

Planning Committee Meeting

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

Thursday, 25 July 2019 at 18:00

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

Information for Members of the Public

Access to information and meetings

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

Dates of the meetings are available here:

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

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

Have Your Say!

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

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

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COLCHESTER BOROUGH COUNCIL
Planning Committee
Thursday, 25 July 2019 at 18:00

The Planning Committee Members are:

Councillor Cyril Liddy	Chairman
Councillor Andrea Luxford Vaughan	Deputy Chairman
Councillor Lyn Barton	
Councillor Pauline Hazell	
Councillor Brian Jarvis	
Councillor Derek Loveland	
Councillor Jackie Maclean	
Councillor Philip Oxford	
Councillor Martyn Warnes	

The Planning Committee Substitute Members are:

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

Councillors:

Christopher Arnold	Kevin Bentley	Tina Bourne	Roger Buston
Nigel Chapman	Peter Chillingworth	Helen Chuah	Nick Cope
Simon Crow	Robert Davidson	Paul Dundas	John Elliott
Andrew Ellis	Adam Fox	Dave Harris	Theresa Higgins
Mike Lilley	Sue Lissimore	Sam McCarthy	Patricia Moore
Beverley Oxford	Gerard Oxford	Chris Pearson	Lee Scordis
Lesley Scott-Boutell	Lorcan Whitehead	Dennis Willetts	Julie Young
Tim Young			

AGENDA

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

Please note that Agenda items 1 to 6 are normally dealt with briefly.

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

1 Welcome and Announcements

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

2 Have Your Say! (Planning)

The Chairman will invite members of the public to indicate if they wish to speak or present a petition on any item included on the agenda. Please indicate your wish to speak at this point if your name has not been noted by Council staff.

These speaking provisions do not apply to applications which have been subject to the Deferral and Recommendation Overturn Procedure (DROP).

3 Substitutions

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

4 Urgent Items

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

5 Declarations of Interest

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

6 Minutes

There are no minutes for confirmation at this meeting.

7 Planning Applications

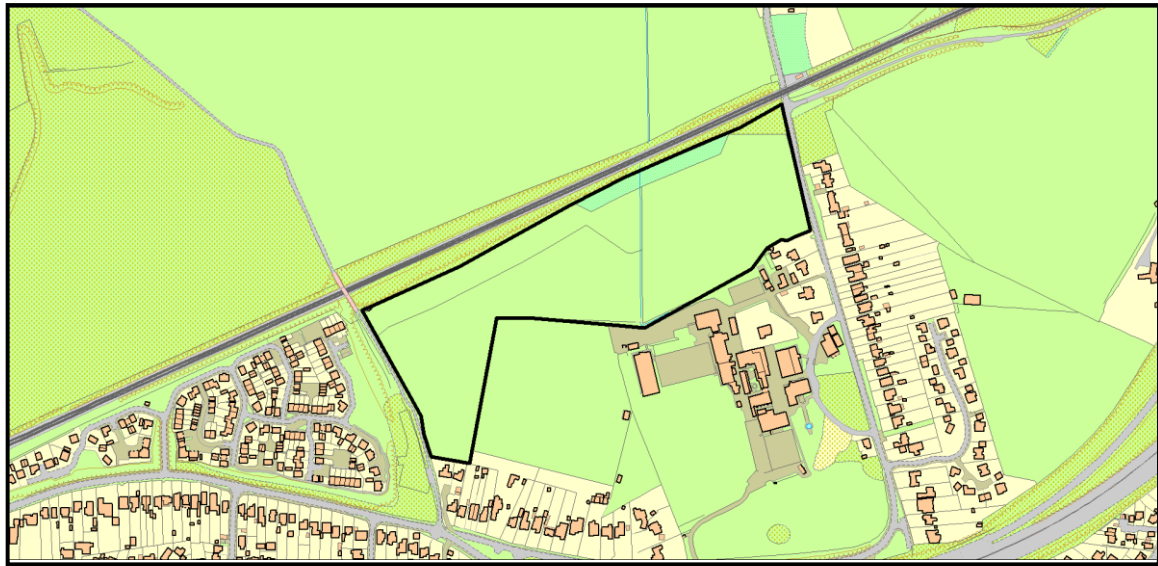
When the members of the Committee consider the planning applications listed below, they may decide to agree, all at the same time, the recommendations in the reports for any applications which no member of the Committee or member of the public wishes to address the Committee.

- | | | |
|------------|---|------------------|
| 7.1 | 172049 Land West of Chitts Hill, Stanway, Colchester | 7 - 76 |
| | Development of site to provide 100 dwellings (Class C3) with access from Chitts Hill, associated on-site infrastructure, open space, landscaping and parking. | |
| 7.2 | 182869 Colchester Museum, Former Museum Resource Centre, 14 Ryegate Road, Colchester | 77 - 100 |
| | Full planning application for the conversion of the building from Class D1 (museum) to residential use (Class C3) (nine apartments) with associated demolition works; internal and external alterations; car/cycle parking and bin storage areas and infrastructure works | |
| 8 | Funding for the Rowhedge Trail | 101 - 104 |
| | See report by the Assistant Director, Policy and Corporate concerning a request for the wording of a Section 106 Agreement to be amended to allow a financial contribution to be used to fund improvements to the whole of Rowhedge Trail. | |

9 **Exclusion of the Public (not Scrutiny or Executive)**

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

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



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Item No: 7.1

Application: 172049

Applicant: Mr Robert Eburne

Agent: Ms Nicky Parsons

Proposal: Development of site to provide 100 dwellinghouses (Class C3) with access from Chitts Hill, associated on-site infrastructure, open space, landscaping and parking.(REVISED PLANS AND REPORTS RECEIVED)

Location: Land west of, Chitts Hill, Stanway

Ward: Stanway

Officer: Lucy Mondon

This application was deferred under the Deferral and Recommendation Overturn Procedure (DROP)

1.0 Introduction

- 1.1 This application was considered at the previous meeting of the Planning Committee on 4th July 2019. Members invoked the Deferral and Recommendation Overturn Procedure (DROP) and instructed Officers to review the status and weighting to be afforded to the Emerging Local Plan, and the impact of the proposed development on highway safety.
- 1.2 In accordance with the agreed procedure, this report focuses solely on the motion to overturn the Officer recommendation and the risks and implications of this motion. The report will not repeat or introduce any new material on other material planning considerations, and these should be taken as per the original committee report, included at Appendix 1 of this report.
- 1.3 Since the committee meeting, the Agent has confirmed that, should the application be refused, the Applicant will take the decision to appeal.
- 1.4 The report will cover the reasons for the motion to overturn the Officer recommendation and then assess any potential risks of pursuing the motion. The report will conclude with a suggested reason for refusal, as well as suggested conditions (incorporating the changes set out in the original 4th July Amendment Sheet and additional conditions suggested by Members at the committee meeting) should Members resolve to approve the application.

2.0 Further Report

- 2.1 Members raised two key issues at the previous committee meeting:
 1. The site being located outside the adopted settlement boundary (with the site being allocated for development in the Emerging Local Plan as opposed to the Adopted Local Plan); and
 2. The impact of the proposal upon highway safety, specifically the proximity of the proposed site access to the railway crossing on Chitts Hill.
- 2.2 The Weight to be Afforded to the Emerging Local Plan

The site is allocated for residential development in the Emerging Local Plan. The emerging plan will inform development in the Borough over the period 2017 to 2033 and includes new housing allocations to meet the predicted growth of the Borough over that period. The Emerging Plan was submitted to the Planning Inspectorate (PINs) on 9 October 2017. Section One of the Local Plan is currently subject to examination. The Inspector wrote to the North Essex Authorities (NEAs) on 8 June 2018 outlining areas of future work required to progress the emerging Local Plan and three options for the NEAs to consider. A supplementary post hearing letter was also received on 27 June 2018 confirming the OAHN study and requirement figures contained in the Emerging Local Plan to be soundly based.

- 2.3 In terms of whether the emerging plan can be considered in the determination of planning applications, paragraph 48 of the NPPF states that decision-takers may give weight to relevant policies in emerging plans according to:
1. The stage of preparation;
 2. The extent to which there are unresolved objections; and
 3. The degree of consistency to the policies in the Framework.
- 2.4 With regards to point 1, the emerging plan is considered to be at an advanced stage as it is currently being examined. Points 2 and 3 have been addressed in detail in paragraphs 16.2-16.34 of the original committee report (see Appendix 1), with the conclusion that the outstanding objections to the relevant emerging policies in this case are shown to be resolved by virtue of the current planning application, and that the emerging policies are consistent with the Framework. Paragraph 50 of the Framework states that where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how granting permission for the development concerned would prejudice the outcome of the plan-making process.
- 2.5 Government guidance is clear that the examination of Local Plans assesses whether the plan has been prepared in accordance with legal and procedural requirements and if it is sound. The four tests of soundness are set out in paragraph 35 of the Framework:
- a) Positively prepared – providing a strategy which, as a minimum, seeks to meet the area’s objectively assessed needs; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development;
 - b) Justified – an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;
 - c) Effective – deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and
 - d) Consistent with national policy – enabling the delivery of sustainable development in accordance with the policies in this Framework.
- 2.6 It is important to note that the purpose of an examination of a local plan is not to consider detailed planning issues as this is for the Development Management process. In this case, the proposals have been considered in detail with the benefit of advice from both statutory and non-statutory consultees to ensure that the proposals are acceptable in respect of both adopted and emerging planning policy.
- 2.7 During the committee meeting on 4th July, concern was expressed by a Ward Councillor that they had not yet had their opportunity to put their concerns regarding the emerging site allocation (i.e. noise pollution and poor public transport links) to the Inspector in person as part of an examination. As part of the examination process, the Inspector would receive all representations made during the consultation periods for the emerging plan. The concerns raised by the Ward Councillor relate to detailed planning matters rather than matters of

procedure or soundness of the plan and the current planning application demonstrates that these concerns can be resolved via the planning process.

- 2.8 The Emerging Local Plan can reasonably be considered to carry weight in decision making given its advanced stage and due to its conformity with the Framework. In addition, the planning application has demonstrated that the objections to the site allocation and relevant policies can be satisfactorily resolved.
- 2.9 Impact on Highway Safety (proximity of site access to railway crossing)
It was confirmed at the committee meeting that Members were concerned with the proximity of the proposed site access to the railway crossing on Chitts Hill, citing potential dangers with cars blocking the site junction, as well as potentially queuing on the crossing after the barriers have been lowered.
- 2.10 As stated in paragraph 16.68 of the original committee report, 'The potential traffic impact to the railway crossing has been assessed in the [Transport Assessment] TA. Whilst it is acknowledged that the development would result in some increased queuing, this would be low and it is ultimately considered to have a negligible impact to the existing level of queuing vehicles. The Highway Authority have not expressed any concerns with this assessment.'
- 2.11 The proposed site access is approximately 70 metres from the railway crossing. The evidence provided with the application (the Transport Assessment) assessed the impact of the development on the basis of the site access being 60 metres from the railway crossing and demonstrated that, on 868 out of 933 occasions (93%) during the survey period, the number of queuing vehicles did not extend beyond the proposed site access when the railway crossing barrier was lowered. The average number of vehicles queuing during the peak morning and evening hour (i.e. 8am-9am and 5pm-6pm) was 8 vehicles, extending a distance of between 47-51 metres). The proposed development was assessed to increase the number of vehicles queuing by 1-2 cars, thereby increasing the average queue to 10 vehicles in the morning peak hour and 9 vehicles in the evening peak hour.
- 2.12 Given the evidence provided and the Highway Authority's assessment that the impact of the development on the number of queuing vehicles at the railway crossing would be 'negligible', the proposal was considered to be acceptable on this matter.
- 2.13 Nonetheless, the Applicant has taken on board the concerns of the Planning Committee and has proposed moving the site access further south by approximately 17 metres. Following this amendment, the site access would be at least 87 metres from the railway crossing. This would allow for a queue of approximately 14 vehicles; a 30% contingency over the average number of cars that would queue as a result of the development as set out in the Transport Assessment.
- 2.14 Subject to no concerns being raised by the Highway Authority or the Council's Arboricultural Officer (in respect of the trees that would require removal to facilitate the revised access), the revised access position can be agreed. The

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revised access has been submitted on an informal basis currently; should Members resolve that the revision has addressed their concerns regarding the impact of the development on the railway crossing, it can be formally pursued and conditioned accordingly.

2.15 Risks Association with Motion to Overturn

Essentially, the overturn would result in a refusal of planning permission on the following grounds:

1. Development in an unsustainable location, outside of the settlement boundary;
2. The development would be detrimental to highway safety, particularly in respect of the railway crossing; and
3. A further/technical reason for refusal would need to cover the absence of a s106 agreement to secure necessary planning contributions, although the Applicant has confirmed agreement to the contributions and a draft s106 has been produced accordingly. Without this reason for refusal, there would be a significant risk that the development would not be required to pay any contributions in the event that an appeal was allowed.

2.16 The primary risk as a result of an overturn would be an appeal procedure, with associated costs of resources and fees, as well as a risk of costs being awarded if it is concluded by an Inspector that the Local Planning Authority has behaved unreasonably with respect to the substance of the matter under appeal. Examples of unreasonable behaviour, as set out in National Planning Practice Guidance, include:

- Failure to produce evidence to substantiate each reason for refusal on appeal;
- Vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis;
- Refusing planning permission on a planning ground capable of being dealt with by conditions (where it is concluded that that suitable conditions would enable the proposed development to go ahead).

2.17 **Reason 1:** In respect of the first reason for refusal, the site was identified in the original committee report as being in an accessible location. Bus stops on Halstead Road are within a generally accepted walking distance and improvements to bus stops further south of the development (which would be more readily accessible from the Chitts Hill access) would be secured via condition. The bus service would allow for travel to Colchester Town Centre, as well as other centres, such as Halstead. Leisure opportunities, such as walking and playing, are available as part of the proposed public open space on site and opportunities immediately adjacent the site along the public right of way Iron Latch Lane and in Iron Latch Wood. There is, therefore, the opportunity to access facilities and services without the need to use a private car. Clear evidence as to deficiencies in accessibility would need to be found with which to support the assertion that the site is unsustainable.

- 2.18 There are bus stops, shops, a village hall, playing fields, and schools all within desirable, acceptable, or maximum acceptable walking distance from the site (as taken from The Institution of Highways and Transportation 'Providing for Journeys on Foot' guidelines).
- 2.19 The site is allocated in the Emerging Local Plan which has been concluded to carry weight in the determination of this application. An appeal would need to consider this weighting. In order to avoid costs, it would be necessary to demonstrate that the emerging plan is not at an advanced stage, that objections to relevant policies cannot be resolved, and that the relevant policies are not in accordance with those of the Framework. Any appeal will be considered against the presumption in favour of sustainable development which lies at the heart of the NPPF. The Framework also states that decision-makers at every level should seek to approve applications for sustainable development where possible. Professional advice from the Council's Planning Policy team is that the emerging plan is at an advanced stage and that the relevant emerging policies are in accordance with the Framework. Further, it has been concluded that the details of the planning application resolve objections to the emerging site allocation policy and other relevant policies.
- 2.20 A further risk is the impact of refusal of development of an emerging site allocation contained within the Council's five-year housing land supply. As background, paragraph 73 of the Framework requires Local Planning Authorities to identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing land against their housing requirements. A buffer is required to be added to this five-year requirement, which is determined by the Housing Delivery Test. A 5% buffer is added by default to ensure choice and competition in the market for land, in areas of continued under delivery a 20% buffer will be applied. As Colchester has an excellent record of housing delivery over a prolonged period, the 5% default is applied. The Framework expects strategic policy making authorities to follow a standard method for assessing local housing need unless there are exceptional circumstances. The Framework also sets out transitional arrangements for emerging Local Plans submitted on or before 24 January 2019. Colchester falls into this category and accordingly has based its Emerging Local Plan on policies in the previous Framework (2012).
- 2.21 The Council submitted the Emerging Local Plan (ELP) in October 2017 to direct future development and growth in the Borough and allocates sufficient land to meet objectively assessed housing needs over the plan period from 2017 to 2033. The evidence base for the ELP includes a Strategic Housing Market Assessment and Objectively Assessed Housing Need Assessment which has informed the housing target set in the ELP of 14,720 dwellings over the plan period at an annual rate of 920 dwellings per year. In order to meet this housing target, the ELP allocates additional land to supplement sites already identified and committed for residential development.

- 2.22 The ELP is at an advanced stage and matters concerning housing were discussed at a hearing session in January 2018. The Inspector subsequently wrote to the North Essex Authorities and confirmed that the figure of 920 dwellings represents the Objectively Assessed Need (OAN) for Colchester in accordance with the NPPF/PPG. Accordingly, the Council believes there are exceptional circumstances that justify the use of an alternative methodology in Colchester. However, it is important to also consider the Standard Methodology (SM).
- 2.23 When using the OAN figure and 5% buffer as outlined above; the annual housing requirement for Colchester is 966 dwellings, which equates to a five-year requirement of 4,830 dwellings.
- 2.24 If the SM is used in Colchester including a 5% buffer; the annual housing requirement is 1,139 dwellings, which equates to a five-year requirement of 5,695 dwellings.
- 2.25 500 dwellings (4 allocations) from the ELP have been included within the most recent five-year supply calculations as these select sites can be considered deliverable. Chitts Hill is one of these sites for the following reasons:
- A current full application (172049) is at an advanced stage and now complies with all policy requirements (as set out in the original committee report);
 - Contract and site managers are in place to commence work as soon as planning permission is issued; and
 - The developers have a good track record of housing delivery in the area (i.e. it is realistic to expect that building will commence promptly).
- 2.26 Emerging allocations are not required to demonstrate a five-year supply against the OAN figure of 4830. If the Council is required to utilise the SM figure of 5695 however the housing land supply falls below five-years unless emerging allocations are included.
- 2.27 If planning permission were to be granted, these 100 dwellings could be confirmed within the supply and the Council would be in a stronger position in terms of being able to demonstrate a deliverable five-year supply of housing and less vulnerable to planning by appeal.
- 2.28 It is important to note that the inclusion of emerging allocations was the subject of debate in the recent Colchester Road, West Bergholt public inquiry. The applicant, Gladman, argued that they should not be included in the five-year supply because they were unlikely to be delivered within that timescale. The Council presented evidence to the contrary. The appeal decision is still outstanding and the decision on this application will no doubt be viewed with interest by all those promoting alternative sites, including another public inquiry being held in September in relation to a site in Tiptree (Barbrook Lane) for 200 dwellings.

- 2.29 If the Council is found not to have a five-year supply there will be more pressure from speculative developments and it will be difficult to sustain refusal at appeal. This site and others included in the Emerging Local Plan have been subject to several rounds of public consultation, detailed site assessment, sustainability appraisal and consideration of the cumulative effects of development. They are also the subject of policies detailing the type of development that would be appropriate and the infrastructure necessary to mitigate the new proposal. Speculative proposals such as the current appeal by Gladman at Barbrook Lane in Tiptree have not been subject to any such prior assessment. In a worst-case scenario planning permission could be granted (on appeal) for sites that are simply the subject of a planning application.
- 2.30 **Reason 2:** Members have confirmed their concern that the proposal would be detrimental to highway safety. The application is supported by a Transport Assessment and neither Highways England nor the Highway Authority, as Statutory Consultees, have any objections to its content or the impact of the proposal on the highway network or highway safety.
- 2.31 Paragraph 109 of the Framework clearly states that 'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe'. The Council has not received any evidence to demonstrate that the impact of the development would be **unacceptable or severe**, with the Highway Authority commenting that the impact of the development would be 'negligible'. A refusal on the grounds of highway safety is considered to be extremely vulnerable to costs in the absence of any expert evidence of severe impacts. It is also likely to be difficult to field a witness to present evidence at an appeal for this reason.
- 2.32 **Reason 3:** Whilst a draft s106 agreement has been produced that seeks to secure all necessary planning contributions, it has not been finalised, signed, or sealed. The contributions are not, therefore, legally secured. A refusal on the grounds of the absence of a s106 legal agreement is therefore considered to be reasonable and not at risk of costs being awarded for unreasonable behaviour. It is likely that this reason for refusal would be adequately addressed prior to any appeal being determined.
- 2.33 Other Matters
- 2.34 A number of conditions were suggested by Member's during the committee meeting. These included:
- Provision of electric charging points;
 - Securing the provision of Keep Clear markings at the site entrance;
 - Provision of a defibrillator at a community building;
 - Provision of solar tiles; and
 - Provision of dog bins within the site.

- 2.35 An informative was also suggested to encourage the Developer to discuss play equipment requirements with the Parish Council in order to inform their detailed proposals for the play area.
- 2.36 The Applicant has confirmed that they are content with these requirements and these items are therefore included in a revised list of recommended conditions, as set out in this report. For clarity, a monetary contribution to provide a defibrillator at a community building can be secured in the s106 agreement.
- 2.37 Suggested Reasons for Refusal
Should Members resolve to refuse the planning application, the suggested reasons for refusal are as follows:

1. The proposal is contrary to policies SD1, ENV1, and TA1 of the Colchester Borough Council Core Strategy which seek to locate growth at the most accessible and sustainable locations in accordance with the settlement hierarchy (Colchester Town and Stanway being at the top of that hierarchy, extending down to District Settlements of Tiptree, West Mersea, and Wivenhoe; with other villages in the Borough being identified as 'Rural Communities'), with unallocated greenfield land outside of settlement boundaries being protected, and where possible, enhanced.

