

# Appendix C – Technical Note on Consenting: Proposed Rapid Transit Route – Section A - B355363A-RTS-EAC-SA-TN-001

# Technical Note on Consenting: Proposed Rapid Transit Route - Section A

SECTION A OF RTS

June 2019

## Contents

1	Purpose of this Technical Note .....	4
2	Background .....	5
2.1	Planning Policy .....	5
3	Planning History .....	9
3.1	Section A of RTS .....	9
4	Other Relevant Planning History.....	12
4.1	Severalls Hospital Development .....	12
4.2	Other Planning Applications .....	13
5	Proposed Works.....	14
5.1	Section A of the Proposed Scheme.....	14
6	Consenting Options for RTS .....	16
6.1	Relevant Legislation .....	16
6.2	Consenting Assessment for Section A of the Proposed Scheme .....	17
6.3	Land Ownership .....	18
7	Conclusions and Recommendations.....	19
7.1	Conclusions .....	19
7.2	Recommendation.....	19
	Appendix A. Extract from Adopted Proposals Map .....	21
	Appendix B. Extract from Emerging Policies Map.....	23
	Appendix C. 2012 Committee Report .....	25
	Appendix D. Amended Recommendation .....	55
	Appendix E. Resolution to Committee Report.....	57
	Appendix F. Highways Ownership Map .....	61
	Appendix G. Land Registry Title Plan .....	63

## Tables & Figures

Figure 1 - Latest RTS Route Options.....	7
Figure 2 - Section A of Proposed RTS.....	8

## 1 Purpose of this Technical Note

The purpose of this Technical Note is to provide consenting advice on Section A of the proposed Rapid Transit System (RTS) (the 'Proposed Scheme') which will form part of the wider integrated and sustainable transport system proposals across North East Essex. The Proposed Scheme as a whole is made up of three sections; A-C. **Figure 1** presents the proposed routes and the various options which could be taken forward. **Figure 2** depicts Section A in more detail. This Technical Note will focus on Section A of the Proposed Scheme, with consenting advice on sections B-C to follow once potential route options have been agreed for assessment.

Considerations will be given to the relevant planning history, along with provisions of The Town and Country Planning Act (TCPA) 1990 (as amended), The Town and Country Planning (General Permitted Development) (England) Order (GPDO) 2015 (as amended) and the Road Traffic Regulation Act 1984 to establish the correct consenting regime(s).

## 2 Background

Braintree District Council, Colchester Borough Council and Tendring District Council ('North Essex Councils') have been working together on strategic cross boundary issues for North Essex. This has resulted in the North Essex Councils' strategic Section 1 which is shared by all three local planning authorities within their Local Plans. Section 1 includes policies on strategic cross boundary issues including infrastructure and housing numbers and includes proposals for three new garden communities.

In March 2019 a bid to the Housing Infrastructure Fund (HIF) was submitted by Essex County Council (ECC) in respect of one of these three new garden communities - the Tendring Colchester Borders Garden Community. If successful, the funds would be used to unlock the Tendring Colchester Borders Garden Community which is proposed in East Colchester, through the provision of an RTS and Link Road.

The provision of a high-quality RTS with dedicated sections and priority measures at key junctions will provide reliable and improved journey times in and around Colchester. The solution will provide a public transport alternative. The Proposed Scheme will provide the Tendring Colchester Borders Garden Community with a sustainable transport system, providing access to jobs and services to support economic growth. The Proposed Scheme will seek to link to the University of Essex, through the Knowledge Gateway employment zone to Colchester town centre and key destinations including the rail station and hospital. The RTS will help to unlock 2,500 homes.

The RTS is therefore fundamental to the planned longer-term modal shift strategy across the three garden communities. This initial phase will lay the groundwork and deliver a persuasive case in support of realising this ambition, with potential to expand the RTS across the whole of the A120 corridor.

### 2.1 Planning Policy

Section A of the Proposed Scheme falls within the administrative boundary of Colchester Borough Council (CBC). Both adopted and emerging planning policy supports the provision of a rapid transit route, which will provide unimpeded travel for this method to bypass traffic congestion and to link key facilities around Colchester.

#### Adopted Planning Policy

The adopted Colchester Core Strategy (revised 2014) outlines the need for a rapid transit corridor. The spatial strategy contained within the Core Strategy outlines that both the north and east growth areas of Colchester will respectively deliver a north and east transit corridor. The transit corridor aspirations will enable the core policies of the Core Strategy to be achieved. In terms of sustainable development and transport and accessibility, the Core Strategy seeks to meet the needs of Colchester's growing community, through the provision of major community facilities such as the University of Essex and Colchester General Hospital which the transit corridor will help to facilitate growth of, through improved connectivity.

**Policy TA3 Public Transport** of the Core Strategy states that there will be a comprehensive public transport network within Colchester Town which will include the delivery of the North and East Transit Corridors to facilitate rapid public transport services and avoid congestion, encouraging people to prioritise public transport over general traffic.

The Local Development Framework Site Allocations (October 2010) document states at **Policy SA EC2 Development in East Colchester** that development in the East Colchester Regeneration and

Growth Area will be permitted if it complies with the relevant criteria, one of which will be public transport improvements, including the East Transit Corridor.

**Policy SA EC8 Transportation in East Colchester** outlines that all new development will be required to deliver and contribute towards improvements to public transport, including the development of an East Transit Corridor.

In terms of the North Transit Corridor, the Adopted Site Allocations document confirms that the North Transit Corridor is subject to an approved planning application. As part of the Severalls development, a package of transport measures has been agreed to provide road and public transport infrastructure. The North Transit Corridor will provide buses with a dedicated corridor to the station from the Community Stadium and Cuckoo Farm employment area. **Policy SA NGA4 Transport Measures in North Growth Area** states that the North Transit Corridor (as shown on the adopted Proposals Map), will be delivered. An extract of the Adopted Proposals Map, showing the East and North Transit Corridors can be found in **Appendix A**.

### Emerging Planning Policy

As mentioned earlier in this report, Colchester is currently in the process of developing a new Local Plan. Section 1 of Colchester's Publication Draft stage of the Colchester Borough Local Plan 2017-2033 is jointly being examined with Section 1 of Braintree and Tendring District Councils respective draft local plans. Section 1 of the joint examination is currently paused following initial hearing sessions in January and May 2018 and requests from the Planning Inspector for further information. The Examination in Public (EiP) is expected to resume in Autumn 2019.

**Policy SP5: Infrastructure and Connectivity** of the Publication Draft stage of the Colchester Borough Local Plan 2017-2033 supports the prioritisation of public transport, particularly in the urban areas, including new and innovative ways of providing public transport, including high quality rapid transit networks and connections in and around urban areas with links to the new Garden Communities.

**Policy SP7: Development and Delivery of New Garden Communities in North Essex** outlines that new communities need to be planned around a step change in integrated and sustainable transport systems for the North Essex area that put walking, cycling and rapid public transit networks and connections at the heart of growth in the area, encouraging and incentivising more sustainable active travel patterns. **Policy SP8 Tendring/Colchester Borders Garden Community** also supports the need for an RTS by stating that the needs of the community will be met (amongst others) through the development of a public rapid transit system, connecting the garden community to Essex University and Colchester Town.

Policies **TC4 Transportation in Colchester Town Centre**, **NC2 North Station Special Policy Area** and **EC1 Knowledge Gateway and University Essex Strategic Economic Area** also outline the provision of a transit corridor, particularly the North and East. These are shown on the emerging Policies Map, which can be found in **Appendix B**.

