfactorily to the stadium nearby and would result in a striking Northern gateway to the town. As before, the position of buildings is such that important spaces such as United Way and also Via Urbis Romanae are directly addressed by built form.
- 16.25 The proposal features an attractive mixture of elements such as curved forms and varied roof shapes using a mixture of high-quality materials that give an exciting, striking and attractive appearance to the buildings. The brick proposed to be used on the cinema would be a beneficial visual contrast to the coloured sheeting and other materials used on the site. Furthermore, the provision of a high-quality public realm, as part of a

bespoke landscaping approach, would further augment the overall visual value of the scheme with attractive and well landscaped spaces between the buildings and additional water features adding to the visual interest. The drive-thru buildings are also considered to respect this context and would be relatively unobtrusive in this location and set against a backdrop of enhanced landscaping. The fenestration of the multi storey car park has been improved to give an enhanced level of visual interest and there will be landscaping alongside it to ensure it would not dominate this part of the VUR.

- 16.26 Some relatively minor changes to the scheme have been suggested including enhanced brick detailing to the cinema building and definition of spaces with additional planting. A meeting has also been held with the Council's Landscape Officer to discuss the concerns expressed within the consultation response. These matters related to the extent of the wildflower areas to the central space and secondly, the creation of a destination space, referencing well known horticulturalists/designers. In response, the landscape design has been amended to reduce the quantum of wildflower to the central space. It now relates to the existing oak trees/ditch line which was agreed as being more appropriate.
- 16.27 The remaining soft landscaped areas have been designed to include informal paths cutting through them, providing further hierarchy of routes on site. The paths would be lined with herbaceous planting and provide a scattering of benches set in the soft landscape areas.
- 16.28 Overall, subject to the revisions as outlined above, the proposal is considered to represent a high quality and exciting contemporary development that would relate well to its context and provide a striking gateway to the Northern approach to Colchester. Accordingly it would comply with the abovementioned Local Plan Policies, the Neighbourhood Plan and the NPPF.

Highway Matters and Sustainable Transport

- 16.29 The Highways Authority and Highways England have raised no objections and conclude that the volume of traffic, impact upon the road network (including junction 28 and the A12) visibility splays and parking provision is acceptable subject to conditions. These conditions which will be applied include:
- Submission of a Construction Management Plan
 - Contribution to a bus service
 - Bus stops provision and turning facilities
 - Visibility splays
 - Access arrangements at Junction 28
 - Appropriate pedestrian links
 - Travel Plan
- 16.30 In addition Para 109 of the NPPF is relevant and states "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 the positive comments received from the Highways Authority and Highways England it is not considered the provisions of Para 109 would be contravened subject to conditions.

- 16.31 A Transport Assessment has been submitted within the Environmental Statement and this concludes:

“It is considered that the development will take up opportunities for non-car driver means of travel through its proximity to the existing built-up area of North Colchester and the adoption of a Travel Plan. There will be suitable access to the site, and improvements can be undertaken that cost effectively limit the impacts of the development. The transport impact of the development is less than that already assessed and accepted within the consented scheme’s TA.”

- 16.32 To ensure an appropriate sustainable transport strategy is in place the conditions suggested by the Highway Authority will be applied. As per the previous application, the level of bus service proposed would need to ensure that the application site is properly accessible by a mode of transport other than the private car.

- 16.33 The applicant has confirmed a continuing commitment to providing financial support towards a new/improved bus service to serve this development. Essex County Council (ECC) is preparing a holistic public transport strategy for the Northern Gateway Area and in light of this on-going work, ECC has confirmed that a financial contribution is to be made by this development to help fund new/improved services.

- 16.34 ECC’s preferred strategy is to pool funding from each of the emerging developments to provide a comprehensive bus service(s) for the area in order to deliver the most effective bus mitigation strategy for the wider northern gateway area. The final detail of the improved bus service is being developed and the bus mitigation strategy for this development at this stage would aim to achieve the following (or very similar):

- A bus service or services providing a frequency of one bus every 30 minutes seven days a week;
- The first bus arriving no later than 09.30 on any day and the last bus leaving no earlier than 23.30;
- Calls at bus stops either on-site or no further than 400 metres actual walking distance from the site;
- Providing a connection between the site and the Colchester railway station, Colchester town centre and residential areas in Colchester near to the site;

- 16.35 If the optimum solution is for buses to enter the site, the bus stop north of the cinema has been designed to be of sufficient size to accommodate a double decker bus. The layby will function as a dual-use bus stop and servicing bay, with deliveries able to use the northern layby prior to the first bus arriving on site. This will be managed through the delivery and

servicing management of the site. The southern layby on United Way can provide unrestricted delivery times and thus ensure that all units can always be serviced although servicing will occur “out of hours”.