The proposed development, for 100 residential dwellings, would be located on a site that is not allocated for development in the Colchester Borough Council Adopted Local Plan, being outside the settlement boundary of Colchester in an area of limited accessibility by way of public transport. Further, the development would result in development of what is currently an open field, which would neither protect nor enhance the status of the site as unallocated greenfield land. The proposal would, therefore, represent unsustainable development contrary to the aforementioned policies.

Whilst the site is allocated for development in the Colchester Borough Council Emerging Local Plan, this plan is not considered to carry sufficient weight with which to justify the proposal.

2. The proposal is contrary to Development Plan policy DP17 which requires all developments to give priority to pedestrian, cycling and public transport access to ensure that they are safe, convenient and attractive, and linked to existing networks.

The proposed development would result in a site access serving 100 residential dwellings being within 70 metres of an existing railway crossing. The proposed site access would result in additional vehicular movements that would increase queuing at the railway crossing when the barrier is down, as well as increase the risk of road users attempting to bypass the queues to the site access and becoming stationed on the railway line when the barriers are down. The proposal is, therefore, considered to have a detrimental impact on highway safety contrary to the aforementioned policy.

3. The application fails to include a legally binding mechanism to secure necessary planning obligations (30% affordable housing, and financial contributions towards community facilities, Education; Healthcare, and Public Open Space, Sport, and Recreation). The proposal is therefore contrary to Core Strategy (adopted 2008 revised 2014) Policy SD2 (Delivering Facilities and Infrastructure) and Policy H4 (Affordable Housing) (revised July 2014); and adopted Development Policies (adopted 2010 revised 2014) Policy DP3 (Planning Obligations and the Community Infrastructure Levy). It is also contrary in this context to the following adopted guidance adopted by the Council: Supplementary Planning Document Affordable Housing (adopted 15th August 2011); Provision of Community Facilities (adopted 28th September 2009 updated July 2013) and Supplementary Planning Document Provision of Open Space, Sport and Recreational Facilities (adopted 24 July 2006). It is contrary, finally, to Supplementary Guidance issued by Essex County Council (Developers' Guide to Infrastructure Contributions (revised 2016).

2.38 Suggested Conditions:

Should Members resolve to approve the application, it is recommended that delegated authority be given to the Case Officer to undertake consultation regarding the revised site access position, with the requirement that should the revised access not be acceptable that the application return to planning committee. Subject to the revised access being acceptable, the application to be approved subject to a s106 agreement as per section 15 of the original Committee Report (to include the additional requirement for a contribution towards provision of a defibrillator) and as per the suggested conditions below (with condition 2 to be amended to reflect updated drawing numbers as necessary):

1. **Time Limit**

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

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

2. **Approved Plans**

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

Site Location Plan RP-001

External Works Layout RP-002 Rev E

Planning Layout RP-003 Rev E

Materials Plan RP-004 Rev D

Street Scenes RP-005 Rev C

Cross Sections RP-006 Rev B

Proposed Site Access A09833-35-18-001 Rev E

Landscape Masterplan JBA 15/38-SK02 Rev I

HT 1300 Floor plan- 21H, 25, 69 RP-010 Rev B

HT 1300 Elevations- 21H, 25, 69 RP-011 Rev B

HT 1042 Floor plans and Elevations- 26 RP-012 Rev A

HT 1567 Floor plans- 67, 70 RP-013 Rev A
HT 1567 Elevations- 67, 70 RP-014 Rev A
HT 1050 Floor plans- 80-81 RP-019 Rev B
HT 1050 Elevations- 80-81 RP-020 Rev B
HT 1635 Floor plans- 5, 17H, 27, 56H, 61, 72, 74, 86H RP-021 Rev B
HT 1635 Elevations- 17H, 27, 56H, 61, 72, 74, 86H RP-022 Rev B
HT 1635 Elevations- 5, 61 RP-022.1 Rev A
HT 1200 & 1050 Floor plans - 18-20 RP-023 Rev A
HT 1200 & 1050 Elevations 1 - 18-20 RP-024 Rev A
HT 1200 & 1050 Elevations 2 - 18-20 RP-025 Rev A
HT 1302 Floor plans- 1 RP-026 Rev A
HT 1302 Elevations- 1 RP-027 Rev A
HT 1460 Floor plans- 3, 22, 75H RP-028 Rev B
HT 1460 Elevations- 3, 22, 75H RP-029 Rev B
HT 1050 Floor plans- 23, 24 RP-030 Rev B
HT 1050 Elevations- 23, 24 RP-031 Rev B
HT 1200 & 1469 Floor plans- 50-51 RP-032 Rev A
HT 1200 & 1469 Elevations 1- 50-51 RP-033 Rev A
HT 1200 & 1469 Elevations 2- 50-51 RP-034 Rev A
HT 654 & 807 Floor plans 1- 45-49 RP-037 Rev A
HT 654 & 807 Floor plans 2- 45-49 RP-038 Rev A
HT 654 & 807 Elevations 1- 45-49 RP-039 Rev A
HT 1145 Floor plans- 54-55 RP-042 Rev A
HT 1145 Elevations- 54-55 RP-043 Rev A
HT 1762 Floor plans- 52, 73 RP-044
HT 1762 Elevations- 52, 73 RP-045
HT 1762 Floor plans- 57, 62H RP-046 Rev B
HT 1762 Elevations- 57, 62H RP-047 Rev B
HT 1469 Floor plans- 59-60, 82-83 RP-048 Rev A
HT 1469 Elevations 1- 59-60, 82-83 RP-049 Rev A
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Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.

3. **Tree Protection**
The development hereby approved shall be carried out in accordance with the SES Arboricultural Impact Assessment, dated May 2018. All of the tree protection measures set out in the assessment and accompanying Tree Protection Plans shall be implemented before any works commence on site and shall be maintained for the duration of the development.
Reason: In order to safeguard existing trees on and immediately adjacent the site in the interest of visual amenity and landscape value.
4. **Hand Excavation Beneath Tree Canopies**
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.
5. **Hedgerows and Trees**
All existing trees and hedgerows not shown for removal on the approved drawings shall be monitored and recorded for at least five years following contractual practical completion of the development. In the event that any trees and/or hedgerows die, are removed, destroyed, fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed, in writing, with the Local Planning Authority. Any tree works agreed to shall be carried out in accordance with BS 3998.
Reason: To safeguard the continuity of amenity afforded by existing trees and hedgerows.
6. **Hours of Demolition and Construction**
No demolition or construction work shall take outside of the following times;
Weekdays: 08:00 to 18:00
Saturdays: 08:00 to 13:00
Sundays and Bank Holidays: NONE
Reason: To ensure that the construction phase of the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise at unreasonable hours.

7. **Hours of Construction Deliveries**
No construction deliveries to or from the site, worker vehicle movements, or construction work shall take place outside of the following times;
Weekdays: 08:00 to 18:00
Saturdays: 08:00 to 13:00
Sundays and Bank Holidays: NONE
Reason: To ensure that the construction phase of the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise at unreasonable hours.
8. **Removal of Permitted Development Rights – extensions, buildings, structures**
Notwithstanding the provisions of Classes A, B, C, D and E of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no extensions, ancillary buildings or structures shall be erected unless otherwise subsequently approved, in writing, by the Local Planning Authority.
Reason: In the interest of visual amenity and to ensure the development avoids an overdeveloped or cluttered appearance.
9. **Removal of Permitted Development Rights – fences, walls, gates**
Notwithstanding the provisions of Class A of Part 2 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no fences, walls, gates or other means of enclosure, other than any shown on the approved drawings, shall be erected in advance of any wall of the dwelling to which it relates (including a side or rear wall) which faces a highway or public area (including a footpath or bridleway; public open space; and communal parking areas) unless otherwise subsequently approved, in writing, by the Local Planning Authority.
Reason: In the interests of visual amenity with regard to the context of the surrounding area.
10. **Construction Traffic Management Plan**
No development shall commence until a construction traffic management plan, to include (but shall not be limited to) details of vehicle/wheel cleaning facilities within the site and adjacent to the egress onto the highway, has been submitted to and approved in writing by the Local Planning Authority. The development shall then be constructed in accordance with the agreed plan.
Reason: To protect highway efficiency of movement and safety.

11. **Archaeological Investigation**

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

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

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

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development, in accordance with Policy SD1 and ENV1 of Colchester Borough Council's Core Strategy (2008) and Supplementary Planning Document 'Managing Archaeology in Development (adopted 2015).

12. **Contamination Investigation and Risk Assessment**

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

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

- human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

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

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

13.

Contamination 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.

14.

Contamination 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.

15. **Ecological Mitigation and Management Plan**

No works shall take place until an Ecological Mitigation and Management Plan (EMMP), in accordance with the SES Phase 2 Ecological Surveys and Assessment report dated February 2018, has been submitted to and approved in writing by the Local Planning Authority. The mitigation and management measures shall then be fully implemented as approved.

Reason: In the interests of conserving and enhancing the biodiversity of the site.

16. **Acoustic Mitigation Report**

No development shall commence until a detailed acoustic mitigation report has been submitted to and approved in writing with the Local Planning Authority. The report shall provide details of the noise exposure at the facade of proposed residential dwellings, internal noise levels in habitable rooms and noise levels in all associated amenity spaces.

The design and layout shall avoid, as far as practicable, exposure of habitable rooms to noise levels to above the following criteria

- 60dB LAeq16hours (Daytime outside)
- 55dB LAeq8hours (night outside)

Acoustic barriers, Site design (including building orientation) and internal layout of dwellings shall be used to minimise noise exposure to habitable rooms and reduce the need to rely on closed windows as far as practicable.

The report shall show where the levels are less than those above that the mitigation provided by glazing and acoustic passive ventilation measures ensure that internal noise levels are satisfactory

Where exposure to noise levels exceeds those stated above full details of fixed acoustic glazing and suitable mechanical ventilation options shall be submitted that demonstrate that internal noise levels do not exceed the internal noise levels stated in Table 4, paragraph 7.7.2 of BS8233:2014 Guidance on sound insulation and noise reduction for buildings. This includes with any mechanical ventilation operating where required.

Reason: In the interests of amenity of future residents of the development.

17.

Detailed Landscape Works

No works shall take place above slab level until full details of all landscape works

have been submitted to and agreed, in writing, by the Local Planning Authority and the works shall be carried out prior to the occupation of any part of the development unless an alternative implementation programme is subsequently agreed, in writing, by the Local Planning Authority. The submitted landscape details shall include:

- proposed finished levels or contours;
- means of enclosure and boundary treatments;
- 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, dog bins, signs, lighting etc.);
- proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.);
- 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.

Surface Water Drainage Scheme

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

- Limiting discharge rates to 10 l/s for all storm events up to an including the 1 in 100 year rate plus 40% allowance for climate change.
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including

the 1 in 100 year plus 40% climate change event.

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

Reason: The National Planning Policy Framework paragraph 103 states that local planning authorities should ensure flood risk is not increased elsewhere by development. Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore, the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

19. **Scheme to Minimise Surface Water Run-Off during Construction**

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

Reason: In order to ensure that the development does not increase flood risk elsewhere and does not contribute to water pollution.

20. **SUDs Maintenance and Management Plan**

No works shall take place until a Maintenance and Management Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

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

21. **Architectural Details**
Notwithstanding the details submitted, no works shall commence (above Ground floor slab level) until additional drawings (at scales between 1:20 and 1:1) that show details of the architectural detailing of the development hereby approved have been submitted to and approved in writing by the Local Planning Authority.
Details shall include window detailing (including details of the lintel and cill, the depth of reveal and dormer features); rooflights to be used; recessed brickwork and timber cladding; and any eaves, verge, ridge, and guttering details. The development shall then be implemented in accordance with the approved drawings.
Reason: Insufficient detail has been submitted to ensure that the proposed works are of high quality design for the rural edge location.
22. **Landscape Management Plan**
Prior to the first occupation of the development, a landscape management plan including long term design objectives, management responsibilities and maintenance schedules for all landscape areas other than small, privately owned, domestic gardens shall be submitted to and agreed, in writing, by the Local Planning Authority. The landscape management plan shall thereafter be carried out as approved at all times.
Reason: To ensure the proper management and maintenance of the approved landscaping in the interests of amenity and the character and appearance of the area.
23. **Contamination Remediation Certificate**
Prior to the first OCCUPATION/USE of each dwelling, 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 14.
Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors
24. **Highway Works**
No occupation of the development shall take place until the following have been provided or completed, or as otherwise agreed in writing by the Local Planning Authority as part of a scheme of works:
a. A priority junction off Chitts Hill as shown in principle on the planning application drawing but to include but not limited to a 59 x 2.4 x 59 metre visibility splay
b. Keep Clear road markings at the site access on Chitts Hill
c. A new section of footway and dropped kerbs/tactile paving to connect the Colchester bound bus stop in Halstead Road (west of its junction with

King Coel

Road) with existing footway

d. Residential Travel Information Packs in accordance with Essex County Council guidance

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

25.

Travel Plan

The development hereby approved shall not be brought into use unless and until the measures set out in the Travel Plan have been implemented following approval in writing by the Local Planning Authority. The Framework Travel Plan shall include the following:

The identification of targets for trip reduction and modal shift;

- The methods to be employed to meet these targets;
- The mechanisms for monitoring and review;
- The mechanisms for reporting;
- The penalties to be applied in the event that targets are not met;

- The mechanisms for mitigation including budgetary provision ;
- Implementation of the travel plan (until full occupation) to be agreed timescale or timescale and its operation thereafter;
- Mechanisms to secure variations to the travel plan following monitoring and reviews.

The completed development shall be occupied in accordance with the approved Travel Plan which shall be retained in place thereafter unless otherwise amended in accordance with a review to be agreed in writing by the Local Planning Authority.

Reason: To ensure the A12 trunk road continues to serve its purpose as part of a national system of routes for through traffic, to satisfy the reasonable requirements of road safety accordance with section 10 of the Highways Act 1980.

26.

Ball Strike Assessment

Plots 67-80 (inclusive) as shown on Planning Layout RP-003 Rev E shall not be occupied until a Ball Strike Assessment, to include full details of the design and specification of any mitigation measures and management and maintenance responsibilities (if any), has been submitted to and approved in writing by the Local Planning Authority.

The details shall then be fully implemented as approved.

Reason: To provide protection for the occupants of the development and their property from potential ball strike from the adjacent playing field or sport facility, to reduce conflict between neighbours and thereby safeguard sporting use of the adjacent sports facilities.

27.

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 12, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 13, 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 14.

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.

28. **Street Signs**

Street signs shall have been installed at the junction of the new highway with the existing road network prior to occupation of the respective dwellings on that street.

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

29. **Vehicle Electric Charging Points**

No development shall commence until a scheme for the provision of vehicle electric charging points has been submitted to, and approved in writing by, the Local Planning Authority. The electric charging points shall then be installed and made available for use prior to occupation of its respective dwelling.

Reason: in the interests of encouraging sustainable modes of transport and mitigating the impact of the development on air quality by way of reducing vehicle emissions.

30. **Renewable Energy**

No works shall commence until a scheme to provide renewable energy systems for development hereby approved has been submitted to, and approved in writing by, the Local Planning Authority. The renewable energy systems shall thereafter be implemented and installed as approved prior to occupation of the respective dwelling.

Reason: In the interests of sustainability.

Informatives

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

(2)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)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 Archaeology

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

(5)Anglian Water Informative

Anglian Water has assets close to or crossing this site or there are assets subject to an adoption agreement. Therefore the site layout should take this into account and accommodate those assets within either prospectively adoptable highways or public open space. If this is not practicable then the sewers will need to be diverted at the developers cost under Section 185 of the Water Industry Act 1991. or, in the case of apparatus under an adoption agreement, liaise with the owners of the apparatus. It should be noted that the diversion works should normally be completed before development can commence.

(6) Informative regarding materials

Construction materials should be in accordance with the Essex Design Guide, i.e. weatherboarding to be natural timber, 'clay' tiles to be natural clay plain tiles and pantiles on subsidiary buildings, Any 'black/grey' tiles should be natural or slim-line fibre-cement slates.

The Developer is advised to discuss the requirements for the LEAP play area with Stanway Parish Council ahead of submitting any proposals to the Local Planning Authority for approval. This is in order to ascertain whether there are any local requirements that should be incorporated into the equipment being provided.

Appendix 1
Planning Committee Report
4th July 2019

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the proposal is a departure from the adopted Local Plan by virtue of it being outside the adopted settlement boundary of Colchester. In addition, the proposal constitutes major development where objections have been received and the recommendation is for approval. A s106 legal agreement is also required.

2.0 Synopsis

- 2.1 The key issues for consideration are principle of development; landscape and trees; heritage; contamination; flood risk and drainage; ecology; highway matters; layout and design; and amenity. Other material planning matters are also considered.
- 2.2 The comments submitted by statutory consultees, as well as other consultees and local representations are also considered.
- 2.3 The application is subsequently recommended for approval subject to conditions and a legal agreement.

3.0 Site Description and Context

- 3.1 The application site is currently a fallow field, measuring approximately 6.73 hectares in area. The site lies outside the Colchester settlement boundary, although it is adjacent to it on its western, southern, and eastern boundary.
- 3.2 Existing access to the field is via Iron Latch Lane, which is a Bridleway Public Right of Way (PROW 149). Iron Latch Lane runs along the western boundary of the site and leads over the railway line (along the northern boundary of the site) to Iron Latch Nature Reserve to the north-west of the site. The nature reserve is designated as a local wildlife site. Immediately to the north of the site is an area of designated open space.
- 3.3 The site is identified as being Grade 2 Agricultural Land. The site is grassed and there are a number of trees within the site and on the boundaries. There are hedges and hedgerow trees to the eastern and western boundaries and there are TPO trees running through the site and on the western boundary (refs: 11/88 and G2). The northern boundary along the railway line is also heavily tree'd. On the southern boundary adjoining the Holmwood House School, there is a hit and miss fence, trees, and ditch, alongside the school buildings, and a dense conifer hedge around the school playing field. The site is relatively level apart from a significant dip in ground levels at the centre of the site.
- 3.4 The site is within a SSSI Impact Risk Zone.

- 3.5 In terms of context, the site is on the edge of an existing residential area. Properties are quite mixed in terms of type and age, although they are generally detached or semi-detached houses (two-storey). Recent development has taken place on a site to the west of the application site (the 'Railway Sidings', now called 'Oliver's Grove'); this is a Hopkins Homes development of houses and flats. However, as the site levels are considerably lower than its surroundings, the development is consequently not overly prominent.

4.0 Description of the Proposal

- 4.1 The application seeks full planning permission for 100 dwellings, accessed from Chitts Hill. The proposals include on-site infrastructure, open space, landscaping, and parking.

- 4.2 Details of housing mix and parking provision as follows:

100 No. Residential Units

Private: 70 units

16 two-bed

27 three-bed

27 four-bed

Affordable: 30 units 30%

8 two-bed

12 three-bed

10 four-bed

Car Parking:

76 Garages

35 Carports

163 Parking Spaces

Visitor Parking:

8 Car Parking Spaces

4 Powered two-wheel spaces

Cycle Storage:

One-bed 1 cycle space

Two-bed 2 cycle spaces

Three-bed 2 cycle spaces

Four-bed 4 cycle spaces

Five-bed 4 cycle spaces

- 4.3 Public open space is provided on-site that would include a Locally Equipped Area for Play (LEAP) and Trim Trail. The area of public open space to be provided on site exceeds 2 hectares, equating to approximately 31% of the site area. Cycle paths and an informal Bridleway is also proposed.

4.4 In addition to plans and drawings that show the site location, scheme layout, landscape masterplan, tree survey and protection plan, drainage strategy, and floor plans and elevations, the application is supported by the following documents:

- Planning Statement;
- Design and Access Statement;
- Archaeological Desk-Based Assessment;
- Archaeological Evaluation;
- Geophysical Survey Report;
- Arboricultural Impact Assessment;
- Extended Phase 1 Habitat Survey;
- Hedgerow Survey;
- Agricultural Land Classification and Soil Resources;
- Transport Assessment;
- Framework Travel Plan;
- Road Safety Audit;
- Statement of Community Engagement;
- Phase I/II Geoenvironmental Assessment;
- Health Impact Assessment;
- Noise and Vibration Assessment;
- Landscape and Visual Impact Assessment;
- Sustainability Statement;
- Flood Risk Assessment;
- Shadow Habitats Regulations Assessment.

5.0 Land Use Allocation

5.1 Unallocated in adopted Local Plan. The site is allocated for residential development (100 dwellings) in the Emerging Local Plan, policy WC2.

6.0 Relevant Planning History

6.1 There is no site-specific planning history, but the adjacent site (to west) has been developed following planning permission for 123 residential properties, associated infrastructure, public open space, equipped play space and public highway works (ref: 120848).