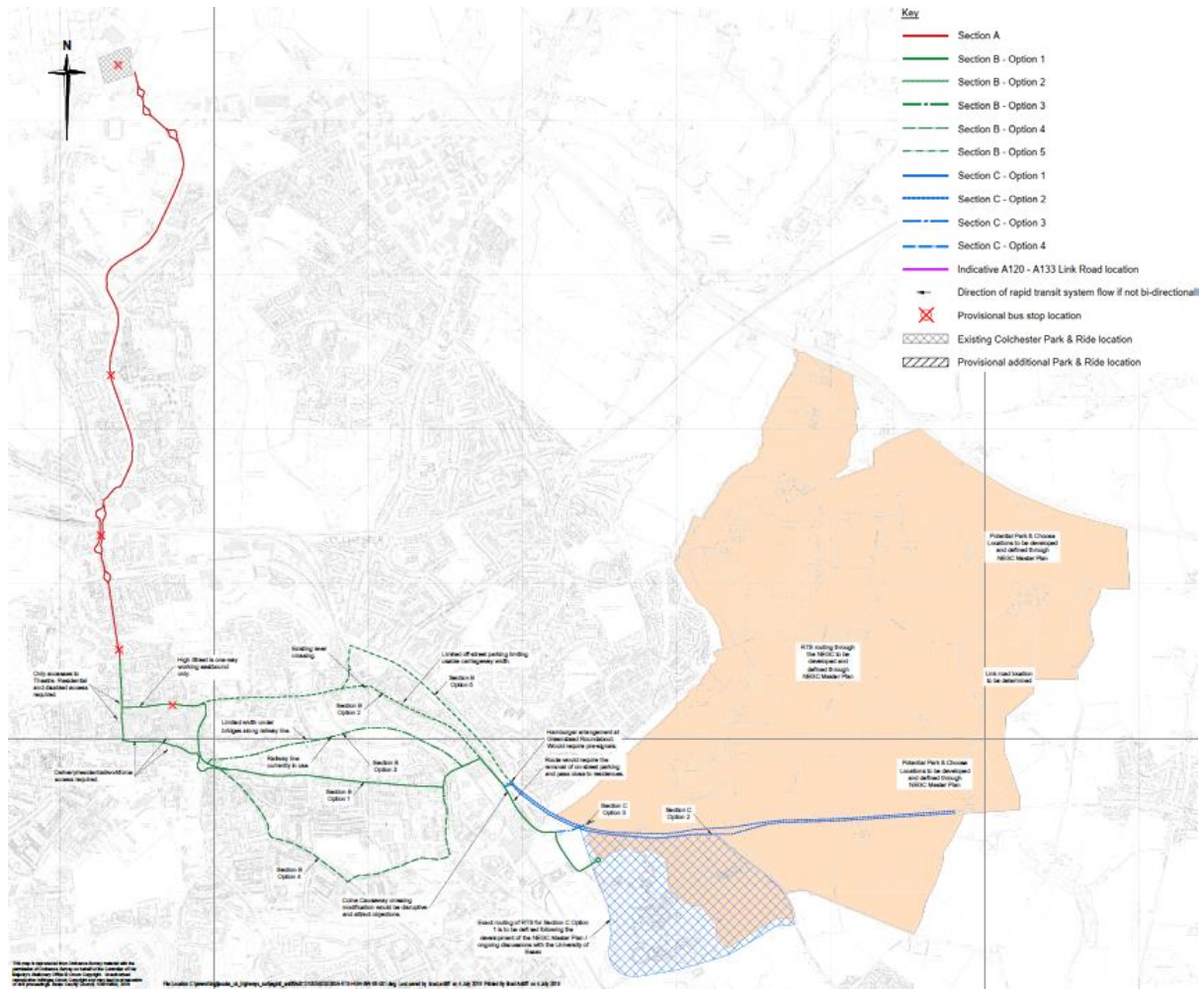


Figure 1 - Latest RTB Route Options

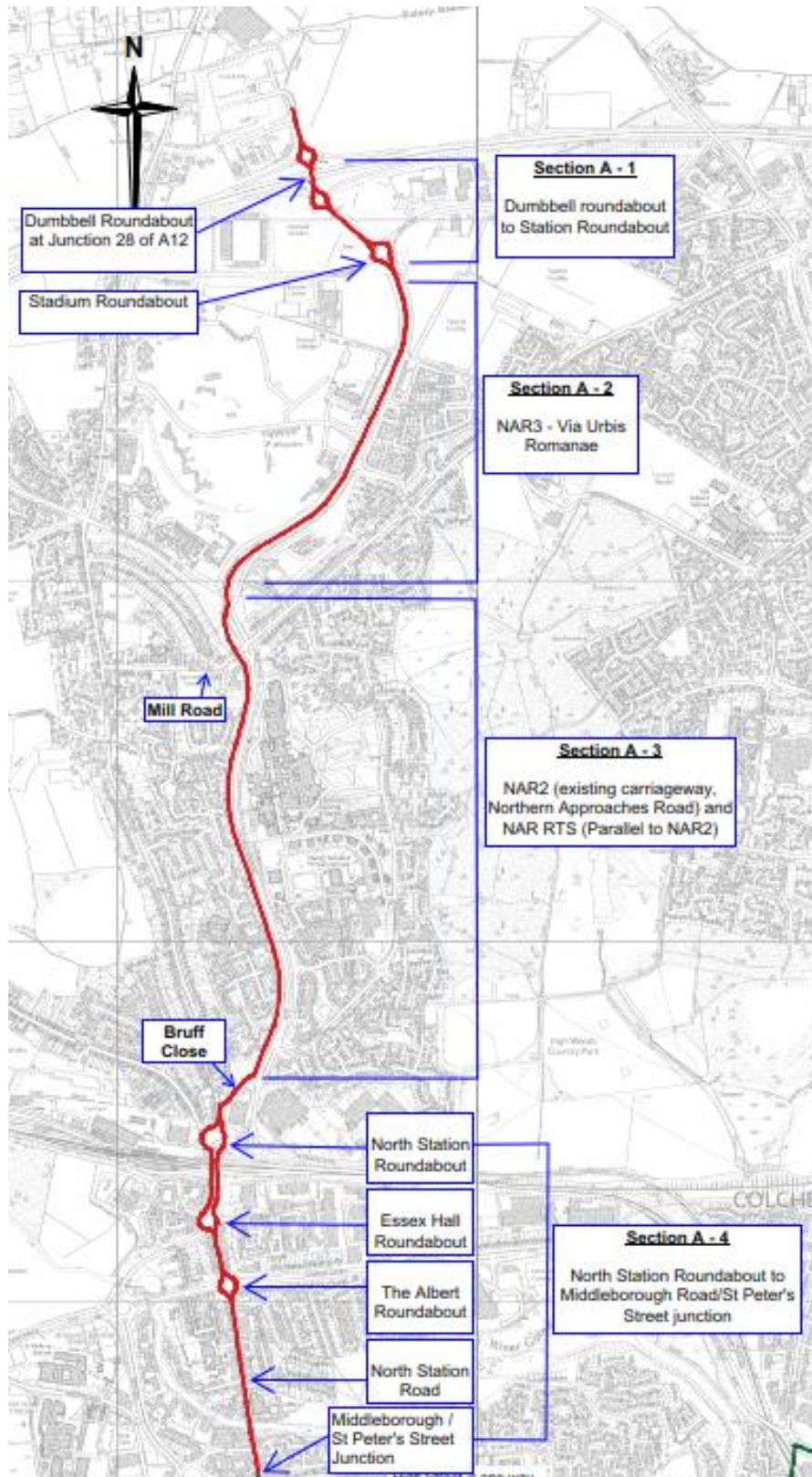


Figure 2 - Section A of Proposed RTS



## 3 Planning History

### 3.1 Section A of RTS

Section A of the Proposed Scheme runs from the Dumbbell Roundabout at Junction 28 of the A12, southwards to the Stadium Roundabout (Section A-1) and along the Via Urbis Romanae (Section A-2). Section A then continues down the Northern Approach Road A134, towards Bruff Close (Section A-3). From Bruff Close, Section A runs southwards past North Station Roundabout, Essex Hall Roundabout and the Albert Roundabout, along North Station Road to the junction with Middleborough and St Peter's Street (Section A-4). **Figure 2** above, illustrates the route.

A previous planning application for a segregated bus corridor was submitted to CBC, in association with the wider development of the former Severalls Hospital site for mixed use development (discussed in greater detail in **Section 4** below). A review of the relevant planning history for Section A of the Proposed Scheme has been undertaken and presented below.

Planning permission ref: **F/COL/01/1626** for the *Detailed application for the construction of the Northern Approaches Road Phase 3 (NAR3) including a new grade separated junction with the A12 and east/west link road to Severalls Lane plus all ancillary highway works (including segregated bus corridor)* was granted planning permission, subject to a Section 106 agreement on 21<sup>st</sup> March 2006.

Part of Section A of the Proposed Scheme which falls under the abovementioned planning permission (**F/COL/01/1626**), is made up of three sections:

- NAR3 (Via Urbis Romanae – carriageway built out under **F/COL/01/1626**) (Section A-2 of the Proposed Scheme)
- NAR2 (Northern Approach Road – existing carriageway) (Section A-3 of the Proposed Scheme)
- NAR RTS (land for segregated bus corridor parallel to NAR2, consented under **F/COL/01/1626**) (Section A-3 of the Proposed Scheme)

The abovementioned sections are explained briefly below and shown in **Figure 2**. The other part of Section A not covered by planning permission ref: **F/COL/01/1626**, runs from Bruff Close to North Station Roundabout, southwards towards Essex Hall and The Albert roundabout and along North Station Road, towards the junction with Middleborough and St Peter's Street. There are no outstanding planning applications or extant permissions for this part of Section A, although the provision of an RTS along this corridor is supported by adopted and emerging planning policy (as explained in Section 2, above).

#### **NAR3**

The Northern Approach Road Phase 3 (NAR3) element of the above planning permission has been built out as the Via Urbis Romanae which provides a single carriageway road with adjacent bus priority lanes, running through the former Severalls Hospital site which is owned by the Homes and Communities Agency (HCA) and the North Essex Partnership University NHS Foundation Trust (NEP). NAR3 has helped to ease congestion in north Colchester and improve access to the existing Severalls Business Park and Weston Homes Community Stadium. It also provides a connection to Junction 28 of the A12, Axial Way, United Way and the existing Northern Approach Road (NAR2).

## NAR2 and NAR RTS

Planning permission ref: **F/COL/01/1626** also included planning consent for a segregated bus corridor (NAR RTS), parallel to the existing Northern Approach Road (NAR2), as well as improvements to the existing NAR2 carriageway. CBC has confirmed that this planning permission has been partially implemented (in the construction of Via Urbis Romanae) and is therefore extant. Consequently, there is no time limit for the completion of the consented segregated bus corridor.<sup>1</sup>

Condition 6 of planning permission ref: **F/COL/01/1626** relates to the segregated bus corridor (NAR RTS) and outlines:

*'Details of all highway works (including the proposed Segregated Bus Way) not previously agreed under the approved drawing nos. listed at Condition 2 above, shall be agreed in writing by the Local Planning Authority prior to any works commencing on site. These details shall include details of lighting, lining, signage and drainage for the purposes of engineering and safety audit approval and both cross section and longitudinal details in locations which shall have previously been approved in writing with the Local Planning Authority. The highway details shall be implemented as approved unless the Local Planning Authority first gives written approval to any variation'*

Condition 6 of this permission requires details of the segregated bus corridor to be submitted and agreed by the Local Planning Authority. Condition 6 was discussed at Planning Committee on 25<sup>th</sup> September 2012. The Committee Report outlines at paragraph 2.1, that details were submitted with regards to drainage, lighting, landscaping, trees, protected species and noise. These details relate to the conditions 4, 7, 9, 14, 17, 18, and 20 of the same planning permission.

Details were submitted on 25<sup>th</sup> September 2012. Following extensive consultation with local residents, internal consultees and external professional bodies, revised details were submitted on 20<sup>th</sup> December 2012 in order to address issues relating to residential amenity, highway safety, environmental implications, landscaping, and the impact upon a veteran oak tree. Further details were submitted on 20<sup>th</sup> February 2013 that sought to address concerns regarding noise levels for local residents.

The Committee Report (25<sup>th</sup> September 2012) outlines that the following details for condition 6 were recommended for approval:

*'Condition 6: Details of the segregated bus-way. As per General Arrangement drawings B3553000/0000.01a/0000 P4, B3553000/0000.01a/0001 P5, B3553000/0000.01a/0002 P5, B3553000/0000.01a/0003 P5, B3553000/0000.01a/0004 P5, and B3553000/0000.01a/0005 P5; Traffic Signs and Road Markings drawings B3553000/1200.01a/0000 P3, B3553000/1200.01a/0001 P3, B3553000/1200.01a/0002 P3, B3553000/1200.01a/0003 P3, B3553000/1200.01a/0004 P3, and B3553000/1200.01a/0005 P3; and Conceptual Signalisation drawings B3553000/0000.01a/0010 P1, B3553000/0000.01a/0011 P1, and B3553000/0000.01a/0012 P0, received by the Local Planning Authority on 20th December 2012'*

The 2012 Committee Report for condition 6 can be found in **Appendix C**. A subsequent amended recommendation was made which stated: *In response to point 5 of the Myland Community Council comments, received 12th March 2013, the Applicant has resolved to include signals at the pedestrian crossings. These signals will signal green for the majority of time, turning red when a bus approaches*

---

<sup>1</sup> Email communication from CBC to ECC on 12th May 2016

*(essentially a reversal of the normal timings for a pedestrian crossing). Due to this late amendment, amended plans have not been received. Therefore, it is recommended that, following receipt of amended plans that show the signalled pedestrian crossings, the Head of Environmental and Protective Services be authorised under delegated powers to approve the submitted details for condition 6. The details for conditions 4, 7, 14, 17, and 18 would remain unaltered, as set out in the committee report recommendation. This amended recommendation can be found in **Appendix D**.*

Details regarding planning permission ref: **F/COL/01/1626** were further discussed at a Planning Committee in March 2013 (Appendix E) which resolved the following in relation to Condition 6:

*The details for condition 6, subject to informatives as set out in the report be deferred as per the recommendation and the Amendment Sheet*

*Upon receipt of amended plans showing the signalled pedestrian crossings, the Head of Environment and Protective Services be authorised to approve condition 6, subject to the informatives as set out in the report.*

The planning officer at CBC confirmed that subsequent details for condition 6 have not been received by the Council. Until the details are received and approved (and the planning condition discharged), the segregated bus way parallel to NAR2 cannot be built out.

## 4 Other Relevant Planning History

### 4.1 Severalls Hospital Development

Outline application ref: O/COL/01/1624 for residential development of the site for approximately 1,500 dwellings (including conversion of some retained hospital buildings), mixed uses including community facilities, employment and retail, public open space landscaping, new highways, transport improvements, reserved routes for Northern Approach Road phase 3 (NAR3) and associated development was granted outline planning permission on 21st March 2006.

Various Section 73 applications have subsequently been approved to amend the original outline approval. Each of these have resulted in a new outline permission and are summarised below:

- Application ref: **10035** (approved March 2011): Variations to amend the pre-occupation triggers for the delivery of the Northern Approach Road.
- Application ref: **112401** (approved March 2012): This approved an updated masterplan (drawing no 26779 (02) 301) and Design Statement, both for which were prepared by Broadway Malyan. These documents set out the baseline principles to which the reserved matters submission adheres.
- Application ref: **131221** (approved November 2013): Variation to condition 8a to increase the number of dwellings which can be occupied prior to completion of the Northern Approach Road from 75 dwellings to 125 dwellings.
- Application ref: **151401** (approved November 2015): This sought to regularise a number of conditions and was supported by a deed of variation to the original agreement to allow inclusion for a financial contribution of £2 million for the busway works.<sup>2</sup>

Reserved Matters application ref: 100502 for Development to provide 248 residential units (Phase 1) was approved in August 2011. This Reserved Matters application was subject to a Section 106 Agreement dated 4th January 2011.