- 16.36 If it is ECC’s preference to have stops on the VUR (maintaining a rapid bus service) new stops will be created on the VUR. Funding is being provided by this development to create up to 2 new bus stops to serve this development. These stops will be accessed utilising the existing footpaths and crossing points along/across the VUR and will be located within 400m of the site. If stops are provided on the VUR, the Park and Ride Service could potentially serve these new stops during its operational hours.
- 16.37 In terms of car parking provision, 758 spaces are proposed, and this includes 37 disabled spaces. The proposed parking provision for the development has been guided by Essex Planning Officers Association (EPOA) Parking Standards 2009, adopted by Colchester Borough Council as a Supplementary Planning Document (SPD) in November 2009 which have maximum rather than minimum standards. This level of parking is similar to that previously approved and is considered adequate to serve the proposed development in accordance with Local Plan Policy DP19. No objections in this respect have been received from the Highways Authority.
- 16.38 With regard to electric charging points, 15 active electric charging spaces are proposed initially. In addition to these there will be the 8 rapid charging spaces proposed near the drive thru restaurants. The submitted plan in section 14 of the DAS shows how a further 171 spaces are to be provided as passive EV charging spaces (the blue spaces). These spaces have the duct work etc and can be easily converted to EV spaces should the demand arise. This level of provision is considered acceptable. The 114 cycle spaces (as before) will also be provided.
- 16.39 With regard to the ongoing management of car parking on-site a car parking management plan has been submitted which includes the following details:
- Currently anticipated that the operation of the car park will be tendered out to appropriately qualified national operators who will be responsible for ensuring the smooth operation of the car park, cleanliness, lighting levels and that all payment equipment is fully serviced and maintained to ensure the continuity of operations.
 - Car park will be operated using barrierless, automatic number plate recognition (ANPR) technology. ANPR cameras would be situated at the entrance and exits of all.

Impact on neighbouring properties

- 16.40 In terms of the impacts of the proposed development on the amenity of neighbouring properties it is concluded that the proposal would not cause any significant harm. In terms of amenity impact generated mainly by noise from traffic generated by and visitors to the development and from commercial operations (i.e. smell, pollution, deliveries), it is considered

that the proposal would be acceptable. The environmental impacts of the development have been quantified through the Environmental Statement that accompanied the application submission. Therefore, issues such as noise and air pollution were considered in detail and Environmental Protection have raised no objections.

- 16.41 The nearest existing development to the application site is the Football Stadium and the David Lloyd development. It is considered that the proposed development would not have a detrimental impact on the amenity of these existing developments – not least due to their shared commercial nature. In terms of the nearest residential development, this is located along Boxted Road to the west, with an enclave located further north on this road, to the north of the trunk road. Significant newer residential development is located to the south east including Severalls Lane. It is considered that the relative remoteness of the development would mean that the amenity of the occupiers of these dwellings would not be significantly impaired by the proposed development. The proposal would therefore accord with Policy DP1 which aims to protect existing public and residential amenity.

Trees and Vegetation

- 16.42 There will be some removal of existing vegetation on site but overall its loss is considered to be acceptable and justified with replacement landscaping considered to satisfactorily mitigate this loss. The locality of the site includes a series of field boundaries formed of defunct hedgerows and lines of mature trees, most of which are oak. A tree survey was undertaken and submitted to establish the quality of all the trees within the site at the start of the project.
- 16.43 The agent has confirmed that the masterplan has evolved to provide a central landscaped plaza space where the best oaks are retained from the existing trees found on site, (Trees T13, T14 and T15 - all category B trees. These oaks have been assessed as having 40+ years of life and are retained in soft landscaping with hard landscaping located outside of their root protection areas.
- 16.44 The three individual oaks to be removed (T16, T17 and T18) are all Category C trees and have significant crown die back and are declining generally. Each tree has been estimated to have only 10-20 years of life left. Two groups of trees are also to be removed. These are G7, a hedgerow of Holy, Blackthorn and Oak and G8, a line of 7 coppiced oak stools. Both Groups are category B trees and form part of the hedgerow which bisects through the site, G7 being to the south and G8 being to the north. Both groups of trees conflict in part with the footprint of the proposed development and are proposed for removal.
- 16.45 The agent has confirmed that it was “agreed during the consideration and approval of the 2018 application, there is a conflict between retaining the hedgerow and delivering the proposed leisure units. The submitted scheme is for a leisure destination. To be successful, the two distinct

buildings located on either side of the hedge must have strong physical and visual relationships with one another. Maintaining visibility across the plaza and preserving views between the leisure units is key to the creation of a comprehensive leisure offering. The masterplan development has therefore been clear that having a dense landscaped hedgerow bisecting through the site which would have the affected of visually separating the two buildings cannot be accommodated. “