7.0 Principal Policies

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

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

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

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

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

7.4 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. The application site

is an allocated site within the emerging plan (policy WC2) so the weight to be afforded is particularly relevant. Detailed consideration of this is set out in Section 16 of this report.

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

- Backland and Infill
- Community Facilities
- Vehicle Parking Standards
- Sustainable Design and Construction
- Open Space, Sport and Recreation
- Extending your House
- The Essex Design Guide
- External Materials in New Developments
- Affordable Housing
- Cycle Delivery Strategy
- Sustainable Drainage Systems Design Guide
- Street Services Delivery Strategy
- Stanway Joint Design Statement and Parish Plan

8.0 Consultations

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

Anglian Water:

The foul drainage from this development is in the catchment of Colchester Water Recycling Centre that will have available capacity for these flows. The sewerage system at present has available capacity for these flows. Recommended informative regarding Anglian Water assets and the Water Industry Act 1991.

Arboricultural Officer:

The Arboricultural Officer is in agreement with the submitted tree survey and Arboricultural Impact Assessment. The proposed development does require the felling of a number of trees but given the size, species and location of these it is deemed of limited impact to the wider area and is therefore acceptable in arboricultural terms.

No objection subject to conditions to make the tree report an approved document; secure tree protection; and ensure hand excavation underneath the canopies of tree.

Archaeological Adviser:

An adequate desk-based assessment, geophysical survey and trial-trenched evaluation has been undertaken for this proposed development site. On the basis of the results of these surveys, no further predetermination archaeological evaluation is required. These assessments have identified archaeological remains within the area of trial trenches T22 and T23 and these will require further investigation (preservation by excavation) in advance of development commencing in this part of the development site. In addition, the east edge of

the development site, the location of the proposed access onto Chitts Hill, is across the line of Gryme's Dyke (HER no. MCC7464). Late Iron Age Colchester was protected on its western edge by a series of defensive earthworks known as the Dykes and Gryme's Dyke is the latest of these; a dyke is a bank formed from the earth dug out of a defensive ditch. A trial trenched investigation of the road line, and quite likely full excavation, will be required in this part of the site, across the Dyke in advance of development.

There are now no grounds to consider refusal of permission in order to achieve preservation *in situ* of any important heritage assets. However, in accordance with the *National Planning Policy Framework* (Paragraph 141), any permission granted should be the subject of a planning condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed. A condition for an archaeological investigation is recommended.

Building Control:

No comments received.

Contaminated Land Officer:

Having considered the GEMCO Phase I/II Geoenvironmental Assessment (ref: 905 R01 Issue 1), dated 15th December 2016, it is concluded that there are no significant pollution linkages presently associated with the site, and that no remedial actions are required to make the site suitable for the proposed use. The report is satisfactory for Environmental Protection's purposes and, based on the information provided, this initial risk assessment would seem reasonable and it would appear that the proposed additional works would not preclude the safe development of the site as far as contamination matters are concerned. Consequently, since the applicant's specialist environmental consultants have recommended:

- Further ground gas monitoring to confirm the risks;
- That the relevant service providers should be consulted with respect to their requirements for buried services (note: it is likely that the drinking water service provider is Anglian Water rather than the stated Essex and Suffolk Water);
- That any imported engineering fill and / or topsoil must be demonstrated to be suitable for use; and
- A discovery strategy for any unexpected contamination encountered during the development works should be put in place.

Conditions are recommended for site characterisation, the implementation of an approved remediation scheme, and the procedure to follow should any unexpected contamination be encountered.

Environment Agency:

The development proposal does not raise any specific environmental issues within our statutory planning remit and accordingly we have no comments.

Environmental Protection:

No objection subject to conditions: detailed acoustic mitigation report; details of acoustic barrier along the railway line; control of demolition and construction hours of working and deliveries; scheme to mitigate the impacts on local air quality.

Essex Bridleways Association:

The proposed site is adjacent to an existing bridleway – Iron Latch Lane, number 149_33 – on its western perimeter (marked on your External Works Layout diagram as a track). As a minimum, we would expect this bridleway to remain accessible and unspoilt. We note that a cycleway is proposed to the north of the site exiting onto that bridleway, and suggest that rather than a cycleway being constructed, that a bridleway is created instead which will ensure that the site is accessible to all non-motorised uses rather than excluding equestrians as a significant user group. Safe access onto the existing bridleway will be necessary, especially if cyclists are likely to enter the bridleway at speed.

There is an aspiration within the Rights of Way Improvement Plan (currently being reviewed) to link this bridleway 149_33 southwards with 127_217 off New Farm Road. Currently, users need to traverse the busy Halstead Road, over the A12 bridge, and thereon along King Coel Road and New Farm Road. It would be far safer for all users if safe access through the site is provided, accessing Chitts Hill (which is a 30mph road) thereon over the A12 bridge and King Coel Road. The greensward area running parallel to the railway line would be ideal for east-west access. Some additional works to the A12 bridge – for example closing in parapets – would be a welcome enhancement for equestrians.

Essex County Fire and Rescue:

No comments received.

Essex Partnership for Flood Management:

No comments received.

Essex Police:

Essex Police raised some concerns in respect of the original layout (rear boundaries of dwellings adjacent open space resulting in minimal surveillance).

[Case Officer Note: These aspects of the proposal have since been revised.]

Essex Wildlife Trust:

Satisfied that the necessary survey work has been undertaken and agree the proposed mitigation. The Essex Wildlife Trust therefore have no objection subject to an Ecological Mitigation and Enhancement Plan being produced to guide the effective implementation of the proposed mitigation measures and habitat creation/enhancement proposals. This can be secured by condition.

Highways England:

No objection subject to a condition to secure a Travel Plan.

Highway Authority:

The proposal is acceptable to the Highway Authority from a highway and transportation perspective subject to conditions for a construction traffic management plan; visibility splays; additional footway to connect the Colchester bound bus stop in Halstead Road with the existing footway; and Residential Travel Information Packs.

Landscape Officer:

The Council's Landscape Officer concludes that they cannot support the application on landscape policy grounds. Main points:

- The site lies outside the settlement boundary and is therefore subject to Core Policy ENV1. ENV1 requires that 'unallocated green-field land outside of settlement boundaries (to be defined/reviewed in the Site Allocations DPD) will be protected and where possible enhanced, in accordance with the Landscape Character Assessment. Within such areas development will be strictly controlled to conserve the environmental assets and open character of the Borough'.
- The site lies within Landscape Charter Area A5, this identifies a key planning issue as 'potential pressure from expansion of Colchester', it sets a landscape strategy objective to 'conserve and enhance' the landscape character of the Area, with a landscape planning guideline to 'Ensure any new development on the valley side is small-scale' and a landscape management guideline to 'conserve and enhance the existing hedgerows'.
- Ensure any new development on valley sides is small-scale, responds to historic settlement pattern, form and building materials.
- The hedge on the eastern boundary will be breached to allow for the vehicular access to the site. This hedge is protected under the Hedgerows Regulations 1997 (HR97), and, contrary to the findings of the submitted Hedgerow Survey Summary, has been found to be classified as 'important' under HR97 (see Appendix 2) by the LPA who are the assessing authority. This hedge needs to be emphasised as the most valuable landscape feature on site. Given its status there is a presumption, in landscape terms at least, that it will be retained intact. Note: the central hedge on site is also classified as Important under the Hedgerows regulations 1997 (see Appendix 2), though it would appear no works are currently proposed to this hedge. It is recommended the Hedgerow Survey Summary is removed from the application as the local authority are the assessors of hedgerows protected under HR97 and the

applicants own Landscape Appraisal acknowledges that the hedges are 'Important'.

- It should be considered within the planning balance that the proposal, introducing as it does a large-scale urban development with proposals to remove the existing protected 'important' field hedge frontage is not compatible with its rural location. This as it fails to conserve and enhance the existing open field character of the site and dilutes the sites protected field hedgerow structure, fragmenting the rural setting of Colchester (which is characterised by 'A mosaic of medium to large-sized irregular and regular, predominantly arable fields with medium hedgerows containing semi-mature/ mature hedgerow trees') and thereby fails to comply with the requirements of the Colchester Borough Landscape Character Assessment and therefore Core Policy ENV1.

Natural England:

It has been identified that this development site falls within the 'Zone of Influence' (Zoi) of one or more of the European designated sites scoped into the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). Under the provisions of the Habitats Regulations, it is anticipated that, without mitigation, new residential development in this location is 'likely to have a significant effect' on one or more European designated sites, through increased recreational pressure, wither when considered 'alone' or 'in combination' with other plans and projects.

Natural England are satisfied the the Appropriate Assessment undertaken by the Local Authority is in line with the Natural England strategic-level advice. The proposed mitigation should rule out an 'adverse effect on the integrity' of the European designated sites that are included within the Essex Coast RAMS from increased recreational disturbance.

A condition (or planning obligation) is recommended to secure the mitigation measures.

Network Rail:

Repeated consultations have been sent to Network Rail since August 2017 (when the application was registered). Despite assurances from Network Rail that comments would be forthcoming, no consultation response has been submitted.

NHS:

[Case Officer Note: Comments have been provided as part of the Council's Development Team. See Section 15 of this report.]

Planning Policy:

[Case Officer Note: Planning Policy have provided detailed comments in respect of the policy background and status of the emerging plan in respect of this application. These matters are included in Section 16 of this report.]

The Ramblers Association:

No comments received.

RSPB:

No comments received.

Sport England:

Housing is proposed immediately adjacent to an area of playing fields. Whilst there is no direct loss of playing field caused by the proposed development, Sport England has assessed the application to ensure the proximity of housing would not prejudice the use of the playing field for example by introducing a risk of noise complaints or cricket ball strike.

The English Cricket Board have been consulted and confirm that the playing fields at Holmwood Preparation School are mainly used by the school, but there is community use of the cricket pitches (and indoor sport hall) next to the proposed housing development. This is primarily for junior cricket and some occasional use by an adult cricket team. The grass cricket pitches are used for junior cricket mainly by the school and it is unlikely that the proposed housing development next to the school playing fields would be adversely affected by ball strike from school use (with juniors not hitting the ball so hard/far and younger age groups using a softer ball). However, given the potential older junior/adult club team use, in order to confirm there is not a ball strike risk or ensure appropriate mitigation, a risk assessment should be conducted by specialists Labosport and, if necessary, mitigation undertaken such as the installation of ball stop netting if recommended.

Sport England therefore have no objection to the proposals subject to a condition that requires a Labosport Ball Strike Assessment and any recommended mitigation measures as a result.

Street Services:

No comments received.

SUDs:

No objection subject to conditions for a detailed surface water drainage scheme; a scheme to minimise the risk of offsite flooding during construction works; and a maintenance and management plan.

The Woodland Trust:

The application was assessed against our criteria for comment and it was identified that there are no aged or veteran trees on site nor is it adjacent to woodland recorded on the Ancient Woodland Inventory nor is it adjacent to one of our sites. Therefore, the Woodland Trust will not be submitting comment on this occasion.

Urban Designer:

Extensive negotiations have taken place with the Council's Urban Designer, resulting in a number of revisions to the design and layout of the scheme. In response to the latest scheme, the Urban Designer has recommended revisions as follows:

- Push parking spaces behind building line (11 plots identified) [Case Officer comment: This would have implications whereby cars could park in the remaining space between the road and the formal car parking space and extending over footways. Examples of this undesirable design is included in the EPOA Vehicle Parking Standards SPD. As such, the amendment has not been sought.];
- Traffic calming measures should be introduced informed by Highways guidance in the new (2018) Essex Design Guide and tailored (de-engineered) for increased characterisation, e.g. localised narrowing characterised by landscaping including trees [Case Officer comment: some road narrowing has been negotiated with the Highway Authority in response to the Urban Designer comments. Some of the recommended amendments would not, however allow the roads to be adopted by the Highway Authority so are considered to be inappropriate to pursue further. Traffic calming measures will be required by the Highway Authority];
- Visitor spaces that 'eat' into green infrastructure where there is adequate scope for on-carriageway parking (or where dwellings have three plus on-plot parking spaces) should be omitted (3 instances identified) [Case Officer comment: The provision of visitor spaces is important and, given that only 3 instances have been identified by the Urban Designer this is not considered to be a justifiable reason to refuse planning permission in this case.];
- Pedestrian link to Chitts Hill at south-east corner of site recommended [Case Officer comment: This would result in further breaches to the boundary hedge which would be undesirable. Pedestrian access to Chitts Hill is provided via the footpaths alongside the road. This request has not, therefore, been taken forward.];
- Request for clarification as to how the landscape buffer at the southern edge of the site will be maintained [Case Officer comment: The Applicant has confirmed that this would be via a management company. This will be secured via the s106 agreement.];
- Recommended conditions:
 - Precise details of materials. Informatives should also be added to ensure consistency with the Essex Design Guide, i.e. weatherboarding to be natural timber, 'clay' tiles to be natural clay plain tiles and not pantiles except on subsidiary buildings, and 'black/grey' tiles should be natural slate or slim-line fibre-cement slates.

- Key details should be conditioned in accordance with the Essex Design Guide and traditional style, including (with informatives in brackets), windows and doors, window and door reveals (at least 100mm), plinth projection, window surround projections, door surrounds, eaves (avoiding boxed eaves), rainwater goods and service intakes.
- Details of boundary walls and fences.

9.0 Parish Council Response

- 9.1 The Parish Council have stated that they raise no objections to the proposal, although they note the numerous objections from local residents.

10.0 Representations from Notified Parties

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

- 10.2 The application has undergone a number of amendments since its original submission. Local Residents were reconsulted following resubmissions, although were not reconsulted on resubmissions that solely amended internal layout and design as these amendments did not relate to issues that had been raised by local residents. All comments received will be summarised below for completeness; an update will be provided where certain issues have been superseded.

- 10.3 Four general observations:

- 100 dwellinghouses will generate possibly 200 plus vehicles with only one exit from the estate resulting in increased congestion given that Chitts Hill is already a very busy road, the traffic generated by Holmwood House School, and the railway crossing gates;
- Having experienced years of construction traffic using Iron Latch Lane for the Oliver's Grove development, assurances need to be given that the access to the site would be restricted to Chitts Hill and that there would be no vehicular access to Iron Latch Lane (as stated in the submitted Design and Access Statement);
- The main sewer collapsed following years of construction at the adjacent site;
- Waste of good agricultural land;
- Would like to connect to mains sewer if one is provided;
- Extra traffic would cause more problems;
- Speeding problem in this area;

- 10.4 A total of 45 objections have been received, some of which are from the same households given the reconsultation process:

- View from home will be affected and this will impact on the value of our home;
- The development would affect business being run from home as the increased traffic will impede clients/customers/patients being able to access the property promptly;

- The developer has not been a good neighbor when developing the adjacent site (Oliver's Grove): heavy site lorries have been parked outside houses in the early morning and queuing on Halstead Road during the day; the bus stop at Iron Latch Lane was knocked over and replaced by a sign advertising the sales office;
- Procedural Matters:
 - Letter sent to Hopkins Homes as part of their Community Consultation has not been referred to in the application documents;
 - The application states 'redevelopment of site', but there is no development on site currently so this statement is misleading;
 - Consider that a separate planning application would be required for the access from Iron Latch Lane as it would be a change of use of the bridle path to a foot path;
- Principle of Development:
 - The site is a greenfield site on the urban edge of Colchester and is close to an area of outstanding natural beauty and adjacent to a nature reserve {Case Officer Note: the site is approximately 4 miles from an area of outstanding natural beauty};
 - The Council and Highways Agency opposed inclusion of the site in the Local Plan in 2008;
 - The size and type of development is inappropriate being out of character with existing dwellings in the area, the rural character of the surrounding area and the surrounding landscape;
 - The draft Local Plan has not yet been adopted by the Council;
 - The draft Local Plan states that Chitts Hill is well-served by public transport, but there is no public transport convenient to the site;
 - There are other sites around the Colchester area that could be earmarked for residential development which do not increase the risk to public safety;
 - Urbanisation of Colchester;
 - If the application is on land outside the Council's 5 year plan then it should be refused;
 - The development would not provide any benefit or enhancement to the local community or rural economy;
- Highways and Sustainability:
 - The site is not readily accessible; there is no bus route on Chitts Hill and the service on Halstead Road is hourly which is not convenient for getting to school or work;
 - The proposal would increase the queues at the railway crossing (20 minutes being the norm), as well as the risk of cars being stuck on the level crossing if behind cars waiting to turn right into the site access;
 - The proposal for 'keep clear' markings at the access on Chitts Hill will increase queues to the railway crossing;
 - Cars queuing will increase emissions and noise;
 - Drivers are likely to try to overtake the queue resulting in risks of accidents;
 - Siting of access is dangerous due to its proximity to the railway crossing;
 - The traffic assessment underestimates vehicle movements from/to the site during the morning and evening peak hours;
 - People do not abide by the 30mph speed limit on Chitts Hill;

- The development would add more pressure on all road systems in the area including the A12 and Tollgate;
- The access/exit is too close to the exit from the school;
- It would be better to have road access on Halstead Road and only horse/foot/cycle access to Chitts Hill;
- There is only one footpath opposite the development site on Chitts Hill so the pedestrians will be forced to cross the road at the site entrance point;
- Visibility splays would be inadequate;
- Infrastructure:
 - The local primary school is full to capacity and the secondary school is 8 miles away;
 - Not enough supporting infrastructure to support new houses (doctors, schools etc);
 - Infrastructure cannot cope with a development of this size. There is no mains sewer at the application site and surface rain water flows to the railway;
- Flood Risk and Drainage:
 - The drainage strategy set out in the Flood Risk Assessment is vague and has inadequate proposals for maintenance;
 - Flooding issues on Chitts Hill;
 - The application refers to drainage to a pond, but the plan shows the pond in green so it has presumably been omitted; [Case Officer Note: the ponds are clearly shown on the submitted drawings]
- Ecology:
 - The development will adversely impact on the woodland to the north west of the site and the Iron Latch Nature Reserve;
 - The site is greenfield and any change to this would have a detrimental effect to the countryside and wildlife habitat;
- Landscape and Trees:
 - Area of outstanding natural beauty [Case Officer Note: The application site is not within an area of outstanding natural beauty; it is over 4 miles away].
 - Extensive infrastructure works would risk damage to trees;
 - 50 years ago the area was rural. The site is greenfield and should be kept as countryside;
 - The development will significantly affect the views across Colne Valley which is an area of special landscape value;
 - No proposals on how landscape issues will be dealt with after construction;
 - The Arboricultural Impact Assessment raises significant concerns about tree preservation and removal of trees important to the local area and landscape;
 - Visibility splays will not be possible without destroying valuable hedgerows;
- Design and Layout:
 - One and two bedroom dwellings are out of character with the surrounding development;
 - The horse/foot/cycle path is inconsistent as the application states that it will be kept separated from vehicles, but the plans show it merging with

the road; [Case Officer Note: this is as a result of amendments to the layout]

- Impact on Holmwood House school:
 - Concern regarding security and safeguarding with housing close to the boundary of the school and properties having a direct views;
 - Do not want any 'gifting' or responsibility for ownership and maintenance of any buffer/boundary area to the school playing fields;
 - Queues of traffic often block the exit from the school and the development will increase this;
 - The school grounds and surrounding countryside are a very important part of the character, appearance and attraction of the school. A housing development adjacent to the school will have a negative impact on the aesthetics of the school and potentially impact on admissions;

11.0 Parking Provision

11.1 See Section 4 of this report.

12.0 Accessibility

12.1 Highway and sustainability matters will be discussed in the main body of the report.

12.2 In terms of the Equality Act, the proposal provides a variety of house types (apartments, houses, and bungalows ranging from one-bed to four-bed) that would be provide flexible choice for different lifestyle requirements. The dwellings would be capable of adaption. In addition, 3 No. bungalows would be either fully wheelchair adapted or capable of adaption.

13.0 Open Space Provisions

13.1 Development Plan policy DP16 requires new residential development to provide at least 10% of the site area as public open space. The proposal includes 2.08 hectares of public open space, that includes playspace and an informal bridleway, which equates to over 30% of the site area. The level of open space is therefore entirely in accordance with policy DP16.

14.0 Air Quality

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

15.0 Planning Obligations

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

- Affordable Housing: 30% provision. The tenure mix of the affordable dwellings should be no less than 80% affordable rent and no more than 20% intermediate. Wheelchair accessible units should be provided.
- Community Facilities: £163,244 to be spent on the building of a new community centre on the Western Approaches Road.
- Education: £699,717 total (Primary £347,638 and Secondary £352,079). To be spent on: Primary Education Contribution for the expansion of/provision of additional primary school places at the new school to be built at land reserved on the Lakelands development. Secondary Education Contribution for the expansion of/provision of additional secondary school places.
- NHS: £36,271 to be spent on additional capacity at Ambrose Avenue Group Practice Branch Surgery.
- Public Open Space, Sport, and Recreation: £108,315.27 off-site contribution on the basis that on-site public open space and play facilities are provided and that these areas are maintained and managed and not adopted by the Council. Contribution to be spent on ancillary facilities at Iron Latch Woods (adjacent to the application site).