As stated above, planning application ref: 151401 (approved November 2015) was supported by Deed of Variation to the original agreement (dated 4th January 2011) which included for a financial contribution of £2 million for the busway between Bruff Close and Mill Road. This agreement is dated 16th November 2015.

---

<sup>2</sup> Section 106 (2015) *Busway Contribution means the sum of £2,000,000.00 (Two Million Pounds) increased or decreased in accordance with the movement of the Highway Index between July 2015 and the date that a payment is made under the terms of this Agreement.*

*Busway Contribution Works means the provision of a segregated 2-way single carriageway to the west of and parallel to NAR2 between Bruff Close and Mill Road including: Bus priority measures at the existing North Station roundabout, alterations to the existing NAR2/Mill Road traffic signal controlled junction in order to cater for the Busway, alterations to the two existing NAR2 residential development accesses in order to cater for the Busway, the erection of an anti dazzle fence on the NAR2 to the south of the Mill Road traffic signal controlled junction.*

Whilst there is no time limit for implementation of the segregated bus corridor (as outlined in paragraph 3.1.7) the most recent Section 106 Agreement (16th November 2015) outlines the time limits in which to spend the contribution towards the segregated bus lane. Schedule 2, Clause 1.11.2 outlines that *'In the event that a contract for the provision of the Busway has not been entered into by the Borough Council or the County Council within 10 years of the date of payment of the Busway Contribution to utilise 50% of the Busway Contribution (plus accrued interest) for the provision of Affordable Housing in Colchester Borough'*.

Clause 1.11.3 outlines that *'In the event that the provisions of paragraph 1.11 .2 apply to repay to the Owner and the Trust any part of the Busway Contribution available for use by the Borough Council that has not been applied in accordance with paragraph 1.11 .2 within 15(fifteen) years of the date of payment of the Busway Contribution'*.

Clause 1.12.2 further states that *'In the event that a contract for the provision of the Busway has not been entered into by the Borough Council or the County Council within 10 years of the date of payment of the Busway Contribution to utilise the Busway Land as a linear park or such other purpose as shall receive planning permission'*.

Contributions towards the segregated busway are not yet fully paid. The first payment was made by one of the developers in early 2019, upon occupation of the number of houses specified by the agreement for triggering an initial instalment.

## 4.2 Other Planning Applications

Planning permission ref: **F/COL/07/0300** for the variation of Condition 17 of Application No. F/COL/01/1626 was granted planning permission on 20<sup>th</sup> March 2007.

Planning permission ref: **F/COL/07/0299** for the variation of Condition 26 of Application No. F/COL/01/1626 which reads 'No development shall take place until details (including a date for commencement and completion of construction) of a 9ft/2.75m high brickwall to the rear/side (west) boundaries of 15 was granted planning permission on 3<sup>rd</sup> April 2007

Planning permission ref: 121610 for the variation of condition 2 attached to the planning permission ref: **F/COL/01/1626** to take account of latest bus-way details for NAR3 was granted planning permission on 16<sup>th</sup> April 2014.

## 5 Proposed Works

### 5.1 Section A of the Proposed Scheme

A review of the latest scheme design has been undertaken and the following elements of Section A have been assessed from a planning/consenting perspective (refer to **Figure 2**):

#### **Section A –1**

**Carriageway between Dumbbell Roundabout at Junction 28 of the A12 to Stadium Roundabout** – there is potential for widening of the existing carriageway to accommodate two lanes for a rapid transit link on either side of the carriageway. However, it has yet to be confirmed whether this will form part of the options for consultation.

#### **Section A – 2**

**Stadium Roundabout to junction with Via Urbis Romanae and Northern Approach Road (NAR3)** – utilisation of existing carriageway which has bus priority measures already in place (north bound and south bound bus lanes) and improved movement through the roundabout with Axial Way and the junction with the A134 Sudbury Road.

#### **Section A – 3**

##### ***Section A – 3A***

**Northern Approach Road from junction with Mill Road to Bruff Close (NAR RTS and NAR2) Option 1** – utilisation of extant planning permission (ref: F/COL/01/1626 - for segregated busway with improvements to NAR2) and amendments to junctions as required.

##### ***Section A – 3B***

**Northern Approach Road from junction with Mill Road to Bruff Close (NAR2) Option 2** –widening of existing carriageway (NAR2) to allow for the provision of a rapid transit lane (north and south bound) on either side of carriageway. Upgrades to the Northern Approach Road / Bruff Close junction to allow the dedicated movement of buses through / across the junction.

##### ***Section A – 3C***

**Northern Approach Road from junction with Mill Road to Bruff Close (NAR2) Option 3** – widening of existing carriageway (NAR2) to allow for the provision of a north bound and south bound rapid transit lane on right hand side of the carriageway (looking north). Upgrades to the Northern Approach Road / Bruff Close junction to allow the dedicated movement of the RTS through / across the junction.

#### **Section A – 4**

**North Station Roundabout to North Station Road junction with Middleborough Road and St Peter's Street** – utilisation of existing southbound bus lanes / bus gates between the North Station Roundabout and the Albert Roundabout. Northbound, there is no bus gate due to access requirements between the Albert Roundabout and Essex Hall Roundabout. Further improvements to bus facilities to be explored. The use of North Station Road with the possible inclusion of a one-way system for all traffic and a contraflow bus lane southbound towards the town centre. The use of the southbound bus gate and the northbound bus lane at Middleborough, leading into the start of Section B.

From the information currently available, it is understood that ECC do not own all affected adjoining land required for the options listed above. In addition, not all required land is within highways ownership, particularly along NAR2. A highways ownership map can be found in **Appendix F**. A Title Plan and associated land ownership map has also been provided in **Appendix G**. This shows that there are multiple land owners along the route and legal advice should be sought in relation to any land required for the development of the RTS.

## 6 Consenting Options for RTS

### 6.1 Relevant Legislation

A review has been undertaken to determine the likelihood of the Section A of the Proposed Scheme requiring planning permission. The scheme has been assessed against the relevant provisions of the GPDO 2015 (as amended), TCPA 1990 (as amended) and Road Traffic Regulation Act 1984.

#### **Overview of Permitted Development Rights – GPDO 2015 (as amended)**

Whether or not a proposal constitutes development is outlined in TCPA 1990. Development is defined in the TCPA as “the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land” (Part III, Section 55(1)). However, as stated in Part III Section 55(2)(b) of the TCPA, the following operations, shall ‘not’ be taken for the purposes of the TCPA to involve development of the land:

*“the carrying out on land within the boundaries of a road by a...highway authority of any works required for the maintenance or improvement of the road but, in the case of any such works which are not exclusively for the maintenance of the road, not including any works which may have significant adverse effects on the environment”.*

This is transposed into the GPDO 2015, which gives Highway Authorities permitted development rights to undertake certain works. In such instances, planning permission would not be required. These permitted development rights are prescribed in Part 9 of the GPDO 2015. Of relevance to the proposed scheme are the provisions of Part 9 Class A, which are as follows:

*A. The carrying out by the Highway Authority:*

*(a) on land within the boundaries of a road, of any works required for the maintenance or improvement of the road, where such works involve development by virtue of section 55(2)(b) of the Act; or*

*(b) on land outside but adjoining the boundary of an existing highway of works required for or incidental to the maintenance or improvement of the highway.*

If any works forming part of a project fall outside the GPDO and therefore require express planning permission, it would relate to everything within the red line and therefore the whole of Section A would need to be included in any application for planning permission. In addition to this, Section A would not fall under permitted development, if the development yielded significant environmental effects and thus, required an Environmental Impact Assessment (EIA).

#### **Road Traffic Regulation Act 1984**

Some works to the highway can be implemented via Traffic Regulation Orders (TRO), under the Traffic Regulation Act 1984. Part 1, Section 2(1) outlines what a TRO may provide. It states:

*A traffic regulation order may make any provision prohibiting, restricting or regulating the use of a road, or of any part of the width of a road, by vehicular traffic, or by vehicular traffic of any class specified in the order, —*

- a) either generally or subject to such exceptions as may be specified in the order or determined in a manner provided for by it, and*
- b) subject to such exceptions as may be so specified or determined, either at all times or at times, on days or during periods so specified.*



Section 2(2) states that the provision that may be made by a traffic regulation order includes any provision –

- a) *requiring vehicular traffic, or vehicular traffic of any class specified in the order, to proceed in a specified direction or prohibiting its so proceeding;*
- b) *specifying the part of the carriageway to be used by such traffic proceeding in a specified direction;*
- c) *prohibiting or restricting the waiting of vehicles or the loading and unloading of vehicles;*
- d) *prohibiting the use of roads by through traffic; or*
- e) *prohibiting or restricting overtaking.*

### **TCPA 1990 (as amended)**

The Town and Country Planning Act (1990) provides the principal consenting route for development in England. Applications that are submitted under this Act, are considered at Local Authority level. ECC is the consenting authority for highways applications (under Regulation 3 of the Town and Country Planning Regulations (TCGR) 1992).

Regulation 3 of the TCGR 1992, relates to the determination of a planning application. It states:

*‘Subject to regulation 4, an application for planning permission by an interested planning authority to develop any land of that authority, or for development of any land by an interested planning authority or by an interested planning authority jointly with any other person, shall be determined by the authority concerned, unless the application is referred to the Secretary of State under section 77 of the 1990 Act for determination by him’*

## **6.2 Consenting Assessment for Section A of the Proposed Scheme**

The consenting assessment for Section A will follow the elements listed in **Section 5** of this report. Based on the information available at this stage, it is considered that Section A of the Proposed Scheme could require a mixture of the abovementioned consenting regimes.

### **Section A-1**

There is potential to widen the existing carriageway to accommodate rapid transit lanes on either side of the carriageway. At this stage, it has not been confirmed whether the land required falls within highways ownership. Permitted Development would apply if all development to be undertaken falls within the existing highways boundary and provided there are no significant environmental effects. If it is found that the required land falls outside of the highway boundary, planning permission would need to be sought from CBC.

### **Section A-2**

This part of Section A seeks to utilise the existing carriageway arrangement, which provides a bus lane on either side of the carriageway (north and south bound). Improved movement through the roundabout with Axial Way and the junction with the A134 Sudbury Road is also proposed. No consent is required for utilisation of Via Urbis Romanae, as no alterations are being proposed. Improved movements through the roundabout with Axial Way will fall under and be implemented through Road Traffic Regulation Orders.

### **Section 3 – A**

#### **Section A – 3A**

This variant of Section A - 3, seeks to utilise the extant planning permission ref: **F/COL/01/1626**. A review of the relevant planning history and discussions with CBC, outlined that NAR RTS was consented under this planning permission. It was uncovered that specific design details of the RTS required under condition 6 of this permission, were subsequently not submitted or agreed by CBC. As such, this option cannot be built out until the outstanding details are submitted and agreed with CBC. These relate specifically to the design of the signalled pedestrian crossings.

However, the Ringway Jacobs engineering team have subsequently identified a need to alter the junction designs where the RTS crosses Mill Road, Wallace Road and Dickenson Road. Should amendments to these junctions need to be made to the consented scheme, revised scheme drawings would need to be submitted to CBC, replacing those previously submitted under condition 6, on which a decision was deferred pending further details of the proposed signalled pedestrian crossing.