- 16.46 As per the previous permission the agent considers the removal of large parts of the hedgerow is therefore essential to provide the required visibility across the development and states that “Even if the proposed buildings were moved to avoid any physical conflict with G7 and G8, these trees would still need to be removed. “
- 16.47 Since permission was granted in 2018 the agent has however revisited the landscape strategy to test if any additional trees can be retained. The changes made to the site layout have enabled the retention of T15 and additional category B Oak tree. Accordingly, it is noted that the 2018 consent gave permission to remove all trees on the land north of United Way other than T13 and T14. If implemented, that permission would therefore result in the loss of an additional category B Oak tree. The current application is therefore an improvement on the previous approval and allows for an additional category B Oak tree to be retained.
- 16.48 The landscape strategy that has been developed is focused upon the provision of more appropriately located, well-spaced tree planting in soft landscape areas across the site as a whole. This is considered to provide appropriate replacement landscaping that mitigates the loss of the trees and would provide a benefit to the landscape in the longer term. The Council’s tree officer has analysed the submitted justification for the removal of the trees and vegetation and is in agreement subject to the Council’s landscaping officer agreeing the landscaping strategy. The landscaping strategy has been slightly amended, as outlined earlier, and is considered satisfactory and will be the subject of a condition.

Environmental and Carbon Implications

- 16.49 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, being within the Northern Gateway growth area and adjacent to a main trunk road and the Sustainable Transport Strategy demonstrates there will be good and improved links to Colchester Town

Centre. The large number of new homes in northern Colchester will be readily accessible on foot and cycle to the new facilities and this will reduce the need for trips further afield.

Myland Neighbourhood Plan

16.50 The Myland Neighbourhood Plan forms part of the adopted Development Plan for Colchester. As it was adopted in December 2016 and provides an up to date Development Plan position on the Northern Gateway leisure proposal. The Neighbourhood Plan supports the general principle of sports and leisure facilities at Northern Gateway, as Myland Community Council and Braiswick Residents Association 'identify the emerging Northern Gateway proposals as having the potential to deliver an array of sport and leisure facilities which will provide much needed opportunities for sport and recreation and which will make an important contribution to the sustainability of the Neighbourhood Plan Area.' It is considered that the current proposal would help deliver on this Neighbourhood Plan objective and therefore accords with the provisions of the Neighbourhood Plan.

16.51 The following policy statement is also included:

SPL1 – In harmony with active lifestyles afforded by greenspace provision MCC and BRA will encourage developers and CBC to enable the provision of sport and leisure facilities, as far as possible on the Chesterwell, Severalls Phase 2 and Northern Gateway developments.

Ecological Issues

16.52 With regard to ecological issues, an ecological appraisal has been submitted. This confirms that there will be a small net loss of biodiversity, similar to the previous scheme and accordingly mitigation recommendations have been put forward. These measures can be conditioned ensuring the proposal is implemented in accordance with these measures. Natural England have made no objections to the scheme.

16.53 Accordingly the proposal would not conflict with Wildlife Policy DP21 which aims to conserve and enhance biodiversity.

Other Matters

16.54 In terms of surface water drainage and flooding, the site does not lie within a Flood Zone 2 or 3 and Essex SUDS have no objections subject to conditions. Accordingly there are no flood risk issues so the proposal does not conflict with Policy DP20. It is considered that surface water drainage conditions should be applied.

16.55 There would be no impact upon Heritage Assets or their setting and Historic England have raised no objections.

16.56 There are no archaeological implications and so the proposal complies with Policy DP14 in this respect.

- 16.57 With regard to complying with Breeam standards (sustainability rating of buildings) the submitted assessments indicate a 'Very Good' rating would be achieved. This meets the requirements of Colchester Borough Council's Core Strategy policy "ER1 Energy, Resources, Waste, Water and Recycling", which encourages non-residential developments to achieve a BREEAM rating of Very Good.
- 16.58 Conditions relating to contaminated land will be applied.
- 16.59 The Police Counter Terrorism officer has been contacted but has not recommended any conditions.