15.2 Following notification of the necessary planning obligations, the Applicant submitted a Viability Assessment which concluded that the scheme could not support any planning contributions or affordable housing. The Viability Assessment was independently reviewed by a Consultant with the conclusion that the scheme was capable of meeting the planning contributions, as well as providing 30% affordable housing. Although the Applicant issued a rebuttal on certain points made by the Consultant, it was agreed that the necessary planning obligations and affordable housing requirements would be met.

15.3 A s106 legal agreement is subsequently being progressed to secure the above obligations. Further provisions will be required where they cannot be conditioned, such as securing the provision of public open space by an agreed trigger point. Mitigation measures under the Habitat Regulations and Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS) will also need to be secured via s106; further details are provided in the main body of this report.

16.0 Report

16.1 The main issues in this case are: principle of development; landscape and trees; heritage; contamination; flood risk and drainage; ecology; highway matters; layout and design; and amenity.

16.2 Principle of Development:

The site lies outside the current adopted settlement boundary of Colchester, although it is allocated for residential development in the emerging Local Plan. The emerging plan is at an advanced stage and therefore carries weight as a material planning consideration. Consideration of the principle of development needs to focus on the adopted local plan and the weight to be afforded to the emerging local plan.

16.3 Given the location outside of the settlement boundary, the proposal is a departure from the adopted Local Plan in terms of Core Strategy Policies SD1, ENV1, and ENV2 given that these policies direct new residential development to allocated sites, protect greenfield sites outside of settlement boundaries, and restrict development outside settlement boundaries to rural business, leisure, and tourism schemes.

16.4 Turning to the emerging Local Plan, the new Local Plan will inform development in the Borough over the period 2017 to 2033 and will include new housing allocations to meet the predicted growth of the Borough over that period. The Emerging Plan was submitted to the Planning Inspectorate (PINs) on 9 October 2017. Section One of the Local Plan is currently subject to examination. The Inspector wrote to the North Essex Authorities (NEAs) on 8 June 2018 outlining areas of future work required to progress the emerging Local Plan and three options for the NEAs to consider. A supplementary post hearing letter was also received on 27 June 2018 confirming the OAHN study and requirement figures contained in the Emerging Local Plan to be soundly based.

16.5 As the emerging plan is currently being examined, it is considered to be at an advanced stage. In terms of whether the emerging plan can be considered in the determination of planning applications, paragraph 48 of the NPPF states that decision-takers may give weight to relevant policies in emerging plans according to the stage of preparation, the extent to which there are unresolved objections and the degree of consistency to the policies in the Framework. The paragraphs below address the issue of weighting for relevant policies in the emerging plan.

16.6 Emerging Policy SG2 (Housing Delivery) states that:

The overall distribution of new housing, as shown in Table SG2, is guided by the settlement hierarchy set out in the Spatial Strategy and Policy SG1. New housing development will be focused on the following key areas:

- *Colchester urban area (place policies for Central, North, South, East and West Colchester)*
- *Tendring/Colchester Borders Garden Community*
- *Colchester/Braintree Borders Garden Community.*

Table SG2 Spatial Hierarchy states the hierarchy as the following:

Urban Area of Colchester

o Central Colchester

o South, East, North and West Colchester including Stanway and Myland and Braiswick

16.7 The proposal at Chitts Hill is located in Stanway which is within the Colchester Urban Area – West Colchester; and is therefore consistent with the spatial

hierarchy and Policy SG2. A total of 31 representations to Policy SG2 have been made with a range of support and objection. A few comments relate to the need to be clearer and more transparent of the total housing provision (Essex County Council rep ref: 6205 and Maldon District Council rep ref: 7473). It is also suggested that the housing figure is too high given the spatial constraints of the borough when compared to Chelmsford and the Objectively Assessed Need (OAN) is considered to underestimate the housing need of Colchester (Gladman Development rep ref: 7167; House Builders Federation rep ref: 7150; and Persimmon Homes rep ref: 6916). Concerns are also raised for the infrastructure provisions that would be required, and when this would be delivered to support the total housing need across the Plan period (Colchester Hospital University Trust rep ref: 7199). It is suggested that greater reference to the Sustainable Settlements maintaining a 5-year land supply should be included within the Policy (Bloor Homes rep ref: 7248; Hopkins Homes rep ref: 7128). Additional comments to this policy relate to the Garden Community proposals and Sustainable Settlements allocations. Similarly, a number of alternative sites are proposed for inclusion within the Local Plan.

16.8 The initial LPA response to these comments are that a Minor Modification is proposed to add clarity to the total housing need figure. The Section One Local Plan Inspector has reported his findings on the NEAs OAN (Meeting the Need for New Homes, letter dated 27 June 2018). The Inspector endorses the figure of 920 dwellings per annum as representing the objectively-assessed housing need for Colchester (paragraph 35). In regard to the comments made by Colchester Hospital University Trust, Bloor Homes, and Hopkins Homes, CBC will consider the need for modifications and this will be explored in more detail through the examination. Comments regarding Garden Communities and Sustainable Settlements will be resolved under the relevant site-specific policies.

16.9 Emerging Policy WC2 states that:

Allocations as shown on the policies map will be safeguarded for predominantly residential uses unless otherwise stated. In addition to meeting the requirements set out in Policy PP1 existing capacity issues at the primary schools will be addressed by planned expansion at a number of the schools in the short term and by the provision of a new primary school at Lakelands. A new school will also be required on 2.1 hectares of land to the north of London Road in a location to be decided. The primary school will be secured through a S106 agreement and will be co-located with a 56 place early years and childcare facility (D1 use). An additional 0.13 hectares of land for a 56 place early years and childcare facility will also be required in Stanway in a location to be decided.

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

Land at Chitts Hill

Development of this site will be supported where it provides:

- i. Up to a maximum of 100 new dwellings of a mix and type of housing to be compatible with surrounding development;*
- ii. Substantive landscaping in particular to reflect appropriate boundary treatment to the north along the railway line and the south around the school;*

- iii. *Access to the site to be restricted to Chitts Hill;*
- iv. *Open space / green infrastructure provision to compliment the biodiversity and wildlife interests of the neighbouring Local Wildlife designation (CO68) at Iron Latch Lane Woods and Meadows;*
- v. *Adequate noise mitigation from the adjacent railway line; and*
- vi. *Further exploration of potential archaeological significance of the site.*

16.10 The proposed site is in conformity with Policy WC2 in principle as the proposal is within the proposed settlement boundary and the allocation shown on the emerging plan policies map; it provides a mix of 100 dwellings including affordable units; landscaping is proposed along the northern boundary and around the school; access is restricted via Chitts Hill; open space and green infrastructure is proposed; noise mitigation is proposed; and matters of archaeology has been explored.

16.11 There are a total of 18 representations received relating to Policy WC2 with a range of support and objection across the five site allocations within the Policy. A number of generic comments are made relating to all allocations in the policy. This includes the potential impact upon the A12 and A120 and a traffic impact assessment for all allocations in Stanway (Highways England rep ref: 6672). It should also be established that required health infrastructure is provided for significant proposed development in Stanway (North East Essex Clinic Commission Group (rep ref: 6217). Similarly, it is suggested that an amendment to the policy is sought to ensure contributions to education are not listed to specific sites but that policy SG7 applies to all sites and education is included within Policy PP1 (Essex County Council, rep ref: 6221). Equestrian access is suggested to be included across all proposals (Essex Bridleways Association rep ref: 6316).

16.12 It is noted that the main access to the proposed site is via Chitts Hill and a bridleway to the north of the site is included to provide equestrian access. A Travel Plan has been considered within this planning application. The relevant statutory consultees have not objected to the proposal and have recommended conditions to satisfy these requirements. It can be considered that the proposal has had regard to Policy WC2 and the representations from Highways England and the Essex Bridleways Association.

16.13 A proposed Minor Modification to Policy WC2 is suggested by CBC to clarify that residential developments in Stanway are expected to contribute towards new education facilities (see schedule of minor modifications to the Publication Draft Colchester Local Plan: Section Two October 2017). This document was included as a supporting document in submission of the Local Plan to PINs on 9 October 2017. There is currently uncertainty about the preferred approach with regard to ensuring that sufficient health infrastructure is provided. The NHS has, however, commented on the current application and are seeking a monetary contribution to mitigate the impact of the development upon health services. A contribution to mitigate the impact of the development on education services has been sought by Essex County Council and this is being met by the Applicant.

- 16.14 Comments directly relating to Chitts Hill include requests for clarification of the inclusion of a maximum housing yield (in conjunction with Policy PP1) and clarity of the access road (Hopkins Homes rep ref: 7134). It is also noted that the Local Wildlife Site integrity should not be undermined by the development and a buffer zone surrounding public open space to prevent inhibiting the use of playing fields should be provided. Concern regarding increased pollution and poor transport links is noted.
- 16.15 As the maximum number of dwellings outlined in policy WC2 and the number proposed through this application are both 100 dwellings, it is not considered necessary for clarity of a maximum housing yield to be sought. As outlined in Policy WC2, access to the site should be restricted to Chitts Hill, the proposed development conforms to this.
- 16.16 As part of this application, a master plan and ecological survey reports have been provided and the Essex Wildlife Trust have been consulted. The Trust do not object to the application and have suggested that the requirement for an Ecological Mitigation and Management Plan can be secured via condition. Similarly, consideration of surrounding playing fields has been undertaken through this application and Sports England have not objected to the application. Sports England have suggested that a Labosport Ball Strike Assessment can be secured via condition. Concerns regarding pollution can be addressed through conditions recommended by an internal consultee (Environmental Officer).
- 16.17 As noted above Highways England and the Highways Authority have not objected to the proposal, and the scheme also includes a bridleway, cycle pathway and cycle storage to provide transport links.
- 16.18 It can be considered that there are no unresolved representations directly relating to the Chitts Hill site allocation and significant weight can therefore be afforded to policy WC2 of the emerging local plan.
- 16.19 Emerging Policy SG7: Infrastructure Delivery and Impact Mitigation states that:
All new development should be supported by, and have good access to, all necessary infrastructure.

Permission will only be granted if it can be demonstrated that there is sufficient appropriate infrastructure capacity to support the development or that such capacity will be delivered by the proposal. It must further be demonstrated that such capacity as is required will prove sustainable over time both in physical and financial terms. Where a development proposal requires additional infrastructure capacity, to be deemed acceptable, mitigation measures must be agreed with the Local Planning Authority and the appropriate infrastructure provider. Such measures may include (not exclusively):

- i. Financial contributions towards new or expanded facilities and the maintenance thereof;*
- ii. On-site provision (which may include building works);*
- iii. Off-site capacity improvement works; and/or*
- iv. The provision of land.*

Developers will be expected to contribute towards the delivery of relevant infrastructure. They will either make direct provision or will contribute towards the provision of local and strategic infrastructure required by the development either alone or cumulatively with other developments.

Small sites can have a cumulative effect on infrastructure and proportional contributions will be sought from all developments where this is demonstrated to be the case. Developers and land owners must work positively with the Local Planning Authority, neighbouring authorities and other infrastructure providers throughout the planning process to ensure that the cumulative impact of development is considered and then mitigated, at the appropriate time, in line with published policies and guidance.

Exceptions to this policy will only be considered whereby:

- i. It is proven that the benefit of the development proceeding without full mitigation outweighs the collective harm;*
- ii. A fully transparent open book viability assessment has proven that full mitigation cannot be afforded, allowing only for the minimum level of developer profit and land owner receipt necessary for the development to proceed;*
- iii. Full and thorough investigation has been undertaken to find innovative solutions to issues and all possible steps have been taken to minimise the residual level of unmitigated impacts; and*
- iv. Obligations are entered into by the developer that provide for appropriate additional mitigation in the event that viability improves prior to completion of the development.*

16.20 A total of 19 representations were received to Policy SG7, including a mix of support and objection. Support for the policy is noted by the Environment Agency, Sports England, Anglian Water and NEE CCG. Bloor Homes (rep ref: 7158) and Hopkins Home (rep ref: 7129) suggest the policy is an “infrastructure first” approach which is beyond the remit of the development industry. Concerns regarding the Infrastructure Delivery Plan (IDP) is noted by Colchester Hospital University Trust (rep ref: 7198) as it is thought this has underestimated population growth over the Plan period and the resultant potential impacts to health services. Rewording of the supporting text is also suggested by ECC (rep ref: 6204) to ensure developers consider the ECC Developers Guide to Infrastructure Contributions where infrastructure provision is the responsibility of the County Council and not LPA i.e. schools and early years’ provision.

16.21 The initial response of the LPA is that in terms of the principle and objectives of the Policy, no significant changes are considered necessary. CBC will continue to work with ECC and NEE CCG to address concerns and prepare Statements of Common Ground and recommend modifications to the Plan where appropriate. Opportunities to improve the wording for clarity will be further explored through the examination process.

16.22 A minor modification is proposed to include reference to ECC Developers Guidance to Infrastructure Contributions (see schedule of minor modifications to the Publication Draft Colchester Local Plan: Section Two October 2017).

This document was included as a supporting document in submission of the Local Plan to PINs on 9 October 2017.

16.23 The Infrastructure Delivery Plan for Colchester was updated in October 2017 to provide an accurate representation of the infrastructure requirements for allocations within Section Two of the Emerging Local Plan. The principle of seeking contributions to mitigate the impact of new developments is not new. The Adopted Plan also includes similar policies. It is therefore considered appropriate that at this early stage, when dealing with a site still to be allocated in an Adopted Plan, and where there has been no material change in circumstances, the full contribution towards infrastructure should be secured.

16.24 The application includes details of drainage and road infrastructure which has been accepted by the relevant statutory consultees (Anglian Water; Essex County Council SUDs; Highway Authority; Highways England). Contributions are also being secured via a s106 legal agreement in relation to health and education. The proposal is considered to meet the requirements of this policy.

16.25 Emerging Policy DM8: Affordable Housing states that:

The Council is committed to improving housing affordability in Colchester. Accordingly, 30% of new dwellings (including conversions) on housing developments of more than 10 dwellings in urban areas and above 5 units in designated rural areas (in accordance with Planning Policy Guidance), should be provided as affordable housing (normally on site).

Where it is considered that a site forms part of a larger development area, affordable housing will be apportioned with reference to the site area as a whole. This level balances the objectively assessed need for affordable housing in the Borough established by the evidence base, against the requirement for flexibility to take account of changing market conditions. At present the overwhelming need in Colchester is for affordable rented properties, which should be reflected in development proposals. For sites where an alternative level of affordable housing is proposed below the target, it will need to be supported by evidence in the form of a viability appraisal.

In exceptional circumstances, where high development costs undermine the viability of housing delivery, developers will be expected to demonstrate an alternative affordable housing provision.

The Local Planning Authority will require developments to integrate affordable housing and market housing, with a consistent standard of quality design and public spaces, to create mixed and sustainable communities. The affordable housing provision should proportionately reflect the mix of market units unless otherwise specified by the Local Planning Authority. In schemes over 15 units the affordable housing should be provided in more than one single parcel. Elsewhere the affordable housing mix on any site should normally be "pepper potted" throughout the scheme in groups, the size and location of which should be discussed and agreed with the Local Planning Authority.

16.26 12 representations were received to Policy DM8; including support from Colne Housing Society; Andrew Granger & Co. and Angora Bare Trusts. The main

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comments relating to this policy are that the provision of 30% affordable housing is too high, not based upon sound evidence and represents a significant increase from the 20% outlined in the Preferred Options iteration of the Local Plan.

- 16.27 It is also noted by Bloor Homes (rep ref: 7192) and Hopkins Homes (rep ref: 7138) that the Sustainability Appraisal refers to 20% affordable housing and question the justification for an increase to 30%. The initial response from the LPA is that the evidence from the Colchester Local Plan Viability Study supports a target of 30-35% affordable housing in new developments in Colchester and the SHMA also evidences the need for a higher proportion of affordable housing.
- 16.28 The SHMA was updated in 2015 which concluded that the total annual affordable housing need in Colchester of 267 units represents 30.2% of the annual projected household growth in the Borough between 2013 and 2037. It is outlined that the affordable housing requirement can be met by the OAN identified and no adjustment is required to the figure.
- 16.29 During the examination of Section One of the Local Plan, the Inspector asked the Councils to set out the anticipated delivery of affordable housing relative to the total delivery of housing. The NEAs demonstrated that the authorities have the means to meet the affordable housing requirement of 10,224 dwellings up to 2033 across the three authorities without the need to increase the overall housing requirement (see North Essex Authorities Affordable Housing Delivery note reference EXD/009 submitted to the Inspector during the examination).
- 16.30 The Section One Local Plan Inspector has reported his findings on the NEAs OAN (Meeting the Need for New Homes, letter dated 27 June 2018). The Inspector endorses the figure of 920 dwellings per annum as representing the objectively assessed housing need for Colchester (paragraph 35). In the same letter, the Inspector also concludes that *“there is a good prospect that affordable housing need will be met over the Plan period in Braintree and Colchester if their overall housing requirements are met in full”* (paragraph 30).
- 16.31 The proposal for 100 dwellings at Chitts Hill is required to provide 30% of affordable housing due to the development being within an urban area proposing more than 10 dwellings. It is not considered the site forms part of a larger development and an apportioned figure is not relevant. The current proposal provides 30% affordable housing in accordance with the policy.
- 16.32 In conclusion, both the adopted Local Plan and emerging Local Plan are relevant in the consideration of this application. The emerging Local Plan can be considered to be at an advanced stage given examination of Section One has commenced and significant weight can be applied to the policies discussed above in accordance with paragraph 48 of the NPPF 2018. The site is allocated for residential development through Policy WC2 in Section Two of the emerging Local Plan. The allocation could start to be delivered within 5 years and contribute to the supply of deliverable housing during the period 2020/21 to 2022/23.

- 16.33 The Local Plan process ensures that potential development locations are the subject of thorough assessment (including Sustainability Appraisal and Strategic Environmental Assessment) and meaningful engagement with residents, service providers and other key stakeholders and, in the case of the garden communities, comprehensive master planning. Colchester Borough Council considers this to be the proper process for determining the merits of new development proposals which are not compliant with current development plan policy.
- 16.34 Although the proposal is not in accordance with the Adopted Local Plan, the proposal is in general conformity with the NPPF and emerging Local Plan in terms of the principle of development. The NPPF (2018) enables the testing of prematurity of an emerging Local Plan through considering the volume and substance of representations received to the emerging Local Plan and the ability for these to be resolved on a site-specific basis prior to examination of the Local Plan. Significant weight can therefore be applied to the emerging Local Plan in this case. On this basis, the proposal is concluded to be acceptable in principle.
- 16.35 Landscape and Trees:
Core Strategy Policy ENV1 seeks to conserve and enhance Colchester's natural and historic environment, countryside and coastline, with Development Plan Policy DP1 requiring development proposals to demonstrate that they, and any ancillary activities associated with them, will respect and enhance the character of the site, context and surroundings in terms of (inter alia) its landscape setting. Emerging Plan Policies ENV1 and DM15 broadly accord with these requirements.
- 16.36 Experience of the site is that it is very secluded in terms of views to and from public vantage points from the wider surroundings; the site is heavily screened by trees, the majority of which would be retained as part of the development and there is a wide landscape buffer of open space along the northern edge of the site. Existing development in the vicinity of the site also restricts public views. The submitted Landscape and Visual Impact Assessment records the impact of the development on a number of vantage points, with effects ranging from 'no effect' to 'moderate to minor adverse' effect. There are two instances of 'major to moderate adverse' effect at vantage points along Iron Latch Lane which is where the development would be more readily viewed.
- 16.37 The site is surrounded by development on all sides: existing residential development to the east, south, and west; Holmwood House School to the south; and the railway line to the north. The site is not, therefore, perceived within open countryside and the railway line acts as a definite 'end stop'. Local representation has commented that the site is within a protected landscape and an Area of Outstanding Natural Beauty (AONB), but this is not the case; the site is not within a protected landscape.
- 16.38 Given the site characteristics, the proposal is not considered to have an adverse impact on the wider landscape. The proposal would, therefore, conserve Colchester's natural environment and countryside in accordance with policies ENV1 and DP1.