### **Section A – 3B and 3C**

Variants 3B and 3C for the Northern Approach Road junction with Mill Road to Bruff Close involve the widening of the existing carriageway on the land safeguarded for NAR RTS, to allow for provision of a rapid transit lane on either side of the carriageway (north and south bound) and provision of a north and south bound rapid transit lane on the right-hand side of the carriageway respectively.

3B and 3C would require the land safeguarded for the segregated busway (under planning permission **F/COL/01/1626**) to be used for the widening of the existing carriageway to allow for an on road rapid transit. This would mean a segregated busway as consented under the extant planning permission, would not be able to be built out. This could have legal implications associated with the 2015 Section 106 agreement, linked to planning permission ref: **151401**. Under this agreement, developers of the Severalls Hospital site agreed to contribute £2 million towards a segregated busway. Should this segregated busway not be implemented due to either option 3B or 3C going forward, there is a risk of forfeiting the £2 million contribution. It is therefore recommended that legal advice is sought as soon as possible to understand whether the 2015 Section 106 agreement could be varied to include provision of an on-road bus lane.

### **Section A – 4**

This part of Section A seeks to utilise the existing southbound bus lanes / bus gates between the North Station Roundabout and the Albert Roundabout. Northbound, there is no bus gate due to access requirements between the Albert Roundabout and Essex Hall Roundabout. Further improvements to bus facilities to be explored. The use of North Station Road with the possible inclusion of a one-way system for all traffic and a contraflow bus lane southbound towards the town centre. The use of the southbound bus gate and the northbound bus lane at Middleborough, leading into the start of Section B. Given that no land take is required, and all works relate to the implementation of traffic measures within existing highway boundary, TROs would be the required consenting regime where necessary.

## **6.3 Land Ownership**

It is understood that not all the land required for the widening of NAR2 or implementation of the extant planning permission is within the highway boundary; specifically land towards the southern end of NAR2 (see **Appendix E**). Furthermore, **Appendix G** identifies that there are various land owners along the NAR RTS corridor. Land would therefore need to be acquired by ECC either through private treaty or, if necessary, compulsory purchase. Advice from ECC's Property team should be sought on whether there would be any constraints to the delivery of Section A- 3 arising from any restrictions on the use of individual land parcels as identified in the titles.

## 7 Conclusions and Recommendations

### 7.1 Conclusions

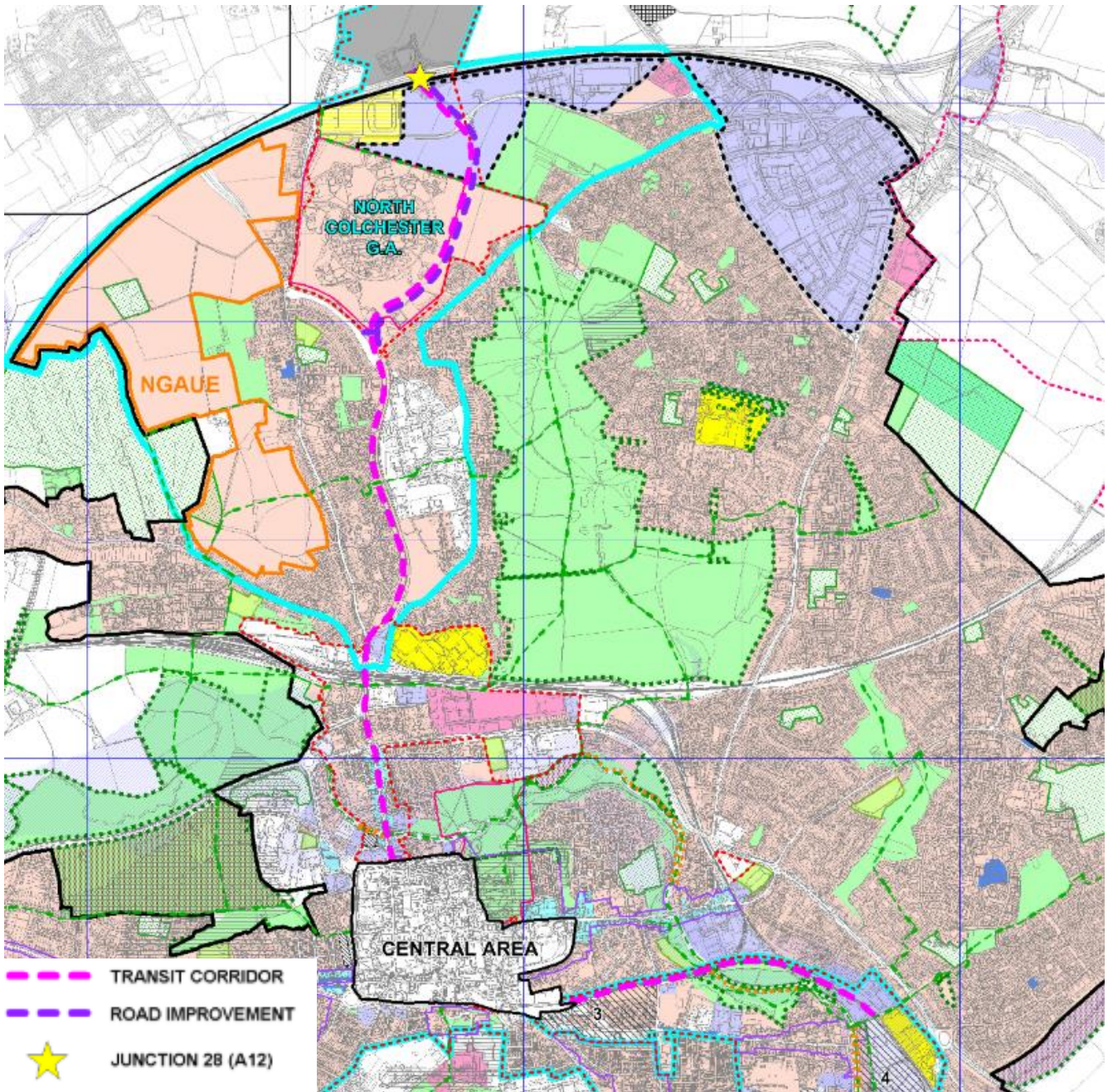
The concept of a Rapid Transit Scheme between the A12 and Colchester Station (and beyond) is fully supported by the adopted and emerging Colchester Local Plan. Indeed, some sections of this route have already been implemented or granted planning permission. This note has sub-divided Section A into four sub-sections (A1-A4 – see **Figure 2**) to reflect the different planning status and requirements. The planning status and/or requirements associated with each is summarised below.

1. **Section A1** - the requirement for a planning consent will be determined by whether the land required for the proposed widening falls outside of the highway boundary and/or whether the proposal is likely to give rise to significant environmental effects. Further work needs to be undertaken to establish answers to both of these questions.
2. **Section A2** – It is proposed that the RTS would utilise the existing on-carriageway bus lanes. No further planning consents would be required for this section of the RTS.
3. **Section A3 – Option A** presents the least planning and programme risk is the utilisation of extant planning permission ref: F/COL/01/1626 for the segregated busway. ECC will need to submit and agree the outstanding details required by condition 6 of this planning permission including any variations required to the relevant junctions. Delivery of the scheme will require acquisition of some land which is currently outside the highway boundary.
4. **Section A3 - Options B and C** require the land safeguarded for the segregated busway (under planning permission F/COL/01/1626) to be used for the widening of the existing carriageway. These options are likely to require a new planning application, as they would both represent a material change to the consented scheme. As such they present a significant programme risk. Furthermore, both may also put at risk the receipt of the £2 million Section 106 contribution (from the developers of the Severalls Hospital site) towards “the provision of a segregated 2-way single carriageway to the west of and parallel to NAR2”.
5. **Section A4.** It is understood that the improvements proposed for this Section of the route do not require any additional land take beyond highway boundaries. Based on this assumption planning consent would not be required as it should be capable of delivery under permitted development rights unless the scheme would give rise significant cumulative environmental effects – to allow for on road bus lanes.

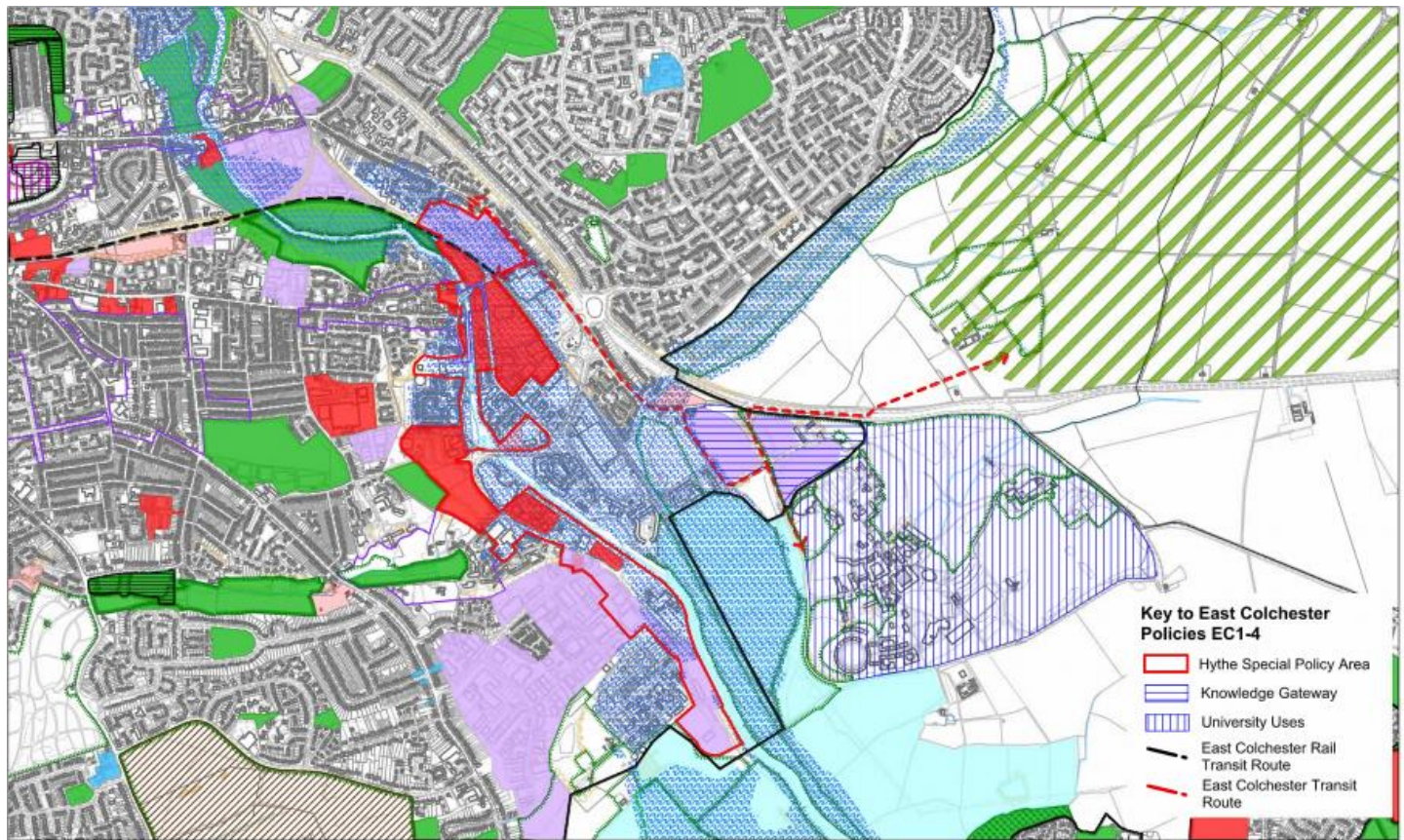
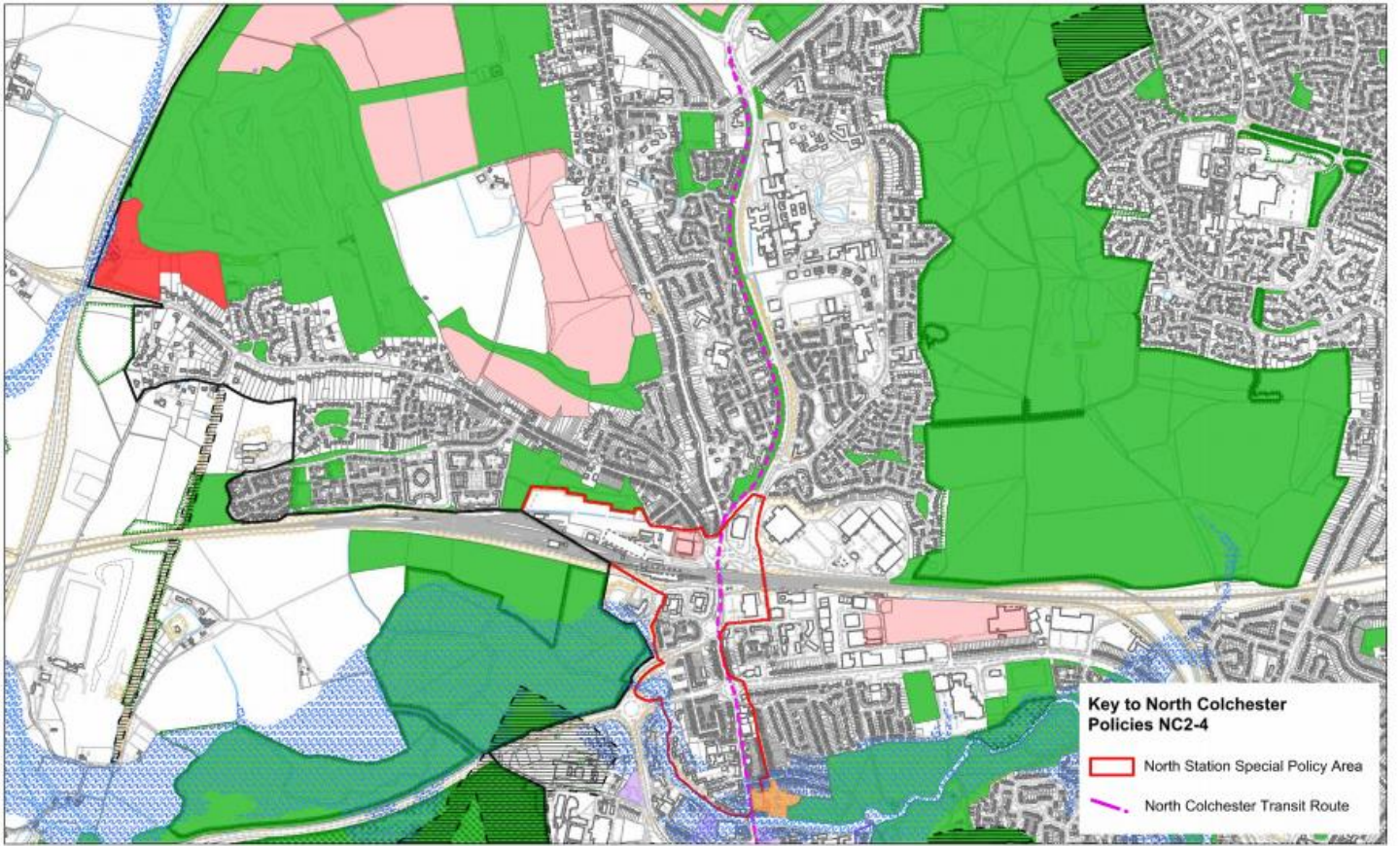
### 7.2 Recommendation