17.0 Conclusion

- 17.1 Whilst some elements of the proposed development are partly a Departure from the adopted Local Plan (as before), i.e. proposed cinema and the food and beverage uses, it is considered that material considerations strongly merit a recommendation of approval of the planning application. Approval for a similar scheme but not including the drive through units, was granted in 2017 under application 160825. Policy considerations at a National and Local level remain broadly the same as at the time of the previous approval in respect of this scheme. The Emerging Local Plan is now more advanced and offers additional support to the proposal. The revised NPPF also emphasises the importance of building a strong competitive economy. Accordingly, it is considered that the principle of the proposal is acceptable and that, as before, the impact upon Town and District Centres from the proposal is acceptable and the Sequential Test has been complied with.
- 17.2 The design, scale, form and layout of the proposal is considered appropriate for this context and would have an acceptable impact within the landscape. An appropriate landscaping scheme will be conditioned. The proposal incorporates a mixture of contemporary building forms that are similar in character to the previous approval and some design improvements, including material detailing. There are no objections from a highway safety point of view and the impact of traffic generation is acceptable, including upon the capacity of junction 28. The impact upon ecology, vegetation and archaeology is considered acceptable. There will be the loss of some Category B trees but this has been justified and a replacement planting scheme will mitigate the impact of this vegetation loss. It is not considered there will be a detriment to neighbouring residential amenity.
- 17.3 If Members agree with the Officer recommendation, it will be necessary for the proposal to be referred to the Secretary of State under the current call-in procedure owing to the cinema and beverage uses being a Departure to the Local Plan, as was the case on the previously approved application.

18.0 Recommendation

18.1 Members area advised that under the Town and Country Planning (Consultation) (England) Direction 2009 if the recommendation of approval is accepted it will be necessary to refer the application to the Secretary of State in order that a decision can be made with regard to whether the application is to be called in for determination. The following recommendation is made:

1. Delegated AUTHORITY to APPROVE subject to minor design detailing revisions and potential minor changes to conditions and 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 Environmental and Protective Services to refuse the application, or otherwise to be authorised to complete the agreement to provide the following:

From liaison between the applicant company, ECC and officers, the s106 agreement would seek to achieve the Bus Service Level criteria as outlined in the Highways Section of this report (or variation that is agreed by ECC and CBC):

- Public Transport - Contribution to fund bus improvements (current requested sum £543,000).

18.2 Other:

- Agreement with regard to target a number of job opportunities in leisure and hospitality on jobseekers/returners/college leavers in the Borough.
- Contribution to ensure litter from site does not impact upon amenity outside of the site.

18.3 Lastly the S106 agreement would include a clause whereby the developer would agree to sign a 'no poaching' agreement that would prevent relocations of Class A3 uses from the town centre to the application site.

18.4 On completion of the legal agreement, the Head of Service be authorised to grant planning permission subject to the following conditions (with delegation to officers for minor amendments to conditions if required):

19.0 Conditions

1 - Time Limit for Full Permissions *

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

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

2 - Development to Accord With Approved Plans *

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

To be confirmed

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

3 - Access for Disabled Persons *

No works shall take place until a scheme indicating the provisions to be made for disabled people has been submitted to and approved, in writing, by the Local Planning Authority. The agreed scheme shall be implemented before the development hereby permitted is brought into use.

Reason: To ensure that convenient provisions to facilitate access for all.

4 - Materials to be Agreed *

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

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

5 - Surfacing Material to be Agreed *

Prior to commencement of the development hereby approved full details of the surfacing materials to be used for all private, non-adoptable accessways, driveways, footpaths, courtyards, parking areas and forecourts shall be submitted to and agreed, in writing, by the Local Planning Authority. The development shall thereafter be carried out in accordance with the agreed details.

Reason: There is insufficient information within the submitted application to ensure that these details are satisfactory in relation to their context and where such detail are considered important to the character of the area.

6 - Non-Residential BREEAM (Part 1 of 2) *

No works shall take place until evidence that the development is registered with a BREEAM certification body and a pre-assessment report (or design stage certificate with interim rating if available) has been submitted indicating that the development can achieve a final BREEAM rating level of at least Very Good.

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

7 -Non-Residential BREEAM (Part 2 of 2) *

Within 6 months of the occupation of the development, a final Certificate shall have been submitted to the Local Planning Authority certifying that BREEAM rating Very Good has been achieved for this development.

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

8 - Refuse and Recycling As Shown *

Prior to the first occupation of the development, the refuse and recycling storage facilities as shown on the approved plans shall have been provided and made available to serve the development. 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.

9 - Communal Storage Areas *

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

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

10 – Litter *

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

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

11 - Non-Standard Condition/Reason - Foul Water Strategy **

No development shall commence until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the works have been carried out in accordance with the foul water strategy so approved unless otherwise approved in writing by the Local Planning Authority.

Reason: To prevent environmental and amenity problems arising from flooding.