- 16.39 A Landscape Masterplan has been submitted with the application and the Council's Landscape Officer has no objections to these proposals. Detailed landscape proposals will be required to be approved and implemented via condition. A Landscape Management Plan will also be required to be approved via condition. Local representation has commented that there is insufficient information with which to consider landscape proposals, but this is not considered to be the case. It is entirely reasonable to submit a landscape strategy or masterplan and for detailed landscape proposals to be secured via condition.
- 16.40 With regards to trees, the submitted Arboricultural Impact Assessment states that 'the majority of trees within the proposed development envelope are located around the outsides of the site and comprise areas of individual trees and hedgerows. The proposed layout has been designed with the existing tree cover in mind and avoids impacting the sites tree population where possible. The RPAs of T4, T22, G23, T24 and G25 are indicated as having their RPAs impacted by the proposed layout. These areas will need specialist design considerations such as the use of a 'pile & beam' type foundation where heavy structures such as houses are within the RPA of trees, and the use of a 3-dimensional sub base like as 'Cellweb' for lighter structures, roads and parking bays.' Only trees of low or moderate quality are proposed for removal: With the proposed preliminary design layout provided by the client it is indicated that 1 section of tree group (G32) of moderate quality and value, tree group (G18), 2 sections of tree groups (G25 and G31) of low quality and value will require removal to accommodate the proposals. In addition, H43 (low value) has been identified as obstructing the visibility splay for the access and egress to the site and therefore the proposal is to remove this hedge line. The TPP shows the obstruction caused to H43 which is contained within G29 but protrudes 1m either side of the trunk centers, thus requiring its removal.
- 16.41 The Arboricultural Officer is in agreement with the submitted tree survey and Arboricultural Impact Assessment. The proposed development does require the felling of a number of trees but given the size, species and location of these it is deemed of limited impact to the wider area and is therefore acceptable in arboricultural terms. Conditions are recommended to secure the proposals in the submitted information, secure tree protection; and ensure hand excavation underneath the canopies of trees.
- 16.42 There would be a breach of the hedgerow on Chitts Hill to allow for the creation of a vehicular access. As identified by the Council's Landscape Officer, the hedgerow is considered to be important and the presumption is that it should be retained in its entirety. As discussed above, the site is allocated in the emerging plan, with access to the site being set on Chitts Hill. The site allocation (which has undergone a number of assessments to ensure appropriateness) therefore necessitates a breach of the hedge. It is important to ensure that the site access and associated visibility splays do not result in the removal of the hedge and to this end the Applicant has submitted a tree survey and protection plan to show that the required visibility splay would be to the front of the existing hedgerow and hedgerow trees. It is considered that the scheme proposes as acceptable approach to providing the site access in

line with the site allocation policy with limited impact on the existing hedge boundary.

16.43 Heritage:

Both Core Strategy Policy ENV1 and Development Plan Policy DP14 seek to conserve and enhance Colchester's historic Environment. Development Plan Policy DP14 makes it clear that development will not be permitted that will adversely affect a listed building, conservation area, historic park or garden, or important archaeological remains. Emerging policies ENV1 and DM16 include the same principles and requirements to conserve and enhance the significance of heritage assets.

16.44 The proposal would not have an impact on built heritage as there are no listed buildings or designated conservation area within the vicinity.

16.45 In terms of archaeology, the Council's Archaeological Adviser has confirmed that an adequate desk-based assessment, geophysical survey and trial-trenched evaluation has been undertaken for this proposed development site. On the basis of the results of these surveys, no further predetermination archaeological evaluation is required. These assessments have identified archaeological remains within the area of trial trenches T22 and T23 and these will require further investigation (preservation by excavation) in advance of development commencing in this part of the development site. In addition, the east edge of the development site, the location of the proposed access onto Chitts Hill, is across the line of Gryme's Dyke (HER no. MCC7464). Late Iron Age Colchester was protected on its western edge by a series of defensive earthworks known as the Dykes and Gryme's Dyke is the latest of these; a dyke is a bank formed from the earth dug out of a defensive ditch. A trial trenched investigation of the road line, and quite likely full excavation, will be required in this part of the site, across the Dyke in advance of development. Subject to a condition for further archaeological investigation, the proposal is considered to both conserve and enhance (by way of providing further information on heritage) the historic environment in accordance with the aforementioned planning policies.

16.46 Contamination:

Development Plan policy DP1 requires new development to undertake appropriate remediation of contaminated land. Emerging Local Plan Policy ENV5 requires an assessment of the extent of contamination and any possible risks, with a requirement for any remediation works as necessary.

16.47 A Geoenvironmental Assessment has been submitted with the application which provides details of the environmental setting, desk based information, site walkover, preliminary conceptual site model, preliminary intrusive investigations, laboratory testing of representative samples, gas monitoring and generic quantitative risk assessment of potential risks to human health and the environment based on appropriate technical guidance, culminating in provision of a revised conceptual site model for the proposed development.

16.48 The Council's Contaminated Land Officer has noted that a total of 15 representative samples were submitted for analysis and that a single sample

marginally exceeded the chosen generic assessment criteria (GAC) for a single determinant: beryllium (1.8mg/kg compared to a GAC of 1.7mg/kg for a residential end use), but that this is considered unrepresentative and that there is no risk to human health from this contaminant. They also note that there has been a single round of ground gas monitoring undertaken at four locations and monitoring for volatile organic compounds. These initial results indicate a very low risk. Further monitoring is recommended to confirm the preliminary findings.

16.49 It is concluded that, based on the information available to date, there are no significant pollution linkages presently associated with the site, and that no remedial actions are required to make the site suitable for the proposed use. The submitted assessment is, therefore, considered to be satisfactory in demonstrating that the proposed works would not preclude the safe development of the site as far as contamination matters are concerned. Subject to conditions to ensure that further investigation is carried out, as well as any necessary remediation, the proposal is considered to be acceptable with regards to contamination matters.

16.50 Flood Risk and Drainage:

Core Strategy Policy SD1 and Development Plan Policy DP20 require proposals to promote sustainability by minimising and/or mitigating pressure on (inter alia) areas at risk of flooding. Policy DP20 also requires all development proposals to incorporate measures for the conservation and sustainable use of water, including the appropriate use of SUDs for managing surface water runoff. More detailed requirements to mitigate flood risk from development are also included in Emerging Local Plan Policy DM23.

16.51 The site is located within Flood Zone 1 which means that there is low probability of flooding (less than 0.1%). The development itself is, therefore, unlikely to be susceptible to flooding. It is still important, however, to assess whether/how the development could affect flood risk elsewhere.

16.52 The drainage strategy is essentially designed to mimic existing drainage at the site. Following comments received from Essex County Council SUDs, the Flood Risk Assessment was revised in order to provide further clarification on the drainage strategy and confirm that all surface water would drain via gravity to a culverted watercourse. Essex County Council SUDs have agreed this strategy subject to conditions for final details, as well as details of maintenance and management. The impact of the proposal on surface water drainage and flood risk is therefore negligible.

16.53 Foul drainage would be via a pumping station (on-site) that would discharge to an Anglian Water sewer on Chitts Hill. No objection has been received from Anglian Water who has confirmed that there is capacity for the flows from the proposed development.

16.54 The Environment Agency have confirmed that they have no comments to make in respect of the application.

16.55 On the basis of the above, the proposal is considered to accord with relevant planning policy.

16.56 Ecology:

Section 40 of the Natural Environment and rural Communities Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity and a core principle of the NPPF is that planning should contribute to conserving and enhancing the natural environment. Development Plan policy DP21 seeks to conserve or enhance biodiversity and geodiversity in the Borough. New developments are required to be supported by ecological surveys where appropriate, minimise the fragmentation of habitats, and maximise opportunities for the restoration, enhancement and connection of natural habitats. Emerging Local Plan Policy ENV1 requires appropriate ecological surveys where necessary and seeks the preservation, restoration and enhancement of natural habitats where appropriate.

16.57 The submitted Habitats Survey details the relevant habitat on site, such as trees, scrub, pond, and arable land. Given the on-site habitat and desk study results, further surveys were recommended for bats, reptile, and great crested newts. A Phase 2 Ecological Survey provided the necessary surveys: a single day roost for a single soprano pipistrelle bat was recorded on site, as well as bat activity; Great Crested Newts were recorded; no reptiles were recorded.

16.58 Recommendations to mitigate the impact upon identified species, as well as enhancement measures, are included in the submitted survey and cover the following:

- Sensitive lighting;
- Retention of green and dark corridors;
- Bird and bat boxes;
- Great Crested Newt translocation;
- Tree retention; and
- Wildlife friendly planting within pond and hedgerows.

16.59 Essex Wildlife Trust have considered the information submitted as part of the application and have confirmed that the necessary survey work has been undertaken and that acceptable mitigation is proposed. The Trust considers it necessary to secure an Ecological Mitigation and Management Plan (EMMP) via condition to guide the effective implementation of the recommended mitigation measures and habitat creation/enhancement proposals. The aim should be to maximise the biodiversity potential of the site and ensure an overall net gain in biodiversity as a result of the development. This is considered to be a reasonable requirement; the Ecological Survey summarises that the proposed development would have either a neutral or moderate positive residual impact on ecological receptors (local wildlife site; habitats; rare and notable plants; bats; and great crested newts).

16.60 With a condition to secure an appropriate EMMP, the proposal is considered to conserve and enhance biodiversity in accordance with planning policy requirements.

16.61 The whole of Colchester Borough is within the zone of influence (Zol) for the Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS) and the proposal is thus subject to Appropriate Assessment (AA) under the Habitats Regulations. The proposal is for 100 dwellings and it is anticipated that such development is likely to have a significant effect upon the interest features of Habitat sites [Colne Estuary SPA and Ramsar site, Blackwater Estuary SPA and Ramsar site, Dengie SPA and Ramsar site, Stour and Orwell Estuaries SPA and Ramsar site (south shore) and Essex Estuaries SAC] through increased recreational pressure, when considered either alone or in-combination with other plans and projects. An appropriate assessment is therefore needed to assess recreational disturbance impacts.

16.62 A shadow HRA ('Habitats Regulations Assessment: report to Inform an Appropriate Assessment', dated November 2018) has been submitted in support of the planning application. The assessment details that the development will include both on-site and offsite measures which are considered below.

16.63 On-site measures:

- SANGS provision of 2.65ha greenspace to offer the estimates increase in dog walking as associated disturbance from the development at the site. The area provided would be in excess of the minimum figure (1.84ha) advised by Natural England to offset associated disturbance. The greenspace area should be established during construction phase and managed as a SANGS through the provision of a range of measures that will include cutting and maintaining a network of paths, the provision of dog-waste bins and signage to inform residents of the SANGS area and reasons for it.
- The site is located adjacent to and directly connected with a Public Right of Way (Iron Latch Lane) that leads to a large area of public open space (to the north-east of the site) available for recreation (walking, cycling etc).

Off-site measures:

- The shadow HRA confirms that a contribution in accordance with the Essex Coast RAMS will be secured.

16.64 The Local Planning Authority (LPA) has considered the proposed avoidance and mitigation measures detailed above as part of an AA, with the conclusion that, with mitigation, the project will not have an Adverse Effect on the Integrity of the European sites included within the Essex Coast RAMS. Having made this appropriate assessment of the implications of the plan or project for the site(s) in view of that (those) site(s)'s conservation objectives and having received confirmation from Natural England that they agree with the proposed mitigation, the proposals can be agreed under regulation 63 of the Conservation of Habitats and Species Regulations 2017. Both the SANGS provision and monetary contribution can be secured via s106.

16.65 Highway Matters:

Core Strategy policy TA4 seeks to make the best use of the existing highway network and manage demand for road traffic. The policy makes it clear that new

development will need to contribute towards transport infrastructure improvements to support the development itself and to enhance the broader network to mitigate impacts on existing communities. Development Plan policy DP17 requires all development to maintain the right and safe passage of all highways users. Development Plan policy DP19 relates to parking standards in association with the Vehicle Parking Standards SPD (see Section 11 of this report for details of parking requirements). Policies in the emerging Local Plan seek to promote sustainable means of transport and managing the demand for road traffic.

16.66 A large proportion of local representation was concerned with increases in traffic, as well as safety implications in respect of the proximity of the development to the railway crossing on Chitts Hill and impacts on the wider road network. Both Highways England and the Highway Authority have been consulted on the application and their comments have informed the assessment of the proposal on highway grounds. Network Rail have been consulted on the application, but despite multiple consultations and requests for comment, have not commented on the application; in this respect it is concluded that Network Rail have no concerns regarding the impact of the proposal on the railway line and railway crossing.

16.67 A Transport Assessment (TA) was submitted with the application. The TA set out that the development could generate approximately 15 arrival and 48 departure trips (63 two-way) in the morning peak hour (8am-9am), and 38 arrival and 17 departure trips (55 two-way) in the evening peak hour (5pm-6pm). Local representations criticise the data used in the TA and state that the development could lead to over 200 car movements. Whilst local concerns are acknowledged, the data used in the TA is from a nationally recognised database (TRICS trip data) and is considered to be reliable. The assertion that the development could result in 200 trips does not appear to be based on any evidence that can be used as part of a planning decision; in any case, it is considered to be extremely unlikely that every household on the development would have at least two cars and leave the site at the same time.

16.68 The potential traffic impact to the railway crossing has been assessed in the TA. Whilst it is acknowledged that the development would result in some increased queuing, this would be low and it is ultimately considered to have a negligible impact to the existing level of queuing vehicles. The Highway Authority have not expressed any concerns with this assessment.

16.69 Junctions have been designed to accommodate the necessary capacity, as well as the movement of larger vehicles accessing and egressing the site.

16.70 The Highway Authority have considered the impacts of the proposal on the local road network, as well as the safety and practical requirements for the road works within the site, the junction with Chitts Hill, and the impact on public rights of way (Iron Latch Lane). During the course of the application, the Highway Authority requested amendments in respect of footways and cycleway and these have been incorporated into revised proposals. Consequently, the Highway Authority have no objection to the proposal on highway and transportation grounds subject to conditions for a construction traffic management plan;

visibility splays to be provided at the junction with Chitts Hill; a new section of footway and dropped kerbs at the Colchester bound bus stop on Halstead Road; and residential travel information packs.

16.71 In terms of impact on the wider network, Highway England have confirmed that they have no objections to the proposal subject to a travel plan being approved via condition.

16.72 Local representations have also queried statements within the application, as well as within the site allocation policy WC2, that the site is well-served by public transport. For clarity, the site is served by public transport on Halstead Road; whilst the vehicular access to the site is on Chitts Hill, there is pedestrian and cycle access to Halstead Road via Iron Latch Lane so future occupants of the development would have access to public transport; Iron Latch Lane is a public bridleway, but there is no restriction on riding bicycles or travelling on foot on a bridleway.

16.73 The bus service on Halstead Road is hourly and although a more regular service may be more convenient, a regular service to and from Colchester town and west to Halstead is readily available to future residents of the site which contributes to reducing the need to travel by private car. In addition, the close proximity of the site to a public right of way network and Iron Latch Woods provides amenity/leisure opportunities that again reduce the need/desire to travel by private car to the benefit of sustainable principles.

16.74 In terms of vehicle parking, the proposal includes policy compliant car parking (at least 2 spaces per dwelling) and cycle parking (at least 1 space per dwelling). With regards to visitor spaces, approximately half of the development would provide additional on-site parking for visitors (i.e. a third on-site car parking space); a further 8 visitor car parking spaces and 4 visitor motorbike parking spaces would be provided throughout the scheme and there would be opportunity for some on-road parking for visitors. On this basis, the proposal is considered to be acceptable in terms of parking provision.

16.75 In conclusion, the proposal is considered to meet planning policy requirements subject to condition.

16.78 Layout and Design:

In considering the design and layout of the proposal, Core Strategy policy UR2 and Development Plan policy DP1 are relevant. These policies seek to secure high quality and inclusive design in all developments, respecting and enhancing the characteristics of the site, its context and surroundings. With particular reference to housing density and diversity, Core Strategy policies H2 and H3 require developments to make efficient use of land and relate to their context. A range of housing types and tenures across the Borough is sought in order to create inclusive and sustainable communities. The policies go on to state that new developments must enhance local character and optimise the capacity of accessible locations. The density of developments needs to be informed by the provision of open space and parking, the character of the area, and the mix of housing, with the mix of housing types being informed by an appraisal of community context and housing need.

- 16.79 Further, Development Plan Policy DP12 requires high standards for design, construction, and layout. In considering proposals for new residential development, the following needs to be taken into consideration:
- i. The avoidance of adverse overshadowing between buildings or over neighbouring land uses, and of other adverse microclimatic effects resulting from medium and high-rise buildings at a high density;
 - ii. Acceptable levels of daylight to all habitable rooms and no single aspect north-facing homes;
 - iii. Acceptable levels of privacy for rear-facing habitable rooms and sitting-out areas;
 - iv. A management and maintenance plan to be prepared for multioccupancy buildings and implemented via planning conditions to ensure the future maintenance of the building and external spaces;
 - v. Flexibility in the internal layout of dwellings to allow adaptability to different lifestyles;
 - vi. Vehicle parking (including secure cycle and motorcycle parking) to an appropriate standard, as set by Essex County Council and policy DP19, and provided in a visually acceptable manner. In the case of flats, secure cycle storage should be incorporated into flat blocks and readily located at the building entrances, and;
 - vii. An accessible bin and recycling storage area, and external drying areas.
- 16.80 The above principles are carried forward in the emerging Local Plan policies (in particular, policies DM9, DM10, and DM15).
- 16.81 The proposal includes a variety of house types: two-bed apartments; 2-4 bed houses; and 2-3 bed bungalows, with 30 units being for affordable housing. This is considered to meet Core Strategy objectives to provide a range of house types and tenures.
- 16.82 The proposals have undergone extensive negotiation with regards to layout and design in response to Urban Designer comments. This has included establishing a more continuous frontage along the main route through the site and improving the relationship between dwellings and adjacent public open space. The Urban Designer still has recommendations for further amendments but given that these relate to very limited instances within the layout and would have unsatisfactory 'knock on effects', the further amendments have not been carried forward by the Case Officer (further clarification is provided in the Urban Designer consultation comment at section 8 of this report).
- 16.83 The layout and design of the scheme is considered to be acceptable. There is a generous provision of public open space which is complementary to the rural edge of the site. The proposed dwellings are well-designed, with traditional forms, proportions, and materials. Conditions can secure precise details in order to ensure a high standard of design.
- 16.84 Some local representations have criticised the scheme in terms of it not reflecting the context. Given that the application site would not be seen in direct context with existing development (the site is heavily screened), the relationship between new and existing development is not significant. In any case, the

proposal is for one and two storey houses in the main which is considered to be in character with surrounding development.

16.85 In response to policy DP12, the proposal is not considered to cause adverse overshadowing; appropriate back-to-back distances are preserved; acceptable levels of daylight would be afforded to the proposed dwellings; there would be flexibility in the internal layout of dwellings to allow for adaptability; parking provision is considered to be acceptable; multi-occupancy buildings will be managed and maintained by a management company; and bin, recycling, and drying areas, will be accessible.

16.86 The proposed scheme is considered to adhere to relevant planning policy in design terms.

16.87 Amenity:

Development Plan policy DP1 requires all development to be designed to a high standard that protects existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, and daylight and sunlight. These requirements are also included in emerging Local Plan Policy DM15.

16.88 The proposal would not have any adverse impacts on existing residents by way of overlooking or overshadowing given the degree of separation afforded. A number of proposed dwellings would back onto the adjacent school, but a landscape buffer is proposed, as well as boundary fencing so and views to or from the school would be restricted or filtered.

16.89 Matters of noise to future residents from the adjacent railway line have been considered by the Council's Environmental Protection team. The acoustic assessment submitted with the application surveyed the impacts from road traffic noise, railway noise, and vibration from the railway. The assessment demonstrated that there would not be any significant adverse effects to the development from vibration. There would be some ambient noise levels (from the railway and A12 traffic), but the scheme has been designed to mitigate this impact. The assessment does not specifically discuss noise exposure by habitable room per plot with allowances for sound reduction offered by a potential acoustic barrier at the top of the railway embankment, although Environmental Protection are satisfied that suitable mitigation can be provided and that the need to rely on fixed windows and mechanical ventilation can be minimised. Mitigation can be dealt with by condition. Further conditions have been recommended by Environmental Protection in terms of protecting existing residential amenity during the construction phases of development (by restricting working and delivery hours). The recommendation for a condition to require a scheme that considers air quality is considered to be somewhat vague and the requirements can be subsumed by the highway conditions relating to residential travel packs and a travel plan.

16.90 The proposal is therefore considered to be acceptable in terms of amenity, subject to conditions.

16.91 Other Matters:

A Health Impact Assessment has been submitted with the application in accordance with Development Plan Policy DP2. This document would have been available to the NHS as part of their consultation on the application. The NHS have confirmed that it is necessary to mitigate the impacts of the development on healthcare by way of a monetary contribution.

16.92 Paragraph 170 of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by recognising, inter alia, the economic and other benefits of the best and most versatile agricultural land (i.e. grade 1, 2, and 3a agricultural land classification). The site has been identified as being grade 2 agricultural land according to Defra mapping. This mapping is at a very high level so further assessment on a site specific basis is often required in order to ascertain the true agricultural classification. In this case, an Agricultural Land Classification and Soil Resources report has been submitted that concludes that the site is grade 3b agricultural land; this is below the classification of 'best and most versatile agricultural land'.

16.93 Sport England have commented on the application in terms of whether the development could negatively impact the use of the adjacent school cricket pitches by restricting the use of these pitches should there be any issue of ball strike. A condition is recommended to seek further assessment of the risks of ball strike and to implement any mitigation as necessary. This condition is considered to be appropriate and can be applied.

16.94 Local representations have been taken into account and matters relevant to material planning considerations have been considered in the above assessment. The level of local objection is noted, but the proposal is ultimately found to be acceptable and in accordance with emerging planning policy to which weight can be given.

16.95 The original description of the proposal as 'redevelopment' has caused some confusion to local residents. The description has therefore been amended to 'development' in the interests of clarity.