ECC should seek legal advice on the validity/applicability of the Severalls Hospital Section 106 agreement (that secures £2 million towards the segregated busway alongside NAR2), in the event that a new planning permission is secured for an on-carriageway bus-lane to replace the consented segregated busway. The purpose of the advice is to establish whether a revision to the agreement would be required to ensure that the financial contribution can be used to deliver an alternative scheme. If a revision is required, we recommend that ECC discuss the implications of this with CBC (as the local planning authority) at the earliest opportunity.

## Appendix A. Extract from Adopted Proposals Map

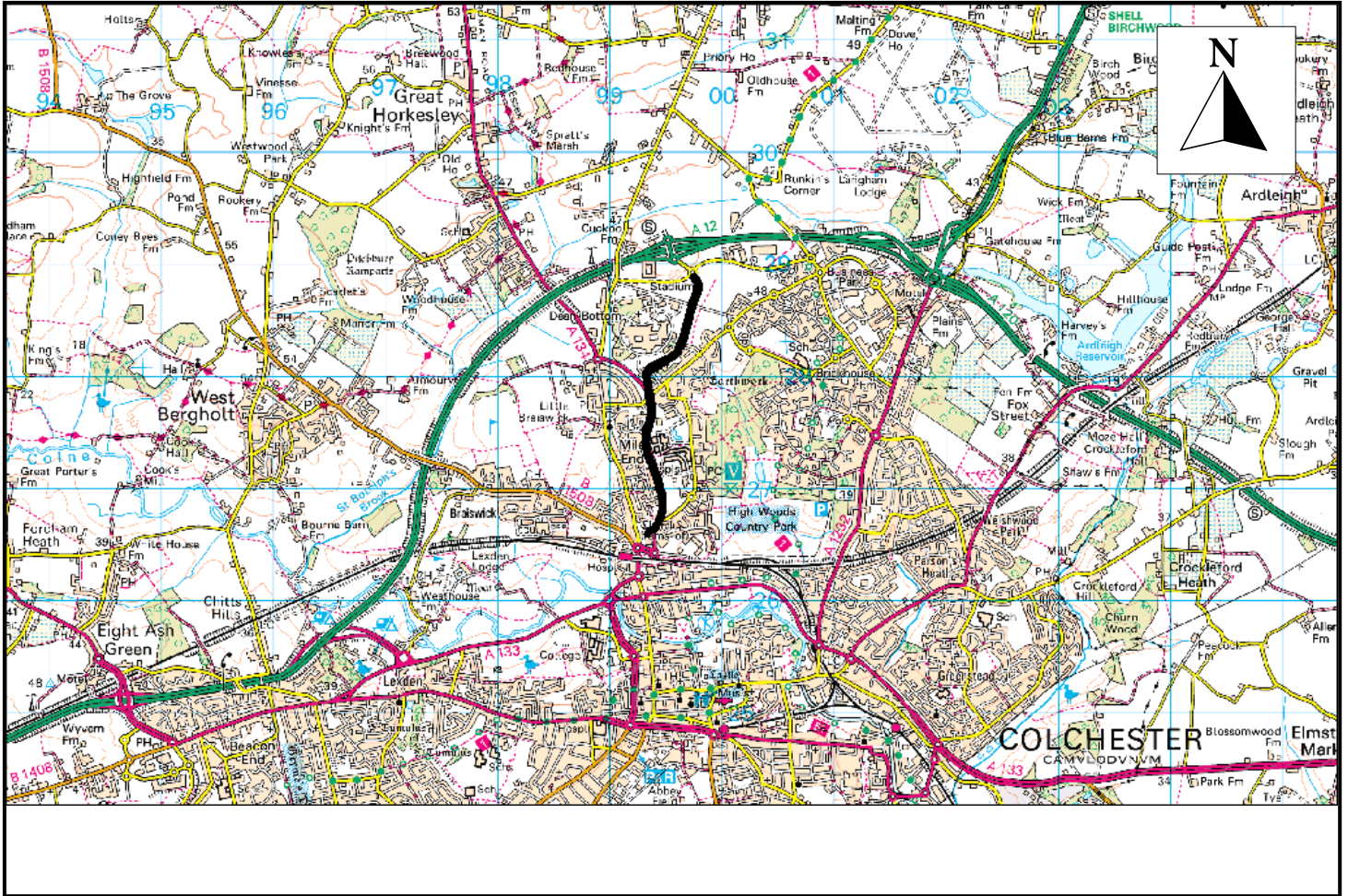


# Appendix B. Extract from Emerging Policies Map



# Appendix C. 2012 Committee Report





**Application No:** F/COL/01/1626

**Location:** A12/Northern Approaches Road, Mile End, Colchester, Colchester

**Scale (approx):** NOT TO SCALE

The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of PO Box 884, Town Hall, Colchester CO1 1FR under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority.

Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use.

This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

Crown Copyright 100023706 2012

## 7.2 Case Officer: Lucy Mondon

**OTHER**

**Site:** A12t/Northern Approaches Road, Mile End, Colchester, Colchester

**Application No:** F/COL/01/1626

**Date Received:** 25 September 2012

**Agent:** Jacobs

**Applicant:** Essex County Council Highway Authority

**Development:** Submission of details of proposed bus-way and associated works pursuant to condition 6 of planning permission F/COL/01/1626.

**Ward:** Mile End

**Summary of Recommendation:** Approve details for conditions 4, 6, 7, 14, 17 & 18

### 1.0 Reason for Referral to the Planning Committee

1.1 The determination of details required by a condition of planning permission is normally the subject of a delegated decision by virtue of The Colchester Borough Council Constitution (Scheme of Delegation of Officers December 2012). However, due to the scale of what is being proposed under condition, it has been determined prudent, in this case, for the application to be determined at Planning Committee.

1.2 The application is also referred to the Planning Committee at the request of Councillor Goss on the grounds of: impact on residential amenity; highway safety; environmental impact and air quality; and impact on veteran oak tree.

### 2.0 Synopsis

2.1 The bus-way already benefits from planning permission. Planning permission was granted in 2006 for the Northern Approach Road 3 (NAR3) and segregated bus-way (ref: F/COL/01/1626). The permission is extant as development has commenced. Condition 6 of this permission requires details of the bus lane to be submitted and agreed by the Local Planning Authority. Details have also been submitted with regards to drainage, lighting, landscaping, trees, protected species, and noise. These details relate to conditions 4, 7, 9, 14, 17, 18, and 20 of the same planning permission. The Decision Notice is included as an appendix to this report for reference.

2.2 Details were submitted on 25<sup>th</sup> September 2012. Following extensive consultation with local residents, internal consultees and external professional bodies, revised details were submitted on 20<sup>th</sup> December 2012 in order to address issues relating to residential amenity, highway safety, environmental implications, landscaping, and the impact upon a veteran oak tree.

- 2.3 Further details were submitted on 20<sup>th</sup> February 2013 that sought to address concerns regarding noise levels for local residents.
- 2.4 The key issues explored below are: residential amenity; air quality; highway safety; trees and landscaping; biodiversity; and flood risk and drainage.

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

- 3.1 The site lies to the west of the Northern Approach Road (NAR2), running from Bruff Close to Mill Road, between the NAR2 and a modern residential development. There is currently a landscaped bund along the edge of the NAR2 that obscures views of the site from the NAR2. This screen will remain.
- 3.2 There is a modern residential development adjacent to the bus-way site, with some of the properties fronting onto the bus-way: No's 7-17 (odds) and 8-12 (evens) Hakewill Way; No. 151 Hakewill Way; and No's 14-24 Bardsley Close.
- 3.3 There is an area of TPO trees to the south of the site, adjacent to Bruff Close. The bus-way site crosses two footpaths: footpath 54 at the south of the site, and footpath 61 located between Wallace Road and Dickenson Road.

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

- 4.1 The details of the bus-way have been submitted as required under Condition 6 of planning permission F/COL/01/1626. Details have also been submitted with regards to drainage, lighting, landscaping, trees, protected species, and noise. These details relate to conditions 4, 7, 9, 14, 17, 18, and 20 of the same planning permission.