12 - ZUM - 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 suitably qualified person(s) or the Lead Local Flood Authority (ECC), the statutory consultee in relation to SuDS.

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 LPA. The approved scheme shall subsequently be implemented prior to occupation and should include but not be limited to:

- Run-off from the site restricted to a maximum of 24.5l/s for all events up to the 1 in 100 inclusive of climate change (40%) storm event.
- Infiltration testing across the site area, in accordance with BRE 365, to support the SuDS hierarchy.
- 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.
- Final detailed modelling of the whole drainage network on site.
- 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.

13 - Non-Standard Condition/Reason - Minimise Risk of 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 has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall subsequently be implemented as approved in accordance with a timescale previously agreed in writing with the Local Planning Authority.

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.

14 - Non-Standard Condition/Reason - Surface Water Maintenance Plan **

Prior to first occupation of the development hereby approved, 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, shall be submitted to and agreed, in writing, by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

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

15 - Non-Standard Condition/Reason - Yearly Maintenance 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 Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

16 - Non-Standard Condition/Reason - Removal of Permitted Development Rights **

Notwithstanding the provisions of Article 3, Schedule 2 Part 3 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended or any Order revoking and re-enacting that Order with or without modification) the development hereby approved shall be used solely as described in the planning application submission documents and supporting materials and for no other purpose(s) in the Schedule to the Town and Country Planning (Use Classes) Order 1987 and The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (or in any provision equivalent in any Statutory instrument revoking and re-enacting that Order with or without modification).

Reason: This is the basis on which the application was submitted and subsequently considered and the Local Planning Authority would need to give further full consideration to the appropriateness of a different use or uses on this site at such a time as any future change of use were to be proposed.

17 - Full Landscape Proposals TBA **

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

- PROPOSED FINISHED LEVELS OR CONTOURS;
- MEANS OF ENCLOSURE;
- CAR PARKING LAYOUTS;
- OTHER VEHICLE AND PEDESTRIAN ACCESS AND CIRCULATION AREAS;
- HARD SURFACING MATERIALS;
- MINOR ARTEFACTS AND STRUCTURES (E.G. FURNITURE, PLAY EQUIPMENT, REFUSE OR OTHER STORAGE UNITS, SIGNS, LIGHTING TOTEM, ETC.);
- PROPOSED AND EXISTING FUNCTIONAL SERVICES ABOVE AND BELOW GROUND (E.G. DRAINAGE POWER, COMMUNICATIONS CABLES, PIPELINES ETC. INDICATING LINES, MANHOLES, SUPPORTS ETC.);
- RETAINED HISTORIC LANDSCAPE FEATURES;
- PROPOSALS FOR RESTORATION;
- PLANTING PLANS;
- WRITTEN SPECIFICATIONS (INCLUDING CULTIVATION AND OTHER OPERATIONS ASSOCIATED WITH PLANT AND GRASS

ESTABLISHMENT);

- SCHEDULES OF PLANTS, NOTING SPECIES, PLANT SIZES AND PROPOSED NUMBERS/DENSITIES WHERE APPROPRIATE; AND
- IMPLEMENTATION TIMETABLES AND MONITORING PROGRAMS.

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

18 - 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 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.

19 – Earthworks *

No works shall take place until details of all earthworks have been submitted to and agreed, in writing, by the Local Planning Authority. These details shall include 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. The development shall thereafter be carried out in accordance with the approved details.

Reason: To ensure that any earthworks are acceptable in relation to their surroundings.

20 - Tree and Natural Feature Protection: Protected Areas *

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

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

21 - Tree and Natural Feature Protection: Entire Site *

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.

22 - Tree Canopy Hand Excavation *

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

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

23 - Public Art *

No works shall take place until a scheme indicating the provision of public art and including a timetable for implementation has been submitted to and approved, in writing, by the Local Planning Authority. This scheme shall thereafter be carried in accordance with the detail approved and retained as such thereafter unless otherwise agreed, in writing, by the Local Planning Authority.

Reason: To ensure that this development scheme makes a contribution to the Borough in the field of arts and culture and to enhance the appearance of the development and visual amenity.

24 - 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.

25 - Limits to Hours of Work *

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

Weekdays: 8am - 6pm

Saturdays: 8am - 1pm

Sundays and Public/Bank Holidays: Not at all

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

26 - Restriction of Hours of Operation **

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

Use	Monday to Friday	Saturday	Sunday and Bank Holidays
A3 - Restaurants and cafes	Start Time: 06:30 End Time: 02:00	Start Time: 06:30 End Time: 03:30	Start Time: 06:30 End Time: 03:30
C1 - Hotels	Start Time: 00:00 End Time: 23:59	Start Time: 00:00 End Time: 23:59	Start Time: 00:00 End Time: 23:59
A5 - Hot food takeaways	Start Time: 00:00 End Time: 23:59	Start Time: 00:00 End Time: 23:59	Start Time: 00:00 End Time: 23:59

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. Note: Premises requiring a License will need to apply to the Licensing Authority and each application will be assessed on its own merits; there is no guarantee that the above hours would be approved.