17.0 Conclusion

17.1 In conclusion, whilst the proposal is contrary to the provisions of SD1, ENV1, and ENV2 of the adopted Local Plan nevertheless the application site is allocated in the emerging Local Plan which can be afforded significant weight in the consideration of this application given its advanced stage and low level of objection to relevant policies. The proposal is considered to be in accordance with those emerging policies that can be afforded significant weight and is broadly in accordance with relevant policies (aside from SD1, ENV1, and ENV2) of the adopted plan. Impacts from the proposal can be mitigated by condition or s106 legal agreement. The proposal is therefore recommended for approval as it represents sustainable development.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to:

- Agreement of pre-commencement conditions with the Applicant as per the Town and Country Planning (Pre-commencement conditions) Regulations 2018, and delegated authority to revise those conditions as necessary in accordance with the regulations;
- The signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990, within 6 months from the date of the Committee meeting. In the event that the legal agreement is not signed within 6 months, to delegate authority to the Head of Service to refuse the application, or otherwise to be authorised to complete the agreement.

The Permission will also be subject to the following conditions:

APPROVAL of planning permission subject to the following condition:

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:

Site Location Plan RP-001

External Works Layout RP-002 Rev E

Planning Layout RP-003 Rev E

Materials Plan RP-004 Rev D

Street Scenes RP-005 Rev C

Cross Sections RP-006 Rev B

HT 1300 Floor plan- 21H, 25, 69 RP-010 Rev B

HT 1300 Elevations- 21H, 25, 69 RP-011 Rev B

HT 1042 Floor plans and Elevations- 26 RP-012 Rev A

HT 1567 Floor plans- 67, 70 RP-013 Rev A

HT 1567 Elevations- 67, 70 RP-014 Rev A

HT 946 Floor Plans 84-85 RP-017 Rev C

HT 946 Floor Plans 84-85 RP-018 Rev C

HT 1050 Floor plans- 80-81 RP-019 Rev B

HT 1050 Elevations- 80-81 RP-020 Rev B

HT 1635 Floor plans- 17H, 27, 56H, 61, 72, 74, 86H RP-021 Rev B

HT 1635 Elevations- 17H, 27, 56H, 61, 72, 74, 86H RP-022 Rev B

HT 1635 Elevations- 5, 61 RP-022.1 Rev A

HT 1200 & 1050 Floor plans - 18-20 RP-023 Rev A

HT 1200 & 1050 Elevations 1 - 18-20 RP-024 Rev A

HT 1200 & 1050 Elevations 2 - 18-20 RP-025 Rev A

HT 1302 Floor plans- 1 RP-026 Rev A

HT 1302 Elevations- 1 RP-027 Rev A

HT 1460 Floor plans- 3, 22, 75H RP-028 Rev B

HT 1460 Elevations- 3, 22, 75H RP-029 Rev B

HT 1050 Floor plans- 23, 24 RP-030 Rev B
HT 1050 Elevations- 23, 24 RP-031 Rev B
HT 1200 & 1469 Floor plans- 50-51 RP-032 Rev A
HT 1200 & 1469 Elevations 1- 50-51 RP-033 Rev A
HT 1200 & 1469 Elevations 2- 50-51 RP-034 Rev A
HT 654 & 807 Floor plans 1- 45-49 RP-037 Rev A
HT 654 & 807 Floor plans 2- 45-49 RP-038 Rev A
HT 654 & 807 Elevations 1- 45-49 RP-039 Rev A
HT 1145 Floor plans- 54-55 RP-042 Rev A
HT 1145 Elevations- 54-55 RP-043 Rev A
HT 1762 Floor plans- 52, 73 RP-044
HT 1762 Elevations- 52, 73 RP-045
HT 1762 Floor plans- 57, 62H RP-046 Rev B
HT 1762 Elevations- 57, 62H RP-047 Rev B
HT 1469 Floor plans- 59-60, 82-83 RP-048 Rev A
HT 1469 Elevations 1- 59-60, 82-83 RP-049 Rev A
HT 1469 Elevations 2- 59-60, 82-83 RP-050 Rev A
HT 1481 Floor plans- 68 RP-051 Rev A
HT 1481 Elevations- 68 RP-052 Rev A
HT 1200 Floor plans- 63-64 RP-053 Rev A
HT 1200 Elevations 1- 63-64 RP-054 Rev A
HT 1200 Elevations 2- 63-64 RP-055
HT 1250B Floor plans and Elevations- 65 RP-056 Rev C
HT 1400 Floor plans- 66 RP-057 Rev B
HT 1400 Elevations- 66 RP-058 Rev B
HT 1481 Floor plans- 71 RP-059 Rev A
HT 1481 Elevations- 71 RP-060 Rev A
HT 1050 & 1350 Floor plans- 76-79 RP-061 Rev A
HT 1050 & 1350 Elevations- 76-79 RP-062
HT 1302 Floor plans- 86, 100 RP-063 Rev B
HT 1302 Elevations- 86, 100 RP-064 Rev B
HT 800 Floor plans and Elevations- 91 RP-067 Rev B
HT 1200 Floor plans- 92-93 RP-068 Rev A
HT 1200 Elevations 1- 92-93 RP-069 Rev A
HT 1200 Elevations 2- 92-93 RP-070
HT 1145 Floor plans- 7-9 RP-071 Rev A
HT 1145 Floor plans & Elevations- 7-9 RP-072
HT 1145 Elevations- 7-9 RP-073
HT 887 & 673 Floor plan 1- 94-97 RP-077
HT 887 & 673 Floor plan 2- 94-97 RP-078
HT 887 & 673 Elevations 1- 94-97 RP-079
HT 887 & 673 Elevations 2- 94-97 RP-080
HT 1042 Floor plans- 98-99 RP-081
HT 1042 Elevations- 98-99 RP-082
HT 1200sp Floor plans - 2 RP-083 Rev A
HT 1200sp Elevations 1 - 2 RP-084 Rev A
HT 1200sp Elevations 2 - 2 RP-085 Rev A
HT 946, 673 Floor plans 1 - 28, 29, 39, 40 RP-086 Rev A
HT 946, 673 Floor Plans 2, Elevations 1 - 28, 29, 39, 40 RP-087 Rev A
HT 946, 673 Elevations 2 - 28,29,39,40 RP-088 Rev A
HT 852 Floor plans - 6 RP-089 Rev B

HT 852 Elevations - 6 RP-090 Rev B
 HT 1145, 852 Floor plans 1 - 53, 58, 87 RP-091
 HT 1145, 852 Elevations 1 - 53, 58, 87 RP-092
 HT 1145, 852 Elevations 2 - 53, 58, 87 RP-093
 HT 1119 Floor Plans - 10-11, 43-44 RP-100 Rev C
 HT 1119 Elevations - 10-11, 43-44 RP-101 Rev C
 HT 1119 & 946 Floor Plans- 12-14 RP-102 Rev B
 HT 1119 & 946- Elevations- 12-14 RP-103 Rev B
 HT 654 & 802 Floor plan 1- 33-36 RP-104 Rev B
 HT 654 & 802 Floor plan 2- 33-36 RP-105 Rev B
 HT 654 & 802 Elevations 1- 33-36 RP-106 Rev B
 HT 1232 Floor Plans & Elevations 89 RP-109 Rev B
 HT 903 Floor Plans & Elevations 88, 90 RP-110 Rev B
 HT 946 Floor plans 15-16 RP-111 Rev B
 HT 946 Elevations- 15-16 RP-112 Rev B
 HT 673 Floor Plans 4 RP-113
 HT673 Elevations 4 RP-114
 HT 946 Floor Plans – 41, 42, 84 RP-115
 HT 946 Elevations – 41, 42, 84 RP-116
 HT 946, 1119 Floor Plans 30, 31, 32, & 37, 38, 85 RP-117
 HT 946, 1119 Elevations 30, 31, 32 & 37, 38, 85 RP-118
 Single Garage RP-200 Rev B
 Double Garage RP-201 Rev B
 Twin Garage RP-202 Rev C
 Double Garage (sales centre) - 5 RP-203
 External works details RP-300
 Substation plan & Elevations RP-301
 Pumping station Enclosure RP-302
 Typical Bins & Cycle storage Details RP-303

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

3. Tree Works and Protection

The development hereby approved shall be carried out in accordance with the SES Arboricultural Impact Assessment, dated May 2018. All of the tree protection measures set out in the assessment and accompanying Tree Protection Plans shall be implemented before any works commence on site and shall be maintained for the duration of the development.

Reason: In order to safeguard existing trees on and immediately adjacent the site in the interest of visual amenity and landscape value.

4. 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.

5. Trees and Hedgerows

All existing trees and hedgerows not shown for removal on the approved drawings shall be monitored and recorded for at least five years following contractual practical completion of the development. In the event that any trees and/or hedgerows die, are removed, destroyed, fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed, in writing, with the Local Planning Authority. Any tree works agreed to shall be carried out in accordance with BS 3998.

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

6. Hours of Demolition/Construction

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

Weekdays: 08:00 to 18:00

Saturdays: 08:00 to 13:00

Sundays and Bank Holidays: NONE

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

7. Hours of Construction Deliveries

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

Weekdays: 08:00 to 18:00

Saturdays: 08:00 to 13:00

Sundays and Bank Holidays: NONE

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

8. Removal of PD for All Residential Extensions & Outbuildings

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

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

9. Removal of PD for Fences/Walls

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

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

10. Construction Traffic Management Plan

No development shall commence until a construction traffic management plan, to include (but shall not be limited to) details of vehicle/wheel cleaning facilities within the site and adjacent to the egress onto the highway, has been submitted to and approved in writing by the Local Planning Authority. The development shall then be constructed in accordance with the agreed plan.

Reason: To protect highway efficiency of movement and safety.

11. Archaeological Investigation

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

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

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

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development, in accordance with Policy SD1 and ENV1 of Colchester Borough Council's Core Strategy (2008) and Supplementary Planning Document 'Managing Archaeology in Development (adopted 2015).

12. Contaminated Land Part 1 of 4 (Site Characterisation)

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

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

(ii) an assessment of the potential risks to:

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

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

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

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

13. 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.

14. Contaminated Land Part 3 of 4 (Implementation of Approved Remediation Scheme)

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

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

15. Ecological Mitigation and Management Plan

No works shall take place until an Ecological Mitigation and Management Plan (EMMP), in accordance with the SES Phase 2 Ecological Surveys and Assessment report dated February 2018, has been submitted to and approved in writing by the Local Planning Authority. The mitigation and management measures shall then be fully implemented as approved.

Reason: In the interests of conserving and enhancing the biodiversity of the site.

16. Noise Mitigation

No development shall commence until a detailed acoustic mitigation report has been submitted to and approved in writing with the Local Planning Authority. The report shall provide details of the noise exposure at the facade of proposed residential dwellings, internal noise levels in habitable rooms and noise levels in all associated amenity spaces.

The design and layout shall avoid, as far as practicable, exposure of habitable rooms to noise levels to above the following criteria

- 60dBLAeq16hours (Daytime outside)
- 55dBLAeq8hours (night outside)

Acoustic barriers, Site design (including building orientation) and internal layout of dwellings shall be used to minimise noise exposure to habitable rooms and reduce the need to rely on closed windows as far as practicable.

The report shall show where the levels are less than those above that the mitigation provided by glazing and acoustic passive ventilation measures ensure that internal noise levels are satisfactory

Where exposure to noise levels exceeds those stated above full details of fixed acoustic glazing and suitable mechanical ventilation options shall be submitted that demonstrate that internal noise levels do not exceed the internal noise levels stated in Table 4, paragraph 7.7.2 of BS8233:2014 Guidance on sound insulation and noise reduction for buildings. This includes with any mechanical ventilation operating where required.

Reason: In the interests of amenity of future residents of the development.

17. Acoustic Barrier

No works shall commence until full details of the design, construction and acoustic performance of an acoustic barrier, not less than 2.0m high along the boundary with the railway line has been submitted in writing to the local planning authority for agreement. The agreed barrier shall be retained and maintained in that form thereafter.

Reason: In the interest of protecting future residents from noise.

18. Full Landscape Proposals

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 and boundary treatments;
- 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 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.

19. Surface Water Drainage

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

- Limiting discharge rates to 10 l/s for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change.
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

Reason: The National Planning Policy Framework paragraph 103 states that local planning authorities should ensure flood risk is not increased elsewhere by development. Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore, the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

20. Scheme to Minimise off-site Flooding during Construction

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

Reason: In order to ensure that the development does not increase flood risk elsewhere and does not contribute to water pollution.

21. SUDs Maintenance and Management Plan

No works shall take place until a Maintenance and Management Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

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

22. Architectural Detailing

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

Reason: Insufficient detail has been submitted to ensure that the proposed works are of high quality design for the rural edge location.

23. Materials To Be Agreed

Notwithstanding the submitted details, no external facing or roofing materials shall be used in the construction of the development hereby permitted until precise details of the manufacturer, types and colours of these (including samples as necessary) 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.

24. Landscape Management Plan

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

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

25. 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 14.

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

26. Highway Works

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

- a. A priority junction off Chitts Hill as shown in principle on the planning application drawing but to include but not limited to a 59 x 2.4 x 59 metre visibility splay
- b. A new section of footway and dropped kerbs/tactile paving to connect the Colchester bound bus stop in Halstead Road (west of its junction with King Coel Road) with existing footway
- c. Residential Travel Information Packs in accordance with Essex County Council guidance

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

27. Travel Plan

The development hereby approved shall not be brought into use unless and until the measures set out in the Travel Plan have been implemented following approval in writing by the Local Planning Authority. The Framework Travel Plan shall include the following:

The identification of targets for trip reduction and modal shift;

- The methods to be employed to meet these targets;
- The mechanisms for monitoring and review;
- The mechanisms for reporting;
- The penalties to be applied in the event that targets are not met;
- The mechanisms for mitigation including budgetary provision ;
- Implementation of the travel plan (until full occupation) to be agreed timescale or timescale and its operation thereafter;
- Mechanisms to secure variations to the travel plan following monitoring and reviews.

The completed development shall be occupied in accordance with the approved Travel Plan which shall be retained in place thereafter unless otherwise amended in accordance with a review to be agreed in writing by the Local Planning Authority.

Reason(s) for the direction given at b), c) or d) overleaf and the period of time for a direction at e) when directing that the application is not granted for a specified period:
1) To ensure the A12 trunk road continues to serve its purpose as part of a national system of routes for through traffic, to satisfy the reasonable requirements of road safety accordance with section 10 of the Highways Act 1980.

28. Ball Strike Assessment

Plots 67-80 (inclusive) as shown on Planning Layout RP-003 Rev E shall not be occupied until a Ball Strike Assessment, to include full details of the design and specification of any mitigation measures and management and maintenance responsibilities, has been submitted to and approved in writing by the Local Planning Authority. The details shall then be fully implemented as approved.

Reason: To provide protection for the occupants of the development and their property from potential ball strike from the adjacent playing field or sport facility, to reduce conflict between neighbours and thereby safeguard sporting use of the adjacent sports facilities.

29. 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 12, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 13, 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 14.

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

30. Street Name Signs

Street signs shall have been installed at the junction of the new highway with the existing road network prior to occupation of the respective dwellings on that street.

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

19.1 Informatives

19.1 The following informatives are also recommended:

Advisory Note on Construction & Demolition

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

Informative on Conditions Stating Prior to Commencement/Occupation

DC0901MWeV9.3

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

Informative on Any Application With a Site Notice

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

Informative on Archaeology

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

Anglian Water Informative

Anglian Water has assets close to or crossing this site or there are assets subject to an adoption agreement. Therefore the site layout should take this into account and accommodate those assets within either prospectively adoptable highways or public open space. If this is not practicable then the sewers will need to be diverted at the developers cost under Section 185 of the Water Industry Act 1991. or, in the case of apparatus under an adoption agreement, liaise with the owners of the apparatus. It should be noted that the diversion works should normally be completed before development can commence.

Informative regarding materials

Construction materials should be in accordance with the Essex Design Guide, i.e. weatherboarding to be natural timber, 'clay' tiles to be natural clay plain tiles and pantiles on subsidiary buildings, Any 'black/grey' tiles should be natural or slim-line fibre-cement slates.

Informative regarding boundary treatments

Boundary treatments adjacent public areas (including communal parking areas) shall be brick walls in accordance with details submitted and approved by the Local Planning Authority.

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the owner of the land is Colchester Borough Council.

2.0 Synopsis

- 2.1 The key issues for consideration are the policy principle, impact on Heritage assets, residential amenity, highway safety, wildlife, contamination, archaeology, drainage and flooding. The matters are explored in the report.
- 2.2 The application is subsequently recommended for approval. The application site is located in a predominantly residential area that is well linked to existing services and facilities and is thus in a highly accessible and sustainable location. The change of use would assist towards meeting the Council's housing needs requirement, whilst being consistent with the Local Plan policy approach of focusing new dwellings within the existing urban area. The scheme would represent the sustainable re-use of a redundant historic building and would also help support the existing town centre uses. It would not represent an overdevelopment of the site. The proposal is therefore considered to comply with the abovementioned settlement Policies of the Local Plan and NPPF.
- 2.3 It is considered the proposal would preserve the character and appearance of the Conservation Area and Locally Listed Building and would not have any significant impact upon the setting of the grade I listed Castle opposite. The scheme is considered acceptable in terms of the residential amenity of the future occupiers and neighbouring residents. The scheme is considered to provide for adequate parking in this Town Centre location and would not be detrimental to highway safety. There are also no objections raised in terms of wildlife impact, contamination, archaeology, drainage or flooding.

3.0 Site Description and Context

- 3.1 The site lies within the Colchester Conservation Area No.1 (Town Centre) and defined settlement limits boundary. It is located between Ryegate Road and Maidenburgh Street, within Colchester's historic town centre and Dutch Quarter. It is surrounded by predominantly residential properties along Maidenburgh Street and Ryegate Road. Colchester's High Street is located approximately 100m away to the south of the site. To the east of the site is Colchester Castle, a Grade I listed building and Castle Park, a Grade II registered park and garden.
- 3.2 The existing building to be converted dates from the later nineteenth century and is included in the Local List of buildings of architectural and historic interest and is an undesignated heritage asset. It is a part five storey, former factory building constructed mainly in facing red brick with large 'Crittall' steel windows, under a pitch tiled roof with a later added concrete extension. The building is 'T' shaped in plan form and has had several structural additions since it was originally built in the 19th century.

4.0 Description of the Proposal

- 4.1 The application is for the conversion of the Former Museum Resource Centre to accommodate nine apartments with associated parking. New additional parking spaces are proposed at basement level to serve the residents, whilst the existing parking area adjacent to the building will be retained.

The works involved include:

- ☐ Replacement and new windows on the northern elevation
- ☐ Removal and replacement of roof lantern;
- ☐ Demolition of single storey extension on the southern elevation to facilitate new vehicular access;
- ☐ Removal and infill (with matching brickwork) of existing doors on eastern elevation;
- ☐ Insertion of new painted timber sliding doors at ground floor level on northern elevation;
- ☐ Replacement of masonry wall structure along the eastern boundary;
- ☐ Creation of new access on southern elevation leading to basement parking;
- ☐ Removal of an existing chimney stack; and
- ☐ Internal works to accommodate the new dwellings.

Included within the submission are the following:

- ☐ Drainage strategy;
- ☐ Archaeological desk-based assessment;
- ☐ Arboricultural assessment;
- ☐ Bat and Barn Owl survey report;
- ☐ Phase 1 contamination assessment;
- ☐ Heritage Statement; and
- ☐ Structural report.

5.0 Land Use Allocation

- 5.1 Settlement Limits
Conservation Area
UAD Monument

6.0 Relevant Planning History

- | | |
|---------------|--|
| 78/1552 | Change of use from warehouse to museum purposes.
Approved (01/02/79) |
| F/COL/04/1423 | Disabled access via a new opening and lift at street level and disabled WC.
Approved (20/08/2004) |

7.0 Principal Policies

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

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

- SD1 - Sustainable Development Locations
- CE1 - Centres and Employment Classification and Hierarchy
- CE2 - Mixed Use Centres
- CE2a - Town Centre
- CE3 - Employment Zones
- H1 - Housing Delivery
- H2 - Housing Density
- H3 - Housing Diversity
- H4 - Affordable Housing
- UR2 - Built Design and Character
- PR2 - People-friendly Streets
- TA4 - Roads and Traffic
- TA5 - Parking
- ENV1 - Environment

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

- DP1 Design and Amenity
- 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
- DP6 Colchester Town Centre Uses
- DP10 Tourism, Leisure and Culture
- DP11 Flat Conversions
- DP12 Dwelling Standards
- DP13 Dwelling Alterations, Extensions and Replacement Dwellings
- DP14 Historic Environment Assets
- DP16 Private Amenity Space and Open Space Provision for New Residential Development
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage
- DP21 Nature Conservation and Protected Lanes

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

The Essex Design Guide
External Materials in New Developments
EPOA Vehicle Parking Standards
Affordable Housing
Community Facilities
Sustainable Construction
Cycling Delivery Strategy
Urban Place Supplement
Sustainable Drainage Systems Design Guide
Managing Archaeology in Development.
Planning Out Crime
Town Centre Public Realm Strategy
Air Quality Management Guidance Note, Areas & Order

- 7.5 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 examination, it is not considered to outweigh the material considerations assessed above in accordance with up-to-date planning policies and the NPPF.