For clarity, the relevant conditions are:

Condition 4: Drainage works  
Condition 6: Details of bus-way  
Condition 7: Lighting  
Condition 9: Landscaping  
Condition 14: Trees  
Condition 17: Invertebrates survey  
Condition 18: Bat mitigation  
Condition 20: Acoustic report, sound attenuation fencing, and landscaping

The full wordings for the conditions are included in the Decision Notice, attached as an Appendix to this report.

- 4.2 The General Arrangement drawings submitted show the bus-way running from Bruff Close to Mill Road, where the bus-way would meet, and merge with, the Northern Approach Road Phase 3 (NAR3) (yet to be constructed). The bus-way would be open to buses and bicycles only. Taxis and motorcycles would not be permitted to use the bus-way. CCTV cameras would be put in place to prevent unauthorised use of the bus-way and to deter anti-social behaviour.
- 4.3 In terms of hours of operation, the bus-way would be open 24 hours a day. However, the bus-way is unlikely to be used on a 24 hour basis. For example, the future Park and Ride service is proposed to operate from 7am to 7pm.

- 4.4 Landscaping and noise attenuation barrier concept has been submitted. The landscape details show planting schemes along both sides of the bus-way. The noise attenuation barriers will be timber noise fencing, ranging between 1.8 metres and 2.5 metres high, except where light levels to facing windows are likely to be affected. In these instances a perspex barrier is likely to be used, although the details of this will be established at a later date (under condition 20) following further consultation between Essex County Council and local residents in order to establish which properties are affected and whether any individual preferences can be taken into account.
- 4.5 Some trees would need to be removed to make way for the bus-way. One of the trees to be removed is a Veteran Oak Tree, located to the south of the site, which is protected under a Tree Preservation Order (TPO). Initial proposals sought to retain the Oak Tree. However, following consultation with the Council's Arboricultural Officer, there were concerns as to the health and limited life expectancy of the tree, due to its close proximity to the highway, and the potential risk to the public and highway users from the tree collapsing. A second opinion was sought from the Essex County Council Arboricultural Consultant Simon Smith. The subsequent Tree Report concluded that, due to the condition of the tree and its proximity to the proposed bus-way, it would need to be felled or pollarded to a height of 3-5 metres in order to prevent risk of its collapse onto the highway. Essex County Council determined that, as the tree would need to be pollarded to such a low level, there would be little benefit in retaining the tree. The details for the bus-way were then revised to show the removal of the veteran Oak Tree.
- 4.6 Traffic signals and crossings have been provided at the Wallace Road and Dickenson Road junctions. A crossing would be provided across the NAR at Wallace Road. Two bus stops would be provided on the busway (one in either direction): between Wallace Road and Dickenson Road.
- 4.7 Drainage layout drawings have been submitted. The drainage provides for surface water drainage, filter drains gullies and chambers, working alongside the existing Anglian Water pipe that runs along the length of the site.
- 4.8 Bat and reptile mitigation proposals have been put forward. The bat survey undertaken did not record any bats emerging from or entering the trees (scheduled for removal). However, as a precautionary mitigation measure it is proposed to soft fell these trees. Bat boxes are proposed in order to enhance bat roost potential. The reptile survey undertaken recorded very low levels of reptiles within the site. A watching brief and trapping and translocation programme is recommended in order to safeguard reptiles during construction and then relocate to a suitable habitat in the surrounding area.

## **5.0 Land Use Allocation**

- 5.1 The site is identified as a Transit Corridor and forms an essential component of the Council's objectives to tackle road congestion and improve public transport. The site is within a predominantly residential area.

## **6.0 Relevant Planning History**

- 6.1 Outline Planning Permission was granted for residential development and the NAR2 in 1998 (ref: 97/0221) with Reserved Matters being granted in 2002 (ref: RM/COL/01/1235). These permissions set out the location and extent of the bus-way.
- 6.2 Planning Permission was granted for the Northern Approach Road 3 (NAR3) and segregated bus-way in 2006 (ref: F/COL/01/1626). This permission is extant due to development having commenced. Condition 6 of this permission required details of the bus-way to be submitted.
- 6.3 The adjacent housing development was granted planning permission in a number of phases between 1998 and 2004 (ref: O/COL/97/0221; RM/COL/01/1211; RM/COL/01/1213; RM/COL/01/1235; O/COL/00/1281; RM/COL/03/1848; AND RM/COL/04/2100).
- 6.4 Planning Permission was granted by Essex County Council for a Park and Ride facility at Cuckoo Farm, Mile End in 2011 (ref:CC/COL/17/11). The Park and Ride would be to the north of Junction 28 of the A12 (completed in 2010).

## **7.0 Principal Policies**

- 7.1 The National Planning Policy Framework (2012) sets out the national planning principles that guide the decision taking process and how these are expected to be applied in practice. The NPPF makes it clear that planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF also sets out the Governments primary objective that there be “a presumption in favour of sustainable development”. There are three dimensions to sustainable development, which are an economic role, a social role and environmental role. The NPPF clarifies that these roles should not be undertaken in isolation, because they are mutually dependent.
- 7.2 Section 4 of the NPPF looks at ‘Promoting Sustainable Transport’, which states that transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion.
- 7.3 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (December 2008) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations

SD2 - Delivering Facilities and Infrastructure

UR2 - Built Design and Character

TA1 - Accessibility and Changing Travel Behaviour

TA3 - Public Transport

TA4 - Roads and Traffic

7.4 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):

DP1 Design and Amenity  
DP18 Transport Infrastructure Proposals  
DP20 Flood Risk and Management of Surface Water Drainage  
DP21 Nature Conservation and Protected Lanes

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

SA NGA4 Transport measures in North Growth Area  
SA NGA5 Transport Infrastructure related to the NGAUE

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

Air Quality Management Guidance Note (2012)  
Artificial Lighting Planning Guidance Note  
Myland Parish Plan (2012)

## **8.0 Consultations**

8.1 Spatial Policy: The adopted local development framework is very supportive of improvements to public transport and delivering the Transit Corridors. The NAR Busway forms an important part of this network and will support development in north Colchester and help address congestion by providing an alternative to the car. The revised proposal accords with the policies set out in adopted LDF documents.

8.2 Environmental Protection:

- (i) No objections with regards to noise as noise levels will be below the 3dB considered to be a noticeable change in noise level.
- (ii) There is concern that the noise barriers may result in some properties being affected by loss of natural light. The applicant should identify such properties and provide an assessment of the effect of the acoustic fence on light levels affecting windows.
- (iii) The Highways Authority has considerable expertise with assessing designs for road lighting schemes and Environmental Protection do not usually assess such schemes. Request that the Highways Authority confirms that all lighting of the Rapid Transit Route (including resultant sky glow, light trespass, source intensity and building luminance) fully complies with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note for EZ3 small town centres or urban locations.
- (iv) No objections with regards to Air Quality. Colchester Borough Council intends to introduce a Low Emission Strategy that is likely to include a minimum standard of Euro 4 (or alternative low emission fuel) vehicles to routes that come into the AQMA.

8.3 Arboricultural Officer: In agreement with the report submitted by Simon Smith and in support of the proposals to remove the veteran Oak Tree given lifespan and safety matters.

- 8.4 Landscape Officer: The concept proposals are, for the most part, acceptable. Maintenance detail for meadow and amenity grass proposals are not required until the overall concept has been agreed and will not therefore be assessed by the Landscape Planning Officer until such concept is agreed, when the detail will need to be cross-checked against the Council's 'Submitting Landscape Proposals' and 'Guidance Notes A (LIS/A)'. Amenity grass verge will be required either side of the RTR for maintenance reasons. For the sake of the assessment of landscape concept therefore the grassed areas have been read as a whole. Amendments will be required in order to take into account the compatibility with proposed lighting, CCTV, signs and tree positions.
- 8.5 Environment Agency: No objections.
- 8.6 Anglian Water: No comments received.

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

## **9.0 Parish Council Response**

- 9.1 There have been two meetings with Myland Community Council since September 2012 to discuss the proposals.
- 9.2 Myland Community Council have stated that they currently have a holding objection to the proposal due to lack of information.

## **10.0 Representations**

- 10.1 A public consultation exercise was undertaken by Essex County Council and Jacobs on 24<sup>th</sup> July 2012, the details of which are reported in the Local Consultation Report: 24 July 2012 submitted.
- 10.2 Two consultations were carried out: the first being after details were submitted on 25<sup>th</sup> September 2012; the second being following receipt of revised details that were submitted on 20<sup>th</sup> December 2012.

### Initial Consultation:

- 10.3 Sixteen letters of objection were received, the contents of which are summarised as follows:
- The loss of shrubland will result in the loss of wildlife including bats, foxes, deer, badgers, hedgehogs, and birdlife;
  - The loss of shrubland will result in the loss of a natural noise barrier;
  - Air pollution;
  - Noise issues;
  - There will be increased traffic from the proposed 1300 residential estate, making noise and traffic congestion worse;
  - Lack of strategic traffic planning: the bus lane will not improve traffic flow as traffic will still enter a bottleneck by the Turner Retail Village and railway station;
  - Buses will still use Bruff Close and block the roundabout at North Station;

- The height of fences will not ensure privacy to rear gardens;
- No crash barriers are proposed;
- Concern that the Anglian Water pipes under the bus lane will be damaged and cause damage to neighbouring properties;
- The bus lane will also be used by taxis and motorcycles at all times of the day and night which will increase noise disturbance;
- The junctions at Wallace Road and Dickenson Road are already dangerous and will be made worse by having to negotiate a bus lane and then the traffic on the Northern Approach Road;
- The bus lane will affect property values;
- If double decker buses are used, privacy will be lost;
- The bus lane will not be dug down due to the Anglian Water pipes and will be higher than garden levels;
- No crossings have been provided across the bus lane or at Wallace Road and Dickenson Road;
- Do not need a bus lane: traffic flows freely;
- The proximity of Bardsley Close to the bus lane is dangerous and a significant natural barrier is required;
- Six foot fences in close proximity to Bardsley Close would make houses very dark;
- No security measures have been provided to prevent unauthorised access to bus lane;
- The proposed junction with Mill Road is unsafe as drivers will need to look left and right simultaneously in order to turn into Mill Road;
- Residents will not benefit from the bus lane as only two stops are provided (one each way). In comparison, Mile End Road has ten bus stops.

10.4 Five letters of comment were received, the content of which is summarised below:

- Seeking confirmation that the bus lane will be situated on the northern side of the noise barriers along Mill Road;
- How will the road works affect Mill Road?;
- Traffic controls are necessary at Wallace Road and Dickenson Road;
- It is reasonable to expect improvements to the crossing of the Northern Approach Road for children and families attending Queen Boudica School;
- Tall trees should be provided to separate the estate from the bus lane and to provide some greenery to the estate;
- Concern regarding the industrialisation of the surrounding area and the reduction in countryside: there would be some reassurance in the full consideration of the retention of existing greenery and the provision of new planting to protect neighbouring properties from noise, pollution and the unsightliness of the new bus lane.



## Second Consultation

10.5 A further consultation was undertaken following the submission of revised details, on 20<sup>th</sup> December 2013. This generated one letter of comment and one letter of support, withdrawing a previous objection. The comments received are summarised as follows:

- Support for the bus lane joining Bruff Close;
- The traffic signal approach at the junctions of Wallace Road and Dickenson Road is not unreasonable;
- A grade separated junction should be considered at Mill Road. The current situation requires traffic to queue within the junction. The junction capacity will be reduced, making the situation less secure for turning vehicles;
- Support for the proposed pedestrian crossing at the junction of Wallace Road and the Northern Approach Road that has now been incorporated into the plans making it safer to cross (especially for school children).