27 - Restricted Hours of Delivery **

Prior to first operation, precise details of delivery hours shall be submitted to and agreed in writing by the Local Planning Authority. No deliveries shall thereafter be received at, or despatched from, the site outside of the approved details.

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.

28 - Food Premises (Control of Fumes and Odours) *

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

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

29 - Grease Traps Required *

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

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

30 - Site Boundary Noise Levels **

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

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

31 - Restriction of Amplified Music *

Prior to the first use or occupation of the development hereby permitted, the level of internal amplified sound shall be restricted by the installation and use of a noise-limiting device that complies with details that shall have been submitted to and agreed, in writing, by the Local Planning Authority. Thereafter, such devices shall be retained and operated in accordance with the approved specification and working order at all times.

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

32 - Self-Closing Doors *

Prior to the first use or occupation of the development hereby permitted, all doors allowing access and egress to the premises shall be self-closing and shall be maintained as such, and kept free from obstruction, at all times 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 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.

33 - Sound Insulation on Any Building **

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

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

34 - Light Pollution for Major Development *

Prior to the first use of the development hereby permitted, a validation report undertaken by competent persons that demonstrates that all lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) fully complies with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note for zone EZ3 SMALL TOWN CENTRES OR URBAN LOCATIONS shall be submitted to, and agreed in writing by, the Local Planning Authority. Any installation shall thereafter be retained and maintained as agreed therein.

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

35 - Details of Floodlighting **

Prior to their installation details of any floodlighting shall have been submitted to and agreed, in writing, by the Local Planning Authority. The development shall thereafter be carried out and maintained in accordance with the approved details.

Reason: To ensure that any floodlighting at the site is of a satisfactory specification and to ensure that it will not cause any undue harm or loss of amenity to the surroundings area.

36 - Illuminated Signs

Any externally illuminated sign shall comply with the guidelines in the current "Institution of Lighting Engineers Guidance TR5 Brightness of Illuminated Advertisements".

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

37 - External Light Fixtures *

No external lighting fixtures shall be constructed, installed or illuminated until details of all external lighting proposals have been submitted to and approved, in writing, by the Local Planning Authority. Thereafter, no lighting shall be constructed or installed other than in accordance with those approved details.

Reason: To reduce the risks of any undesirable effects of light pollution

38 - Non-Standard Condition/Reason – External Lighting *

All external lighting serving the buildings hereby approved shall only be illuminated during the authorised hours of opening of those buildings.

Reason: To control periods of illumination in order to reduce the risks of any undesirable effects of light pollution.

39 - Contaminated Land Part 1 of 4 (Site Characterisation) **

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

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

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

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

40 - 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

41 - Contaminated Land Pt. 3 of 4 (Implementation of Approved Remediation) *

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

42 - 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 39, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 40, 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 41.

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.

43 - Validation Certificate *

Prior to the first OCCUPATION/USE of the development, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 40.

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.

44 - Oil Interceptor Required *

Prior to being discharged into any watercourse, surface water sewer or soakaway

all surface water drainage shall be passed through an oil interceptor designed and constructed to have a capacity compatible with the site being drained. Roof water shall not pass through the interceptor.

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

45 - Ecological Survey **

Prior to the commencement of development, precise details of wildlife mitigation and enhancement measures (as referenced in the submitted ecological report dated July 2020) shall be submitted to and agreed, in writing, by the Local Planning Authority. The development shall thereafter be carried out in accordance with such agreed details.

Reason: To allow proper mitigation and enhancement of the impact of the development on the contribution of nature conservation interests to the amenity of the area.

46 - Non-Standard Condition/Reason – Electric Charging Points **

Prior to first use of the site, the electric charging points for vehicles as shown on the submitted plans shall be provided and thereafter be maintained and retained as such. Prior to first use of the site details of a mechanism for deciding the requirement for implementing the use of the additional 171 electric charging points shall be submitted to and agreed in writing by the Local Planning Authority. The approved implementation mechanism shall thereafter be complied with and any electric charging spaces so implemented shall thereafter be maintained and retained as such.

Reason: In the interest of promoting sustainable transport modes and reducing pollution.