8.0 Consultations

- 8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.
- 8.2 Conservation Officer states (Precised/Summary):

1.0_Heritage Asset: Summary of Significance

1.1 14 Rygate Road is included in Colchester's adopted Local List, with the following description: *"Former factory, now offices. Up to four storeys. Mainly red brick. Originally Daniell's Brewery (Castle Brewery), acquired by E.N. Mason & Son in 1921 as premises for their Arclight works and reconstructed by them. Arclight drawing office equipment and machinery had an international reputation and this building is an important survival from Colchester's industrial past. Dates*

of alterations needs research. Building appears on the 1875 OS map but not apparently on Monson's map of 1848. The four-storey block which extends from front to back appears to date between 1876 and 1909 according to map evidence. This might be a rebuild dating to 1901: see ERO D/B 6 Pb3/1554 (but not checked). Ref. in 'Essex', Pevsner/Bettley 2007, p 288."

- 1.2 The building is situated in an area of great heritage significance: within the limits of the designated Colchester Conservation Area 1 and in close proximity to the boundaries of the Scheduled Monument "Colchester Castle and the Temple of Claudius" (List Entry no 1002217), Colchester Castle Park, a Grade II Registered Park (List Entry No 1000208), the Grade II listed Sun Inn (UID 1123553) and the locally listed Roger Browning House and 6 Maidenburgh Street.
- 1.3 The submitted Heritage Statement provides a satisfactory record of the building's development and present condition, as well as an assessment of its heritage values and examination of the proposals' impact on these values. The report concludes that the building has historic value as a non-designated heritage asset that forms part of Colchester's industrial history. Its past use is expressed by its distinctive form, appearance and character which makes a noteworthy contribution to the townscape and the Conservation Area. Its interior has been considerably altered since its original use, although the document identifies some interesting features that are indicative of the building's age and former use and worth of preservation.

Analysis of Impact Upon Heritage

- 4.1 The scheme that will bring back to full use this historic building, securing its future preventing its further decay that also reflects on its setting, is welcome. The proposed works for the conversion include internal and external interventions. As the Heritage Statement points out, the interior of the building has been considerably altered since its original use. Therefore the internal works should not raise any concerns as they mainly involve removal of partition walls and replacement with new ones, to create the new apartments, leaving the majority of structural walls and elements....
- 4.2 Due to the building's distinctive appearance that expresses its past use and its location in a sensitive area, the proposals for exterior interventions have greater impact on heritage. The overall approach does not involve considerable changes in the building's mass and form, leaving its character and appearance largely unaltered. The most notable interventions include the remodelling of the Ryegate façade to include a new garage door, the removal of the chimney stack from the south elevation and the addition of a window range and a garage door to the north elevation.
- 4.3 The refurbishment of the Ryegate façade could enhance the building's setting but also use a treatment that will reference the building's industrial use. The choice and design of the sliding door and the signage above it are key elements for a successful approach that will suit the character of the building and will improve the street frontage.
- 4.4 The removal of the chimney stack from the south elevation is a notable change to the building. The purpose of this intervention is to accommodate the insertion of a new garage access to the basement. However, it could be argued

that only the lower part of the chimney stack could be removed and the upper part left in place....

4.5 Further concerns involve the interventions on the north elevation..... As the Heritage Statement notes, this elevation is an imposing and dominant element of the townscape. Although not particularly attractive, it is exactly its dimensions and the lack of openings that distinguish the former industrial building by the surrounding residential development. The addition of windows on this elevation attributes a more domestic character to that area of the building, whereas at present the combination of the blank multi-storey-façade and the largely glazed east elevation form a very distinct built form that expresses the building's past. More importantly, the insertion of the windows does not appear sufficiently justified, as they serve spaces that already receive sufficient light, ventilation and view to Castle Park by the remarkably sized Crittall windows of the East elevation.

5.0_ Compliance with relevant policies

5.1 The application includes a satisfactory record of the building's development and assessment of its significance to meet the requirements of NPPF's Par. 189 and 190. The scheme proposes a viable use for the building consistent to its conservation, as required by Par. 192(a), while the development is not expected to have any adverse effect on the Conservation Area and the nearby heritage assets, complying thus with Par.193. there are some aspects of the proposals, as discussed in Section 4.0, that are expected to cause a level of harm to the building's appearance and character and require a better justification, according to NPPF's Par.197, while some of the impact can be mitigated by a suitable treatment and amendment of the proposals.

6.0_ Conclusions and recommendations

6.1 The planning application seeks permission for the change of conversion of 14 Ryegate Road, now only partially in use by the Colchester Museum Service, into residential units. The scheme that ensures the building's future by putting it into a viable long term use is welcome, given that the overall approach of the conversion is sympathetic to the non-designated heritage asset, proposing reasonable interventions to the fabric and retaining the character and appearance for the former industrial building.

6.2 However, certain aspects of the proposals that raise concerns from a heritage perspective have been identified and it is recommended that these issues are addressed before a decision is made in respect of the application.

6.3 Further recommendations include the retention of the building's fenestration, as indicated in the proposals, since the Crittall windows are a key element of the building's character and significance, along with other details of the elevations worthy of preservation, most notably the entrance doors on Maidenburgh Street and Ryegate Road.

Officer comment: [The amendments mentioned above have now been received.]

8.3 Urban Design Officer: (Summary)

- The proposal for 8 additional parking spaces is contentious given the only means of access (uniquely for the Dutch Quarter) is via High Street which is currently being considered for possible pedestrianisation and then via Museum Street (most likely) or Castle Baily, both very narrow, shared streets and primary visitor walking routes.
- Considering the town centre location, my preference would be for a car free scheme. This would allow for increased unit numbers including a possible extension.
- Windows and a garage on the northern-most elevation lend this blank façade welcome active frontage though appear crudely applied in response to the historic context, the terrace of buildings still appears incomplete and would scupper the potential to extend (and complete) the terrace of buildings in the future to the north.

8.4 Archaeologist:

Has recommended two conditions:

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

2: Historic Building recording..."

8.5 Tree Officer states: "update tree report and make approved document."

8.6 Environmental Protection state: "Should planning permission be granted be Environmental Protection wish to make the following comments: -

NOTE: Demolition and Construction

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.

Having read the contamination assessment environmental protection would agree that an asbestos survey should be carried out.

Environmental Protection would recommend the inclusion of electric vehicle charging points in all dedicated parking bays."

8.7 Contaminated Land Officer states:

"I note that the above has been submitted in support of this application and that it has been concluded that, due to the nature of the redevelopment, the lack of significant pollutant linkages and the restricted access for intrusive investigation due to the building constraints, no further assessment is proposed in relation to contaminated land.

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

Reporting of Unexpected Contamination"

"As recommended by MLM and as confirmed by my colleague, David Martin, an asbestos survey will be required for any buildings that are to be refurbished."

8.8 Essex SUDS team state:

As the Lead Local Flood Authority (LLFA) ECC provides advice on SuDS schemes for major developments. ECC have been statutory consultee on surface water since the 15th April 2015.

In providing advice this Council, and their appointed consultants, looks to ensure sustainable drainage proposals comply with the required standards as set out in the following documents:

- Non-statutory technical standards for sustainable drainage systems
- Essex County Council's (ECC's) adopted Sustainable Drainage Systems Design Guide
- The CIRIA SuDS Manual (C753)
- BS8582 Code of practice for surface water management for development sites.

Lead Local Flood Authority position

Having reviewed the planning application and the associated documents which accompanied the planning application, we have identified that this is not a major application and therefore we shall have no further comments accordingly in relation to this application.

However please consider the following conditions/informatives if relevant for the development;

Conditions (precised)

- 1) Surface Water Drainage** - Prior to the commencement of the development
- 2) Sustainable Urban Drainage-**
- 3) Maintenance**
- 4) Flood Risk Assessment -**
- 5) Flood Risk Assessment 2 -**
- 6) Flood Mitigation Measures -**

8.9 Highway Authority states:

REVISED DRAWINGS DATED 01 MARCH 2019 AND SWEEP PATH DRAWINGS DATED 06 MARCH 2019.

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

1 The development shall not be occupied until such times as the off-street car parking facilities have been provided in accord with the details shown in the revised drawings. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

2 Prior to the first occupation of the proposed development, the proposed vehicular accesses shall be provided with an appropriately constructed connection to Ryegate Road to the specifications of the Highway Authority.

3 No unbound materials shall be used in the surface treatment of the proposed vehicular accesses within 6m of the highway boundary.

4 The bicycle parking facilities as shown on the approved plans are to be provided prior to the first occupation of the development. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.

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

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

6 Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of Residential Travel Information Packs for sustainable transport sufficient for the occupants of each dwelling, approved by the Local Planning Authority.

Informative1: The swept path analysis drawings provided, demonstrate that ingress and egress manoeuvres by motor cars can be made efficiently and conveniently at some parking spaces however, it is clearly shown that these manoeuvres at other spaces maybe problematic especially for larger cars and great care will be required by drivers whilst manoeuvring. It is also noted by the Highway Authority that membership of a nearby car club will be provided to the residents of all these dwellings which may negate the need to own a motor vehicle in the Town Centre of Colchester.

8.10 Private Sector Housing

Individual escape routes. There are a couple of flats (above the first floor) where bedrooms are accessed off an open plan kitchen area which is accessed off an entrance lobby; in affect, inner rooms. Is there a fire risk assessment or strategy for these as egress windows can't be used?

Secondly, the escape route specifically runs past the kitchen area (highest risk). Could the layout be altered so to be safer?

Windows. Are the windows going to be upgraded to double glazed? Some of the west facing windows a very large and could be subject to Excess Cold. Are the properties going to have gas fired central heating to better tackle this.

Ground floor flat. Very small compared to all the others... the Social element of the application I would imagine? Anyway, this basement flat is lower than the outside pavement and has a huge window area; again, potential Excess Cold if not addressed significantly. Hopefully, bearing in mind the latter two points, electric heating will not be used; may be cheaper to put in, but it will be expensive for the occupiers to combat the above issues.

9.0 **Parish Council Response**

9.1 Non-Parished.

10.0 **Representations from Notified Parties**

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

11.0 **Parking Provision**

11.1 9 car parking spaces are proposed.

12.0 **Accessibility**

12.1 In accordance with Policy DP17 it is considered that the development has the potential to provide the required accessibility under the Equalities Act.

13.0 **Open Space Provisions**

13.1 N/A

14.0 **Air Quality**

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

15.0 **Planning Obligations**

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

16.0 Report

The Principle of Development and sustainability

- 16.1 The site lies within the Central Area of the town limits and is in an area defined as Primarily Residential in the Local Plan (Dutch Quarter). The site is within a highly accessible and sustainable location. Accordingly, the proposal is considered acceptable in principle in terms of compliance with adopted local and national planning policy. Policy SD1 aims to support sustainable development and the proposal also complies with Policy DP6 which aims to maintain a balance between retail and non-retail uses in the Town Centre, including Outer Core. Policy DP6 also states that within the Town Centre, support will be given to bringing upper floors back into use, particularly for C3 residential purposes and B1 business use.
- 16.2 In terms of National Policies, at the heart of the NPPF is a presumption in favour of sustainable development and paragraph 15 states:
- 'Policies in Local Plans should follow the approach of the presumption...so that it is clear that development which is sustainable can be approved without delay'*
- 16.3 In terms of the loss of the existing use, the planning history indicates that the lawful use of the building is as a museum (Class D1). Whilst it is acknowledged that Local Plan Core Strategy Policy SD3 supports the delivery, retention and enhancement of key community facilities in the Borough in accessible locations, the change of use is considered justified on the basis that the conversion to residential use would bring a redundant building back into a viable use in a sustainable location and would also help to preserve this non-designated asset. In addition, the building has not historically been used as a public museum but was instead to store and conserve items owned by the Colchester and Ipswich Museum Service and as such, it was not open for community use. The previous occupier, the Colchester Museum Resource Centre has relocated to alternative premises within the Borough (in Severalls Business Park), so the use has not been lost, but rather relocated within the Borough. Accordingly, it is not considered the proposal would result in the loss of employment opportunities in the Borough.
- 16.4 In conclusion, the proposed nine dwellings lie in a predominantly residential area that is well linked to existing services and facilities. The change of use would assist towards meeting the Council's housing requirement, whilst being consistent with the Local Plan policy approach of focussing new dwellings within the existing urban area. The scheme would also help support the existing town centre uses. The proposal is therefore considered to comply with the abovementioned settlement Policies of the Local Plan and NPPF.

Number of Units and Residential Amenity

- 16.5 It is not considered that the 9 units represents the overdevelopment of the site. Policy DP11 refers to various issues that need to be considered and Paragraph 5.3 lends further support to the principle:

Policy DP11 states that 'Proposals for the conversion and sub-division of existing premises into flats and other self-contained residential units will be considered having regard to the intensity of the use proposed and the accessibility of the location to shops and other services.' The current proposal is considered to be of an appropriate intensity in this central location in very close proximity to a wide range of services.

- 16.6 Paragraph 5.3 adds to this statement and is of some background relevance by stating that 'The residential conversion of upper floors over shops and offices within the town centre can increase the stock of small dwellings within a highly sustainable location and may be supported even where the Council's standard parking and amenity space requirements are not met.' The proposal does indeed add to the stock of small dwellings. Parking matters are considered below at 15.15.

- 16.7 The room sizes accord with the required technical building control standards. Whilst there would not be external private amenity space (Policy DP16) this is not unusual for a town centre location. There is public space very nearby in Castle Park. An appropriate living environment can be provided for the occupants of the units and Environmental Protection have raised no objections to the scheme. Having regard to the comments made by private sector housing, the proposal will have to comply with the relevant Building Regulations; including insulation levels and fire escape. Overall, it is therefore considered the proposal would not be contrary to the provisions of Policy DP11.

- 16.8 It is not considered there would be any significant detriment to neighbouring residential amenity from the use, including from noise and disturbance or overlooking. Environmental Protection have raised no objections in this respect. Conditions can be applied to protect the amenity of occupiers of the new apartments.

Impact upon Conservation Area, Locally Listed Building and Nearby Listed Buildings

- 16.9 The building to be converted is a Locally Listed Building that lies within the Conservation Area and is close to the Grade 1 listed Castle (although there is significant intervening vegetation). Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires *special regard* to be paid to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires *special attention* to be paid to the desirability of preserving or enhancing the character or appearance of conservation areas. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material

considerations indicate otherwise. The relevant adopted Local Plan policies are Local Plan policies ENV1 and DP 14.

- 16.10 Paragraph 194 of the NPPF (2018) states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Paragraph 195 and 196 deal with substantial harm and less than substantial harm respectively. Where less than substantial harm is caused to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. It is considered that the works proposed within this application constitute less than substantial harm, including in terms of impact upon the Character of the Conservation Area and the setting of Listed Building for the reasons as outlined below.
- 16.11 Having regard to the comments received from the Historic Buildings & Areas Officer, the proposal has been amended to omit the originally proposed openings on the main North gable of the building. In addition, the majority of the chimney will now be retained and the existing Crittall windows will be retained. Proposed internal alterations are acceptable. Accordingly, the proposal would now preserve the character and appearance of the Conservation Area and the intrinsic significance of the Locally Listed Building itself. External alterations are relatively minimal and, given the distance from the Castle opposite and intervening features including vegetation, there would be no adverse impact of any significance upon the setting of the Castle opposite.
- 16.12 There will need to be a condition applied to ensure that the replacement four windows on the North elevation and the one new window proposed have additional glazing bars in order to ensure they relate satisfactorily to the character of this elevation.
- 16.13 Overall, subject to appropriate conditions, it is considered the proposal complies with Policy DP1 as it respects the character of the surroundings and with Policy DP14 as the character of the Locally Listed Building and Conservation Area will be preserved (and potentially improved) and the setting of the Listed Castle opposite will be unaffected. The proposal will therefore accord with the abovementioned aims and provisions of the NPPF.

Highway Issues

- 16.14 Revised drawings have been submitted in the form of swept path analysis to show that the majority of parking spaces can be used satisfactorily although some could be problematic for larger cars so care will be required in some instances. Nevertheless, the Highway Authority now has no objection to the proposal subject to the conditions as outlined above. It is not considered that an objection can be raised to the detailed provision of parking for the scheme, notwithstanding the comment from the Urban Design Officer raising the issue of a potentially car free scheme. Conditions include the submission of Residential Travel Information Packs and signing up to the Car Club.

- 16.15 Vehicular access to the site is reasonable and the provision of 9 spaces in this highly sustainable Town Centre location is not considered contrary to the parking standards outlined in Policy DP19 and the County Council Car parking standards. Visibility splays into and out of the spaces are also considered acceptable. Therefore, inconclusion it is not considered there would be any detriment to highway safety.

Wildlife Impact

- 16.16 With regard to the wildlife impact of the scheme, an initial bat survey was submitted and now a further bat survey report has been received. This confirms the 'likely absence of a bat roost'. Accordingly, no significant impact upon bat roosts is anticipated. The Wildlife Trust are happy with the conclusions of the survey. Due to the urban location of the site, the lack of any field signs and the general lack of access to suitable nesting areas, it is considered unlikely that barn owls make any use of the building. It is not considered that other protected species will be affected in any significant way. Wildlife enhancement in terms of provision of bat boxes can be conditioned. Accordingly, the scheme complies with Policy DP21 which provides that development proposals should conserve or enhance biodiversity.
- 16.17 The site is within a zone of influence of a European designated site and in order to comply with the Habitats and Species Regulations 2017 (as amended), mitigation of recreational impact will be required in accordance with the forthcoming Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS). This equates to a financial payment which has been requested, which is £122.30 per unit.

Trees and Vegetation

- 16.18 An Arboricultural Impact Assessment has been submitted. This indicates that a total of five trees were surveyed. No surveyed trees were considered to be high quality (Category A) with an anticipated useful life expectancy of in the region of 40+ years. Three surveyed trees were considered to be moderate quality (Category B) with an anticipated useful life expectancy of in the region of 20+ years. Two surveyed trees were considered to be low quality (Category C) with an anticipated useful life expectancy of in the region of 10-20+ years. No surveyed trees were considered unsuitable for retention (Category U).
- 16.19 The AIA concludes that of the five trees surveyed, all will be retained and will be protected during the proposed demolition and construction works. The conclusion states: "Overall, provided that the temporary protection measures and briefing for site operatives are put in place prior to construction on site it is reasonable to conclude that the proposals are feasible from an arboricultural perspective." Accordingly, it is considered that, subject to appropriate conditions, impact upon vegetation is unlikely to be significant." However, it is considered a condition is required to ensure details of the provision of services is submitted to ensure any impact upon Root Protection Areas is minimised.

Flood Risk and Drainage

- 16.20 The site lies within a Flood Zone 1 area and this is the lowest flood risk area. Accordingly, it is not considered there is an objection on flood risk grounds. Conditions can be applied to secure an appropriate surface water drainage scheme. Subject to compliance with this condition, the proposal would not contravene the provisions of Policy DP20 which covers flood risk and sustainable drainage issues.

Other matters

- 16.21 The scheme is considered acceptable from an archaeological point of view subject to conditions relating to historic building recording. The proposal would therefore comply with Policy DP14 in this respect which aims to protect the Historic Environment.
- 16.22 The contaminated land officer has raised no objections to the scheme subject to the application of an unexpected contaminated land condition.

17.0 Conclusion

- 17.1 To summarise, the proposed nine dwellings lie in a predominantly residential area that is well related to existing services and facilities and is thus in a sustainable location. The change of use would assist towards meeting the Council's housing requirement, whilst being consistent with the Local Plan policy approach of focusing new dwellings within the existing urban area. The scheme would represent an appropriate re-use of a redundant building and would also help support the existing town centre uses. The scheme would not represent an overdevelopment of the site. The proposal is therefore considered to comply with the abovementioned settlement Policies of the Local Plan and NPPF.
- 17.2 It is considered the proposal would preserve the character of the Conservation Area and Locally Listed Building and would not have any significant impact upon the setting of the Listed Castle opposite. The scheme is acceptable in terms of the residential amenity of the future occupiers and neighbouring occupiers. The scheme provides for adequate private parking in this Town Centre location and would not be detrimental to highway safety. There are also no objections in terms of wildlife impact, contamination, archaeology, drainage or flooding.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the receipt of the RAMS payment (wildlife mitigation) and the following conditions:

1. ZAA - Time Limit for Full Permissions

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

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

2. ZAM – Development To Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers: 0342_DD_001, 002, 003, 008A, 009C, 010 D, 011 D, 012 D, 013 D, 014 C, 015 B, 016 D, 017 C, 018, 019 C, 020/A received 1.3.19, IT2011/ATR/01, IT2011/ATR/02, IT2011/ATR/03 received 6/3/19, updated Arboricultural Impact Assessment.

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

3. Non Standard Condition- Off Street Car Parking

The development shall not be occupied until such times as the off-street car parking facilities have been provided in accord with the details shown in the revised drawings. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

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

4. Non Standard Condition- Vehicular Access

Prior to the first occupation of the proposed development, the proposed vehicular accesses shall be provided with an appropriately constructed connection to Ryegate Road to the specifications of the Highway Authority.