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

### **11.0 Parking Provision**

11.1 N/A

### **12.0 Open Space Provisions**

12.1 N/A

### **13.0 Air Quality**

13.1 All local authorities (LAs) are obliged to review and assess air quality in their boroughs or districts under the Environment Act 1995. A requirement of the Act was that the UK Government was to prepare an Air Quality Strategy for England, Wales, Scotland and Northern Ireland. The Air Quality Strategy was published in January 2000 with a revised version published in 2007. Within the Air Quality Strategy, national air quality objectives are set out, and LAs are required to review and assess air quality against these objectives. Like most other Districts in the region which do not have large industrial processes, the main source of local air pollution in Colchester is from motor vehicles. Particular problems arise locally where traffic is slow moving through old, narrow streets near the historic centre of the town.

13.2 The site is outside of any Air Quality Management Area (AQMA), but would have some impact on these areas by introducing a dedicated bus-way into the town. A dedicated bus-way and improved bus service would encourage greater use of public transport which would reduce the number of cars entering the town, thereby reducing the levels of car fumes in this area. Further, Colchester Borough Council intends, as part of an Air Quality Action Plan, to introduce a Low Emission Strategy that is likely to include a minimum standard of Euro 4 (or alternative low emission fuel) vehicles to routes that come into the AQMA which will improve air quality.

## **14.0 Development Team and Planning Obligations**

- 14.1 This application is to submit details pursuant to a condition of planning permission. The 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 (S106) of the Town and Country Planning Act 1990.

## **15.0 Report**

- 15.1 The bus-way already benefits from planning permission. Details have been submitted as part of a condition of an extant planning permission. Therefore, the assessment of the submitted details is not whether permission should be given to the bus-way, but whether the detailed layout and design of the bus-way is acceptable. The main planning considerations are: impact on local amenity; highway safety; impact on trees and biodiversity; landscaping; and drainage and flood risk.
- 15.2 In terms of the impact upon local amenity, the main consideration is how the bus-way will impact upon noise levels and whether this can be adequately mitigated. Noise mitigation was taken into account in the design of the adjacent residential development as the NAR2 and location of the bus-way already had planning permission. However, it has been concluded that some additional noise mitigation is required so that the bus-way has as little impact, in terms of noise and disturbance, on neighbouring properties as possible. Following initial discussions with Essex County Council, it was determined that noise attenuation barriers should be provided and that taxis and motorcycles should not use the bus-way in order to reduce noise impacts.
- 15.3 A revised noise report has been submitted as part of the application, taking into account the requirement for additional noise attenuation measures. The report works on the basis that an increase in noise levels of 3dB represents the point at which noise change is noticeable or significant. The report demonstrated that the bus-way, with no acoustic barrier, would result in noise levels above 3dB. However, with acoustic fencing in place, the noise levels would be below 3dB for all properties along the bus-way route. The highest levels of noise increase would be at the first-floor of Nos. 73-81 Hakewill Way (2.1dB). In some instances, the noise levels will be improved, such as at No. 4 Cambie Crescent (-1.8dB). It is therefore concluded that the bus-way can be provided in the layout proposed without significant impact on local amenity in terms of noise.
- 15.4 Some properties front onto the site, or have windows facing the site, and could, therefore, be affected in terms of loss of light from the acoustic barrier (required in order to mitigate noise levels from the bus-way). In most instances, the position of the acoustic barrier in relation to facing windows would allow for sufficient light to enter the window, allowing for an unobstructed 25 degree vertical angle from a point 2 metres above the floor at the façade as recommended by the Essex Design Guide. Where this cannot be achieved (e.g. at No. 1 Dickenson Road which has a bay window adjacent to the acoustic barrier), a perspex barrier can be installed to allow for light to enter the window. A perspex barrier would have the same noise attenuation as a standard timber acoustic fence. Precise details of the fencing will be submitted at a later stage, under condition 20, once the affected properties have been identified and the exact type of barrier has been determined.

- 15.5 There is not considered to be a loss of privacy to adjacent properties from single-decker buses. The Park and Ride would utilise single-decker buses. Should double-decker buses be utilised, or other bus operators with double-decker buses use the bus-way in the future, the top deck of double-decker buses would be above the height of boundary walls and fences. However, it is not considered that there would be a significant level of overlooking from bus passengers to adjacent properties as the bus-way would be between 4-8 metres from rear garden boundaries and the buses would be moving, not at a stand still.
- 15.6 Construction working hours are controlled under condition 22 of the original permission. The hours within which the movement of heavy goods vehicles can take place and plant, machinery, or power tools can operate is controlled under condition 23. The wording for these conditions can be found in the Decision Notice attached to this report as an appendix.
- 15.7 Essex County Council have confirmed that the lighting proposed along the bus-way complies with the figures and advice specified in the Colchester Borough Council External Artificial Lighting Planning Guidance Note for EZ3 (small town centres or urban locations). There are, therefore, no objections to the lighting element of the proposals.
- 15.8 In terms of highway safety, the initial consultation highlighted a number of concerns regarding crossings, difficulties in entering and exiting Wallace Road and Dickenson Road, and the absence of crash barriers. Since the initial consultation, amendments have been made to the proposals. The amendments include a crossing across the NAR at Wallace Road and the installation of traffic signals at Wallace Road and Dickenson Road. The additional traffic signals will improve ingress and egress to and from Wallace Road and Dickenson Road, as well as be of benefit to pedestrians wishing to cross these roads.
- 15.9 No crash barriers are proposed as part of the bus-way details. The bus-way would have a speed limit of 30mph and would not be used by motorcycles and taxis, thereby reducing risk of traffic collisions. The bus-way has been designed in accordance with the Design Manual for Roads and Bridges and a risk assessment has been undertaken by Essex County Council which demonstrates that the current design of the bus-way is suitable. A kerb will be provided along both sides of the bus-way.
- 15.10 The provision of the bus-way would involve the removal of some trees in the vicinity of Bruff Close: one Poplar would be removed, as would a veteran Oak Tree, both of which are protected under a Tree Preservation Order (TPO 27/98). All other trees would be retained. There is no objection to the removal of the Poplar or Oak Tree. The Poplar is of low quality and its loss would not be detrimental to the group value of the remaining trees. The Oak Tree is a veteran tree and it is rare to find a tree of this size and age in the urban landscape. Ideally, the tree would be in a more open landscape where it would eventually collapse and decay naturally. However, the tree is already in close proximity to existing development and having considered the lifespan of the Oak Tree, which is largely hollow due to natural decay, and the risk of its collapse in close proximity to the proposed bus-way, the proposal to remove the tree is considered to be acceptable.

- 15.11 The landscape proposals are at concept stage, with detailed plans to be submitted at a later date as part of condition 9 of the planning permission. The concept drawings do show that there will be landscaping to both sides of the bus-way and the concept has been agreed as acceptable by the Council's Landscape Officer.
- 15.12 Since planning permission was granted, the bus-way site has become overgrown (in parts) and, as a result, is a suitable habitat for protected species. In accordance with conditions 17 and 18 of the planning permission, an invertebrates survey and bat survey has been carried out. Both surveys recorded very low levels of activity within the site and made recommendations for mitigation and enhancement opportunities. The provision of the bus-way would not, therefore, have a significant impact on protected species, subject to mitigation measures as recommended in the survey reports.
- 15.13 Drainage details have been submitted as part of the proposals that show surface water drainage, including drains, gullies, and chambers. The Environment Agency has no objection to the proposals. Anglian Water has not responded to consultation. However, in terms of the local resident concerns regarding potential damage to the Anglian Water pipe that runs along the bus-way site, Essex County Council are in receipt of details from Anglian Water as to the siting and type of pipe and will take precautions so as not to cause any damage.
- 15.14 Concerns have been raised with regard to increased traffic and congestion, particularly at the North Station roundabout. Concerns have also been raised as to the impact on traffic level from the North Growth Area Urban Expansion (NGAUE). The provision of a dedicated bus-way will provide an improved public transport system, with the aim to reduce independent car travel into the town, thereby reducing the number of cars on the road and resultant congestion. Proposals are also being formalised in terms of bus priority in the area of the North Station roundabout and the adjacent bridge, with the intention of improving traffic flows. In terms of the NGAUE, this site does not benefit from planning permission. The traffic implications of this development will need to be assessed as part of the development proposals for the site and not as part of this proposal as the development does not exist and does not benefit from planning permission. A planning application has been submitted for the site (ref: 121272) and is currently being assessed.
- 15.15 Local residents have raised concerns as to how the bus-way will affect house prices. However, this is not a material planning consideration and cannot be taken into account as part of the assessment of this application. The location of the bus way was approved as early as 1998 and was taken into account as part of the design of the adjacent residential estate.

## **16.0 Conclusion**

- 16.1 The details submitted are considered to be acceptable and conditions 4, 6, 7, 14, 17 and 18 in so far that they relate to the segregated bus-way element of planning permission F/COL/01/1626. It is considered that noise mitigation measures and acceptable levels of landscaping can be achieved along the bus-way, the details of which can be agreed at a later date as part of conditions 9 and 20 of the planning permission.

16.2 The bus-way would help to combat congestion in the town and would deliver benefits to the wider community by providing improved public transport. The bus-way was originally granted planning permission in 1998 and its future provision was incorporated into the design of the adjacent residential estate.

## **17.0 Recommendation**

APPROVE details for conditions 4, 6, 7, 14, 17, and 18 as follows:

Condition 4: Drainage details for the segregated bus-way. As per drawings B3553000/0500.01a/0000 P1, B3553000/0500.01a/0001 P1, B3553000/0500.01a/0002 P1, B3553000/0500.01a/0003 P1, B3553000/0500.01a/0004 P1, and B3553000/0500.01a/0005 P1, received by the Local Planning Authority on 20<sup>th</sup> December 2012.

Condition 6: Details of the segregated bus-way. As per General Arrangement drawings B3553000/0000.01a/0000 P4, B3553000/0000.01a/0001 P5, B3553000/0000.01a/0002 P5, B3553000/0000.01a/0003 P5, B3553000/0000.01a/0004 P5, and B3553000/0000.01a/0005 P5; Traffic Signs and Road Markings drawings B3553000/1200.01a/0000 P3, B3553000/1200.01a/0001 P3, B3553000/1200.01a/0002 P3, B3553000/1200.01a/0003 P3, B3553000/1200.01a/0004 P3, and B3553000/1200.01a/0005 P3; and Conceptual Signalisation drawings B3553000/0000.01a/0010 P1, B3553000/0000.01a/0011 P1, and B3553000/0000.01a/0012 P0, received by the Local Planning Authority on 20<sup>th</sup> December 2012.

Condition 7: Lighting details. As per Lighting drawings B3553000/1300.01a/0000 P2, B3553000/1300.01a/0001 P3, B3553000/1300.01a/0002 P3, B3553000/1300.01a/0003 P3, B3553000/1300.01a/0004 P3, and B3553000/1300.01a/0005 P3, received by the Local Planning Authority on 20<sup>th</sup> December 2012.

Condition 14: Details of trees to be removed. As per Essex Highways Northern Approach Road, Colchester Rapid Transfer Route Tree Report, dated 29<sup>th</sup> November 2012, received by the Local Planning Authority on 20<sup>th</sup> December 2012.

Condition 17: Reptile Survey Report, dated November 2012, received by the Local Planning Authority on 20<sup>th</sup> December 2012.

Condition 18: Dusk Emergence and Dawn Re-entry Bat Survey Report, dated November 2012, received by the Local Planning Authority on 20<sup>th</sup> December 2012.