47 – Non-Standard Condition/Reason – Construction Management Plan *

Prior to commencement of the development a construction traffic management plan, to include but not be limited to details of vehicle/wheel cleaning facilities within the site and adjacent to the egress onto the highway, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the agreed plan.

Reason: To protect highway efficiency of movement and safety.

48 – Non-Standard Condition/Reason – Public Transport Improvements *

No commencement of the development shall take place until details of the following have been submitted to and approved in writing by the Local Planning Authority:

- a) a bus service or services or a contribution towards a public transport strategy for the site and surrounding area
- b) on site bus stop locations and specification
- c) any required new off site and/or improved existing off site bus stops
- d) any required on site bus turn round and/or layover facilities (temporary and/or permanent) and;
- e) a crossing facility or facilities in United Way

No occupation of the development shall take place until the agreed details have been provided.

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.

49 – Non-Standard Condition/Reason – Visibility Splay requirement *

Prior to occupation of that part of the development which utilises it, the access off United Way at its centre line shall be provided with a minimum 2.4 x 70 metre visibility splay to the right, as measured from and along the nearside edge of the carriageway. There shall be no obstructions within the splay more than 600 mms in height.

Reason: To provide adequate inter-visibility between vehicles using the access and those in existing highway in the interest of highway safety.

50 – Non-Standard Condition -Index linked contribution

No occupation of the development hereby approved shall take place until precise details of the following shall be submitted to and approved in writing by the Local Planning Authority:

- a. on-site bus stop locations as shown in principle on planning application drawing C174 / 3005 p11 produced by CMP Architects
a specification which shall accord with Essex County Council's together with a specification for the bus stops
- b. up to two new off-site or improved existing off-site bus stops if required and;
- c. an on-site bus turn around facility as shown in principle on planning application drawing C174 / 3005 p11 produced by CMP Architects

The approved details shall thereafter be implemented prior to occupation of the development hereby approved (save for the occupation of the hotel, the drive thru restaurants and/or the electric vehicle charging station).

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.

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51. - Access Arrangements

No occupation of the drive thru restaurants and/or the electric vehicle charging station shall take place until the access arrangements off the southern

roundabout at Junction 28 on the A12 as shown in principle on the planning application drawings have been provided and completed in accordance with details to be agreed by the Highway Authority.

Reason: To protect highway efficiency of movement and safety.

52. Access requirements

No occupation of the development (save for the occupation of the drive thru restaurants and/or the electric vehicle charging station) shall take place until the following have been provided or completed:

- a) the vehicle access arrangements, including lay-by in United Way, as shown in principle on planning application drawing C174 / 3005 pl1 produced by CMP Architects
- b) the Tower Lane cycle and pedestrian link as shown in principle on planning application drawing 841_PL_001 P03 produced by PLACE
- c) a crossing facility on United Way as shown in principle on planning application drawing number 3776-WSP-00-GF-DR-TP-0006 produced by WSP and;
- d) an overarching site wide Framework Travel Plan 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.

53. Lane Allocation Markings

Within 12 months of occupation of the development (save for the occupation of the hotel, the drive thru restaurants and/or the electric vehicle charging station), the lane allocation road markings and signs on the Via Urbis Romanae north approach to the United Way/Axial Way roundabout as shown in principle on the planning application drawings shall be completed unless an alternative junction improvement scheme has already been completed as part of planning application reference 190665.

Reason: To protect highway efficiency of movement and safety.

19.0 Informatives *

(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) – Informative on Conditions stating prior to commencement/occupation *

PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either BEFORE you commence the development or BEFORE you occupy the development.

****This is of critical importance****. If you do not comply with the condition precedent you may invalidate this permission and be investigated by our

enforcement team. ****Please pay particular attention to these requirements****. To discharge the conditions and lawfully comply with your conditions you should make an application online via www.colchester.gov.uk/planning or by using the application form entitled 'Application for approval of details reserved by a condition following full permission or listed building consent' (currently form 12 on the planning application forms section of our website). A fee is also payable, with the relevant fees set out on our website.

(3) – Informative on any application with a site notice *

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

(4) Informative on Noise and sound Insulation Competent Persons *

PLEASE NOTE that, with regard to and noise measurement and sound insulation, a competent person is defined as 'someone who holds a recognised qualification in acoustics and/or can demonstrate relevant experience'.

(5) – 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) – Informative on works affecting Highway land**

PLEASE NOTE: No works within or affecting the highway should be carried out without prior arrangement with, and to the requirements and satisfaction of, the Highways Authority. The applicant is advised to contact Essex County Council on 08456037631, or via email at development.management@essexhighways.org or by post to Essex Highways, Colchester Highways Depot, 653 The Crescent, Colchester, CO4 9YQ with regard to the necessary application and requirements.