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

5. ZIF – No unbound surface materials.

No unbound materials shall be used in the surface treatment of the proposed vehicular accesses within 6m of the highway boundary.

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

6. Non Standard Condition- Bicycle Parking

The bicycle parking facilities as shown on the approved plans are to be provided prior to the first occupation of the development. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.

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

7. Non Standard Condition- Construction Method Statement

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

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

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

8. Non Standard Condition- Travel Information Packs

Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of Residential Travel Information Packs for sustainable transport sufficient for the occupants of each dwelling, approved by the Local Planning Authority.

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

9. Non Standard Condition - Window retention

The existing windows on the building shall be retained unless otherwise shown (annotated) to be replaced/removed on the approved drawings.

Reason: For the avoidance of doubt as to what has been considered and approved and in order to preserve the character of the Conservation Area and Locally Listed Building.

10. Non Standard Condition - External Joinery Details

Notwithstanding the submitted details, precise details (scale 1:20) of all new and replacement windows, doors and other joinery (including materials and finishes) shall be submitted to and agreed in writing by the Local Planning Authority.

Reason: In order to preserve the character of the Conservation Area and Locally Listed Building and as the glazing detail on a number of replacement windows shown on the North elevation will need improvement.

11. ZLR – Works of Making Good

Within 2 MONTH(S) of the works being carried out, all adjoining surfaces which have been disturbed by the works (including brickwork, plaster and floor tiles) shall be made good with materials and finishes to match those of existing undisturbed areas surrounding the new opening.

Reason: In order to preserve the character of the Conservation Area and Locally Listed Building.

12. Non Standard Condition - Historic Building Recording

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

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

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

13. Non Standard Condition - Building Recording

Prior to the commencement of any works, a programme of building recording and analysis shall have been undertaken and a detailed record of the building shall have been made by a person or body approved by the Local Planning Authority and in accordance with a written scheme which first shall have been submitted to and approved, in writing, by the Local Planning Authority.

Reason: To secure provision for recording and analysis of matters of historical importance associated with the site, which may be lost in the course of works. In this case, a historic building survey should be carried out, by a historic buildings specialist.

14. Non Standard Condition - Unexpected Contamination

In the event that historic land contamination is found at any time when carrying out works in relation to the development, it must be reported in writing immediately to the Local Planning Authority and all development shall cease immediately. Development shall not re-commence until such times as an investigation and risk assessment has been submitted to and approved in writing by the Local Planning Authority, and where remediation is necessary, a remediation scheme has been submitted to and approved in writing by the Local Planning Authority. Development shall only re-commence thereafter following completion of measures identified in the approved remediation scheme, and the submission to and approval in writing of a verification report. This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

Reason: The site lies on or in the vicinity of a former brewery and engine house, warehouse, museum storage and preservation, printing works, where there is the possibility of contamination.

15. Non Standard Condition – Asbestos Survey

Prior to commencement of development, a survey for the presence of asbestos shall be undertaken and the findings and potential mitigation works shall be submitted to and agreed in writing by the Local Planning Authority. The mitigation works shall be undertaken in accordance with the submitted details throughout the lifetime of the development works

Reason: There is the possibility of asbestos being present on site.

16. Z00 – Surface Water Drainage

Prior to the commencement of the development details of the surface water drainage scheme to serve the development shall be submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development. The scheme shall ensure that for a minimum:

- Run-off from the site is limited to greenfield rates for a storm event that has a 100% chance of occurring each year (1 in 1 year event).
- The development should be able to manage water on site for 1 in 100 year events plus 40% climate change allowance.

Reason: To ensure the provision of an appropriate surface water drainage scheme.

17. Non Standard Condition - Sustainable Urban Drainage-

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: The National Planning Policy Framework paragraph 103 states that local planning authorities should ensure flood risk is not increased elsewhere by development. Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore, the removal of top soils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

18. Non Standard Condition – Drainage Maintenance

Prior to first occupation a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed in writing, by the local planning authority. The maintenance plan shall thereafter be complied with.

Reason: To ensure the satisfactory maintenance of the surface water drainage system.

19. Non Standard Condition – Refuse and Recycling Storage

Prior to the first occupation of the development hereby permitted, refuse and recycling storage facilities shall be provided in accordance with the submitted details. 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.

20. Non Standard Condition – Service Details

Prior to their implementation, precise details of the provision of ground or below ground level services, including locations, shall be submitted to and agreed in writing by the Local Planning Authority. Only the approved details shall be implemented.

Reason: To ensure trees and vegetation is adequately protected.

21. Non Standard Condition – Tree Protection

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

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

22. Non Standard Condition - Wildlife Mitigation and Enhancements

The Wildlife Mitigation outlined in the submitted ecological surveys shall be complied with during the lifetime of the development works, and the Wildlife Enhancements shall be implemented within two months of completion of the development works and thereafter retained as such.

Reason: In the interests of the protection of protected species and to ensure adequate wildlife enhancement.

19.0 Informatives

19.1 The following informatives are also recommended:

Non Standard Informative

Highway Informative

1. The swept path analysis drawings provided, demonstrate that ingress and egress manoeuvres by motor cars can be made efficiently and conveniently at some parking spaces however, it is clearly shown that these manoeuvres at other spaces maybe problematic especially for larger cars and great care will be required by drivers whilst manoeuvring. It is also noted by the Highway Authority that membership of a nearby car club will be provided to the residents of all these dwellings which may negate the need to own a motor vehicle in the Town Centre of Colchester.

Highway Informative

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

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

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

Non Standard Informative#

3.The applicant should note that the proposal will need to comply with the relevant Building Regulations, including Fire safety access.

4. ZT0 – Advisory Note on Construction & Demolition

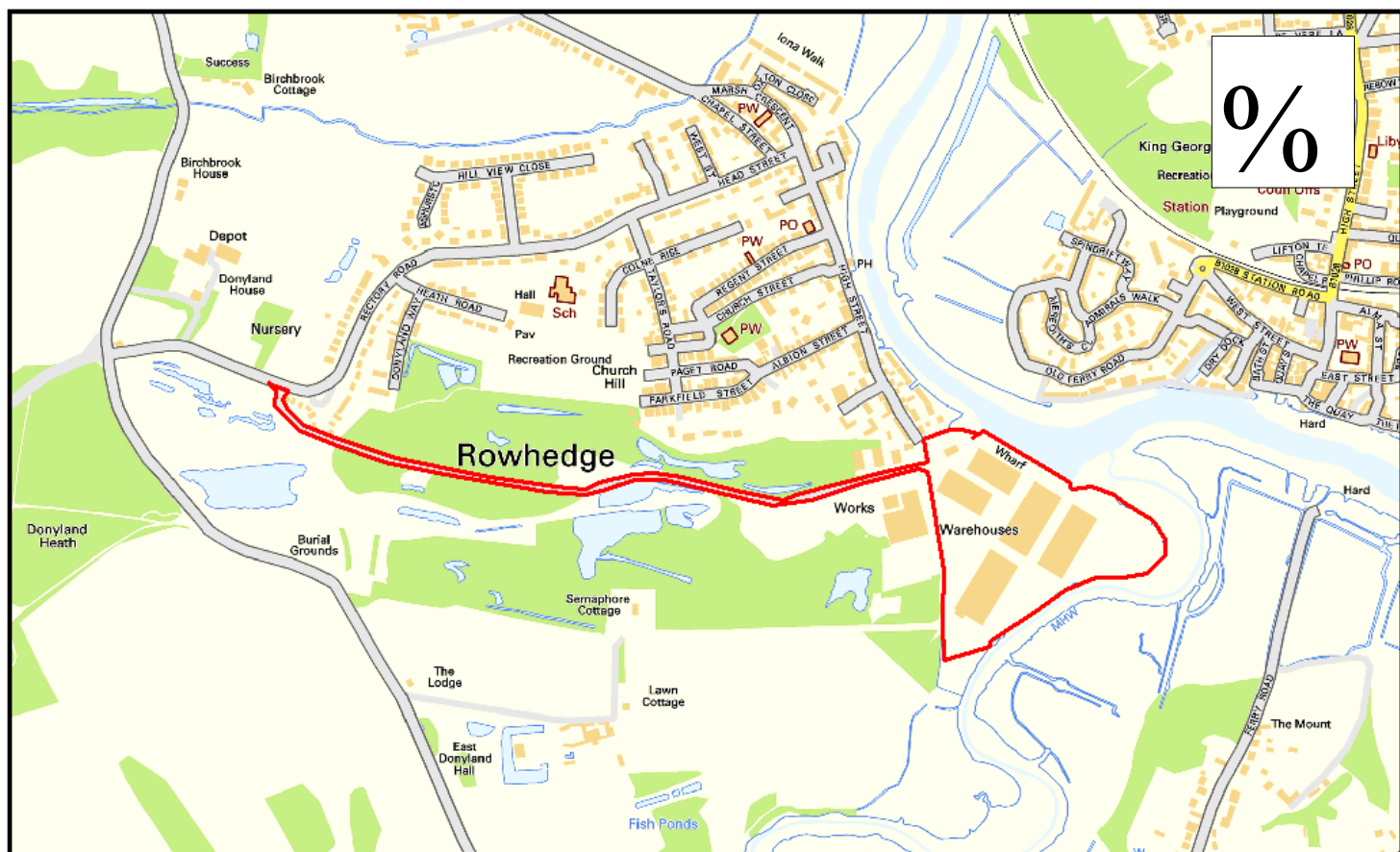
The developer is referred to the attached advisory note *Advisory Notes for the Control of Pollution during Construction & Demolition Works* for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental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

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

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

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

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



Application No: 144693

Location: Rowhedge Wharf, Former Rowhedge Port, Rowhedge, Colchester, Essex

Scale (approx): 1:7500

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Planning Committee

Item
8

Date 25 July 2019

Report of	Assistant Director Policy and Corporate	Author	Sue Jackson 01206 282450
Title	Rowhedge Trail		
Wards affected	Old Heath and the Hythe		

This report concerns funding for the Rowhedge Trail

1. Decision Required

1.1 The Planning Committee is required to agree to amend the wording of a section 106 agreement to allow a financial contribution to be used to fund improvements to the whole of the Rowhedge Trail not just the part along Footpath 27.

2. Reasons for Decision(s)

2.1 There are sufficient funds for the required improvements to Footpath 27 to be implemented but funding to allow a scheme of improvements to other footpaths making up the Rowhedge Trail is required.

3. Alternative Options

3.1 Members could decide to not amend the wording of the agreement in which case the outstanding balance would be returned to Bloor Homes and some improvements to the Rowhedge Trail would not be carried out.

4. Supporting Information

4.1 Application 144693 submitted on behalf of Bloor Homes proposed the redevelopment of part of Rowhedge Wharf to provide 170 Dwellings and other facilities. Planning permission was granted on 3 August 2015 and included a section 106 agreement. The agreement includes a contribution of £50,000 for the upgrade, improvement and extension of the Rowhedge Trail with the Rowhedge Trail being defined in the agreement as Footpath 27.

4.2 The Council's Transport and Sustainability Officer and ECC Public Rights of Way Officer have investigated the work needed to Footpath 27 and have agreed a quote for £39,806. This work will be funded by the Bloor Homes contribution and a balance of £10,194 will remain.

5. Proposal

- 5.1 Bloor Homes have agreed the outstanding balance of £10,194 can be spent on Rowhedge Trail Footpath 139. A scheme of improvements to Footpath 139 will be funded in part by this contribution and in part from a contribution of £26,000 from Hills who are currently building out part of the former wharf site.

6. Strategic Plan References

- 6.1 The Strategic Plan sets out four themes under the acronym of 'Grow'.
Growth, Responsibility, Opportunity, Wellbeing

Opportunity- promoting and improving Colchester and its environment
Promote initiatives to help residents live healthier lives

Wellbeing- help residents adopt healthier life styles by enabling provision of excellent leisure facilities and beautiful green spaces countryside and beaches.

7. Consultation

- 7.1 N/A

8. Publicity Considerations

- 8.1 N/A

9. Financial Implications

- 9.1 There are no financial implications

10. Equality, Diversity and Human Rights Implications

- 10.1 There are no equality, diversity and human rights implications

11. Community Safety Implications

- 11.1 There are no community safety implications

12. Health and Safety Implications

- 12.1 There are no health and safety implications

13. Risk Management Implications

- 13.1 There are no risk management implications

Background Papers

Planning application 144693
Section 106 agreement dated 3 August 2013
Email from Bloor Homes dated 25 June 2019

Material Planning Considerations

The National Planning Policy Framework highlights that the planning system is plan-led and reiterates The Town and Country Planning Act 1990 and The Planning and Compulsory Purchase Act 2004, which require (in law) that planning applications “must be determined in accordance with the development plan, unless material considerations indicate otherwise”.

Where our Development Plan is absent, silent or the relevant policies are out of date, paragraph 14 of the National Planning Policy Framework requires the application to be determined in accordance with the presumption in favour of sustainable development unless otherwise specified.

The following approach should be taken in all planning decisions:

- Identify the provisions of the Development Plan which are relevant to the decision and interpret them carefully, looking at their aims and objectives
- Identify and consider relevant material considerations for and against the proposal
- Consider whether or not the proposal accords with the Development Plan and, if not, whether material considerations warrant a departure from the Development Plan.

A material planning consideration is one which is relevant to making the planning decision in question (e.g. whether to grant or refuse an application for planning permission). The scope of what can constitute a material consideration is very wide and so the courts often do not indicate what cannot be a material consideration. However, in general they have taken the view that planning is concerned with land use in the public interest, so that the protection of purely private interests such as the impact of a development on the value of a neighbouring property or loss of private rights to light could not be material considerations.

When applying material considerations the Committee should execute their decision making function accounting for all material matters fairly, reasonably and without bias. In court decisions (such as *R v Westminster CC ex-parte Monahan* 1989) it has been confirmed that material considerations must relate to the development and use of land, be considered against public interest, and be fairly and reasonably related to the application concerned.

Some common material planning considerations which the Planning Committee can (and must) take into consideration in reaching a decision include:-

- Planning policies, including the NPPF and our own Development Plan
- Government guidance, case law, appeal decisions, planning history
- Design, scale, bulk, mass, visual appearance and layout
- Protection of residential amenities (light, privacy, outlook, noise or fumes)
- Highway safety and traffic issues, including parking provisions
- Heritage considerations; archaeology, listed buildings and conservation areas
- Environmental issues; impacts on biodiversity, trees and landscape, flooding
- Economic issues such as regeneration, job creation, tourism and viability
- Social issues; affordable housing, accessibility, inclusion, education, recreation

The above list is not exhaustive

The following are among the most common issues that are **not** relevant planning issues and cannot be taken into account in reaching a decision:-

- land ownership issues; private property rights, boundary disputes and covenants
- effects on property values
- loss of a private view
- identity of the applicant, their character, previous history, or possible motives
- moral objections to a development, such as may include gambling or drinking etc
- competition between commercial uses

- matters specifically controlled through other legislation

Strong opposition to large developments is a common feature of the planning process but whether or not a development is popular or unpopular will not matter in the absence of substantial evidence of harm (or support from the policies within the Development Plan). It is the quality of content, not the volume that should be considered.

The law also makes a clear distinction between the question of whether something is a material consideration, and the weight which it is to be given. Whether a particular consideration is material will depend on the circumstances of the case but provided it has given regard to all material considerations, it is for the Council to decide what weight is to be given to these matters. Subject to the test of “reasonableness”, the courts (or the Local Government Office) will not get involved in the question of weight. Weight may be tested at appeal.

Planning Obligations

Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the tests that they are:

1. necessary to make the development acceptable in planning terms
2. directly related to the development, and
3. fairly and reasonably related in scale and kind.

These legal tests are set out as statutory tests in the Community Infrastructure Levy Regulations and as policy tests in the National Planning Policy Framework.

Human Rights, Community Safety and Equality and Diversity Implications

All applications are considered against the background and implications of the:

- Human Rights Act 1998
- Crime and Disorder Act 1998 (and in particular Section 17)
- Equality Act 2010
- Colchester Borough Council Equality Impact Assessment (EIA) Framework

In order that we provide a flexible service that recognises people's diverse needs and provides for them in a reasonable and proportional way without discrimination.

Using Planning Conditions or Refusing Planning Applications

The Planning System is designed to manage development, facilitating (not obstructing) sustainable development of a satisfactory standard. The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (PPG) reinforce this, stating that “Planning should operate to encourage and not act as an impediment to sustainable growth”. Therefore, development should be considered with a positive approach. Where a condition could be used to avoid refusing permission this should be the approach taken.

The PPG sets out advice from the Government regarding the appropriate use of conditions, and when decision makers may make themselves vulnerable to costs being awarded against them at appeal due to “unreasonable” behaviour. Interpretation of court judgments over the years is also an important material consideration. Reasons why a Planning Authority may be found to have acted unreasonably at appeal include lack of co-operation with applicants, introducing fresh evidence at a later stage, introducing a new reason for refusal, withdrawal of any reason for refusal or providing information that is shown to be manifestly inaccurate or untrue.

In terms of the Planning Committee, Members are not bound to accept the recommendations of their officers. However, if officers’ professional or technical advice is not followed, authorities will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects. If they fail to do so, costs may be awarded against the authority.

Whenever appropriate, the Council will be expected to show that they have considered the possibility of imposing relevant planning conditions to allow development to proceed. Therefore, before refusing any application the Planning Committee should consider whether it is possible to resolve any concerns by use of conditions before refusing permission. Failure to do so on a planning ground capable of being dealt with by conditions risks an award of costs where it is concluded on appeal that suitable conditions would enable the proposed development to go ahead.

Any planning condition imposed on a development must pass 6 legal tests to be:

- | | |
|--|-------------------------|
| 1. Necessary | 2. Relevant to planning |
| 3. Relevant to the development permitted | 4. Reasonable |
| 5. Precise | 6. Enforceable |

Unless conditions fulfil these criteria they are challengeable at appeal as ultra vires (i.e. their imposition is beyond the powers of local authorities).

If no suitable condition exists that can satisfy these tests a refusal of planning permission may then be warranted. In considering the reasons for that refusal, the Council must rely only on reasons for refusal which stand up to scrutiny and do not add to development costs through avoidable delay or refusal without good reason. In all matters relating to an application it is critically important for decision makers to be aware that the courts will extend the common law principle of natural justice to any decision upon which they are called to adjudicate. The general effect of this is to seek to ensure that the Council acts fairly and reasonably in executing our decision making functions, and that it is evident to all that we have done so.



Colchester Borough Council Development Management

Highway Safety Issues

When considering planning applications, Colchester Borough Council consults Essex County Council Highways Authority on all highway safety issues. They are a statutory consultee, and a recognised expert body. This means that they must be consulted on planning applications, by law, where the proposed development will involve a new access to the highway network, create “material” changes in traffic movement, or where new roads are to be laid out. Where developments affect the trunk road network Highways England become a statutory consultee.

When the Highway Authority is consulted they are under a duty to provide advice on the proposal in question as the experts in highway matters. Their opinion carries significant weight upon which the Local Planning Authority usually relies. Whilst this Council could form an opinion different to the Highway Authority, it would need to provide counter-evidence to justify an argument that the expert body was incorrect. That evidence would need to withhold challenge in appeal or through the courts. Failure to do so would result in a costs award against the Council for acting unreasonably (see other notes pages within this Agenda). Similarly, if the Highway Authority were unable to support their own conclusions they may face costs being awarded against them as the statutory consultee.

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

Parking Standards

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

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

For residential schemes:

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

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



Colchester Borough Council Environmental Control

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

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

Best Practice for Construction Sites

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

Noise Control

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

Emission Control

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

Best Practice for Demolition Sites

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

Noise Control

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

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

Emission Control

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

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

Class A1. Shops

Use for all or any of the following purposes—

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

Class A2. Financial and professional services

Use for the provision of —

- (a) financial services, or
- (b) professional services (other than health or medical services), or
- (c) any other services (including use as a betting office)

which it is appropriate to provide in a shopping area, where the services are provided principally to visiting members of the public.

Class A3. Restaurants and cafes

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

Class A4. Drinking establishments

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

Class A5. Hot food takeaways

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

Class B1. Business

Use for all or any of the following purposes—

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

Class B2. General industrial

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

Class B8. Storage or distribution

Use for storage or as a distribution centre.

Class C1. Hotels

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

Class C2. Residential institutions

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

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

Class C2A. Secure residential institutions

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

Class C3. Dwellinghouses

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

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

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

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

Class C4. Houses in multiple occupation

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

Class D1. Non-residential institutions

Any use not including a residential use —

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

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

(c) for the provision of education,

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

(e) as a museum,

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

(g) as a public hall or exhibition hall,

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

Class D2. Assembly and leisure

Use as —

(a) a cinema,

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

(d) a dance hall,

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

Sui Generis Uses

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

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

Interpretation of Class C3

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

Interpretation of Class C4

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

Supreme Court Decision 16 October 2017

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

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

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

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

Deferral and Recommendation Overturn Procedure (DROP) Flowchart

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

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