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

All or some of the above requirements may attract the need for a commuted sum towards their future maintenance (details should be agreed with the Highway Authority as soon as possible).

(7) Informative on Public Rights of Way *

PLEASE NOTE: The applicant/developer is advised that the application site is, or appears to be, affected by the existence of a public right of way. It should be noted that:

(i) it is an offence to obstruct or divert a public right of way (or otherwise prevent free passage on it) without the proper authority having been first obtained. In the first instance contact should be made with the Public Rights of Way Office,

Highways and Transportation Services, Essex County Council, County Hall, Chelmsford, Essex CM1 1QH. The telephone number is 01245 437563. (ii) The granting of planning permission does not authorise the undertaking of any work on a public right of way. Where it is necessary for a right of way to be stopped-up or diverted in order that development may take place, no work may take place upon the line of the right of way until an appropriate order has been made and confirmed (see (i) above). The applicant/developer should note that there is a charge for making a change to the rights of way network. (iii) Where a private means of access coincides with a public right of way, the granting of planning permission cannot authorise the erection of gates across the line or the carrying out of any works on the surface of the right of way and that permission for any changes to the surface must be sought from the highway authority (Essex County Council).

(8) – Informative on Bats *

PLEASE NOTE that it is understood that bat roosts exist within the application site. Bats are a statutorily protected species, and it is the developer's responsibility to ensure the requirements of the Wildlife and Countryside Act 1981 which relate to the protection of bats and their roosts are fully complied with.

(9) Non Standard Informative *

Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.

(10) - Non Standard Informative *

- Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting may be obtained from ECC as Lead Local Flood Authority.
- Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to suds@essex.gov.uk.
- Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.
- It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.
- You may require ordinary watercourse consent for the removal of the ditch and any works to existing ditches. Please see the following link: <https://flood.essex.gov.uk/maintaining-or-changing-a-watercourse/apply-for-a-watercourse-consent/>

(11) - Non Standard Informative **

The applicant's attention is drawn to the contents of the Anglian Water letter received on this application. An application to discharge trade effluent must be made to Anglian Water and must have been obtained before any discharge of trade effluent can be made to the public sewer. Anglian Water recommends that petrol / oil interceptors be fitted in all car parking/washing/repair facilities. Failure to enforce the effective use of such facilities could result in pollution of the local watercourse and may constitute an offence.

Anglian Water also recommends the installation of a properly maintained fat traps on all catering establishments. Failure to do so may result in this and other properties suffering blocked drains, sewage flooding and consequential environmental and amenity impact and may also constitute an offence under section 111 of the Water Industry Act 1991.

(12) -ZU1- Informative SUDS Suitably Qualified Person

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

APPENDIX 1 Proposed floorspace compared to previous approval 160825.

Current Proposal:

Use Class	Total gross new internal floorspace proposed (including changes of use) (square metres)
A3 - Restaurants and cafes	2885
C1 - Hotels	3078
D2 - Assembly and leisure	13553
Other N/A	7828
Total	27344

Previous Approval 160825:

Use Class/type of use	Total gross new internal floorspace proposed (including changes of use) (square metres)
A3 - Restaurants and cafes	4,543
C1 - Hotels	3,410
D2 - Assembly and leisure	10,274
Other	12,193
Total	30,420

APPENDIX 2 160825 COMMITTEE REPORT EXTRACT- Sequential Test and Impact Upon Town Centre conclusions:

15.40 Leading on from this it is considered that the provision of the cinema element accords with the requirements of the NPPF Sequential Test as sites that are sequentially preferable are not suitable – and this suitability issue properly includes the commercial requirements of an applicant – and are not viable for the mix of uses that are proposed under this planning application that are required for the cinema use. Specifically, in relation to this point the Lichfield's Critique concludes that '...In our view, collectively, the evidence presented provides a robust justification that market and

locational requirements mean the proposed development cannot be located at TV (Tollgate Village), and the sequential test has been satisfied...'

- 15.41 Additionally whilst there will be an impact on the town centre resulting from the development, the independent consultant's opinion in relation to the existing cinema provision in the town is that this would not result in closure of the Odeon or postponement of the Curzon facility. In combination with the proposed food and beverage uses, the main impact would be during the evening as opposed to daytime periods when the main retail function of the town would not be adversely impacted. The following comment is included within the Lichfields Critique:

'...Lichfields' impact sensitivity analysis...indicates that the solus and cumulative impacts of the NG application proposal with commitments will not have a significant adverse impact on Colchester town centre or other centres...'