## **18.0 Recommended Reasons for the Decision**

18.1 N/A

## **19.0 Conditions**

19.1 N/A

## **20.0 Informatives**

(1) The Applicant/Agent/Developer is advised that, whilst the concept for noise attenuation barriers and landscaping is agreed, details are expected to be submitted as part of conditions 9 and 20 before the conditions can be fully agreed.

## **21.0 Positivity Statement**

21.1 N/A



Colchester Borough Council

Planning and Protection

PO Box 889  
Town Hall  
Colchester  
Essex  
CO1 1FL

## Notice of Planning Decision

DECISION NOTICE  
TOWN AND COUNTRY PLANNING ACT 1990  
THE TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE) ORDER  
1995

---

In pursuance of the powers exercised by it as District Planning Authority this Council, having considered your application to carry out the development detailed below in accordance with the plan(s) accompanying the said application, does hereby give notice of its decision to GRANT PERMISSION for the said development subject to any additional condition(s) set out below.

**APPLICATION NO:** F/COL/01/1626      **APPLICATION DATE:** 12th October 2001

**PROPOSAL:** Detailed application for the construction of the Northern Approaches Road Phase 3 (NAR3) including a new grade separated junction with the A12 and east/west link road to Severalls Lane plus all ancillary highway works (including segregated bus corridor).

**LOCATION:** A12T/Northern Approaches Road, Mile End, Colchester

**APPLICANT:** Colchester Borough Council & Secretary of State for Health PO Box 884 Town Hall High Street Colchester Essex C01 1FR

subject to compliance with the following condition(s) :-

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

Reason: In order to comply with Section 91 (1) and (2) of the Town and Country Planning Act 1990.

DC100MW 02/02

**IMPORTANT – ATTENTION IS DRAWN TO THE NOTES ATTACHED**

PD437



## Notice of Planning Decision

2. The development hereby permitted shall be implemented in all respects strictly in accordance with drawing nos.

2000-731/TC/01 Rev B  
2000-731/TC/02 Rev A  
2000-731/TC/03 Rev B  
2000-731/P3/01 Rev C  
2000-731/P3/02 Rev C  
2000-731/P3/03 Rev C  
2000-731/P3/04 Rev C  
2000-731/P3/05 Rev E  
2000-731/P3/06 Rev B  
2000-731/P3/07 Rev C  
2000-731/P3/08 Rev B  
2000-731/P3/09 Rev B

unless the Local Planning Authority first gives written approval to any variation.

Reason: To ensure the development is carried out as approved and to ensure any changes are agreed in advance with the Local Planning Authority in the interest of securing satisfactory highway capacity and safety design.

3. No development shall take place within each phase or part thereof until details of foul and surface water drainage as part of the complete strategy for the Severalls Hospital/Cuckoo Farm Development for both works on and off site have been submitted to and approved in writing by the Local Planning Authority. The drainage works shall be completed in accordance with the approved details which shall include a timescale for completion.

Reason: To ensure satisfactory drainage of the site.

4. No development shall take place within each phase or part thereof until drainage works, both on and off site, have been carried out in accordance with details to be submitted to and approved in writing by the Local Planning Authority unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure satisfactory drainage of the site.





## Notice of Planning Decision

5. No works within each phase or part thereof which will result in the discharge of surface/foul water from the site shall be commenced until the approved off-site drainage works have been completed.

Reason: To ensure satisfactory drainage of the site.

6. Details of all highway works (including the proposed Segregated Bus Way) not previously agreed under the approved drawing nos. listed at Condition 2 above, shall be agreed in writing by the Local Planning Authority prior to any works commencing on site. These details shall include all details of lighting, lining, signing and drainage for the purposes of engineering and safety audit approval and both cross section and longitudinal details in locations which shall have previously been approved in writing with the Local Planning Authority. The highway details shall be implemented as approved unless the Local Planning Authority first gives written approval to any variation.

Reason: To ensure the details are satisfactory in terms of highway capacity, safety and design, quality of materials and finished work.

7. No external lighting fixtures or moveable lighting for any purpose (including areas of public open space) shall be constructed or used or installed whether for temporary or permanent use in each phase of development or part thereof until details of all external lighting proposal within that phase of development or part thereof have been submitted to and approved by the Local Planning Authority, and no lighting shall be constructed or installed other than in accordance with those approved details unless the Local Planning Authority first gives written approval to any variation.

Reason: To reduce the undesirable effect of light pollution on the amenities of the occupants of nearby property and to mitigate against adverse impacts to wildlife.

8. Services/utilities shall not be laid under any landscaped area up to the date of adoption or completion of the landscaping scheme; whichever is appropriate, without the prior written approval of the Local Planning Authority.

Reason: In order to ensure that the landscaped areas are maintained to a satisfactory standard and to ensure that the development proceeds in a co-ordinated and comprehensive manner having regard to, amongst other things, the status of the Severalls site as an Historic Park and Garden (Grade II) and the protection of existing trees by virtue of Tree Preservation Orders 1/91 and 24/01.



## Notice of Planning Decision

9. No development shall take place within each phase or part thereof until full details of landscaping works within that phase or part thereof (to include proposed tree, shrub and hedge planting and replacement planting, together with a date for completion) have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include proposed finished levels or contours; minor artefacts and structures (e.g. street furniture, signage, lighting etc.); proposed and existing functional services above and below ground (e.g. drainage; communication cables; pipelines etc).

Reason: To safeguard the provision of amenity afforded by appropriate landscape design and to ensure that the development proceeds in a co-ordinated and comprehensive manner having regard to, amongst other things, the status of the Severalls site as an Historic Park and Garden (Grade II) and, the protection of existing trees by virtue of Tree Preservation Orders 1/91 and 24/01.

10. All landscape works shall be carried out in accordance with the approved details unless the Local Planning Authority first gives written approval to any variation.

Reason: To ensure the provision and implementation of a reasonable standard of landscape in accordance with the approved design and to ensure that the development proceeds in a co-ordinated and comprehensive manner having regard to, amongst other things, the status of the Severalls site as an Historic Park and Garden (Grade II) and, the protection of existing trees by virtue of Tree Preservation Orders 1/91 and 24/01.

11. If within a period of five years of the date of the planting of any tree, shrub or hedge (or any replacement for them) is removed, uprooted or destroyed or dies, another tree shrub or hedge of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.

Reason: To ensure the provision and implementation of a reasonable standard of landscape in accordance with the approved design and to ensure that the development proceeds in a co-ordinated and comprehensive manner having regard to, amongst other things, the status of the Severalls site as an Historic Park and Garden (Grade II) and, the protection of existing trees by virtue of Tree Preservation Orders 1/91 and 24/01.



## Notice of Planning Decision

12. No development shall take place until a long term landscape/tree management plan, including management responsibilities and maintenance schedules for all planted and landscaped areas shall be submitted to and approved in writing by the Local Planning Authority. The landscape/tree management plan shall be implemented as approved.

Reason: To ensure that due regard is paid to the continuing enhancement and maintenance of amenity afforded by the landscape and to ensure that the development proceeds in a co-ordinated and comprehensive manner having regard to, amongst other things, the status of the Severalls site as an Historic Park and Garden (Grade II) and, the protection of existing trees by virtue of Tree Preservation Orders 1/91 and 24/01.

13. No development shall take place within each phase or part thereof until the following details have been submitted to and approved in writing by the Local Planning Authority:

- (a) A plan showing the location of, and allocating a reference number to, each existing tree, on or near the site which has a stem diameter, measured over the bark at point 1.5 metres above ground level, exceeding 75mm, showing which trees are to be retained and the crown spread of each tree and those to be removed.
- (b) details of the species, diameter (measured in accordance with paragraph (a) above), and the approximate height, and an assessment of the general state of health and stability of each retained tree which is on land adjacent to the site and to which paragraphs (c) and (d) apply.
- (c) Details of any proposed topping or lopping of any tree to be retained or of any tree on land adjacent to the site
- (d) Details of any proposed alterations in existing ground levels, and the position of any proposed excavation, within the crown spread of any retained tree or of any tree on land adjacent to the site, or deeper than 2.0 metres on sandy soils within 1.5 metres times the height of the trees identified in paragraph (a) above
- (e) Details of the specification and position of fencing and any other measures to be taken for the protection of any retained tree from damage before or during the course of development.

The plans and particulars referred to in this condition shall specify which of the trees protected by Tree Preservation Order are to be retained and which are to be felled.

Reason: To enable proper attention to be given to the impact of the proposed development on existing trees and to ensure that the development proceeds in a co-ordinated and comprehensive manner having regard to, amongst other things, the status of the Severalls site as an Historic Park and Garden (Grade II) and the protection of existing trees by virtue of Tree Preservation Orders 1/91 and 24/01.



## Notice of Planning Decision

14.
  1. No retained tree, shrub or hedge shall be cut down, uprooted or destroyed, nor shall any retained tree shrub or hedge be topped or lopped other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. Any topping or lopping approved shall be carried out in accordance with BS 3998 (Tree Work).
  2. If any retained tree, shrub or hedge shall be removed, uprooted or destroyed or dies, another tree, shrub or hedge shall be planted at the same place and that tree, shrub or hedge shall be of such a size and species, and shall be planted at such time, as may be specified in writing by the Local planning Authority. All works shall be carried out in accordance with BS 4428 : 1989 'Code of Practice for General Landscape Operations'.
  3. The erection of fencing for the protection of any retained tree, shrub or hedge shall be undertaken in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority before any equipment, machinery or materials are brought onto site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the Local Planning Authority.

Note: In this condition, 'retained tree, shrub or hedge refers to an existing tree, shrub or hedge which is to be retained in accordance with the approved plans and particulars contained with Environmental Statement Addendum 4 Tree Assessment, May 2003, and paragraphs 1 and 2 above shall have an effect until the expiration of five years from the completion of the development.

Reason: To safeguard existing trees within the site in the interest of amenity and to ensure that the development proceeds in a co-ordinated and comprehensive manner having regard to, amongst other things, the status of the Severalls site as an Historic Park and Garden (Grade II) and the protection of existing trees by virtue of Tree Preservation Orders 1/91 and 24/01.



## Notice of Planning Decision

15. No burning or storage of materials shall take place where damage could be caused to any tree, shrub or other natural feature to be retained on the site or on adjoining land (see guidance notes).

Reason: To protect the health of trees, shrubs and other natural features to be retained in the interest of amenity and to ensure that the development proceeds in a co-ordinated and comprehensive manner having regard to, amongst other things, the status of the Severalls site as an Historic Park and Gardens (Grade II) and, the protection of existing trees by virtue of Tree Preservation Orders 1/91 and 24/01.

16. No development shall take place in each phase or part thereof until a method statement relating to the means of construction and implementation of the approved development has been submitted to and approved in writing by the Local Planning Authority. Such method statement shall include:

- details of vehicular parking areas/service areas, construction site compounds and material and top soil storage
- nature of and methodology for all necessary works (including proposed 'no-dig construction' techniques) within protected areas including tools/plant to be used and protective measures taken (to accord with BS 5837:1991)
- details of on-site supervision whilst construction work is taking place, together with the method of communication with the Local Planning Authority.

Reason: To ensure that the development proceeds in a co-ordinated and comprehensive manner having regard to, amongst other things, the status of the site as an Historic Park and Garden (Grade II); the presence of a listed building; and, the protection of existing trees by virtue of Tree Preservation Orders 1/91 and 24/01.



## Notice of Planning Decision

17. No site clearance, demolition or construction works shall take place within the application site until an investigative survey has been undertaken to establish the presence of invertebrates on site. The survey shall be undertaken in accordance with details that shall have first been approved in writing by the Local Planning Authority and shall include details of the timing of the survey work. The survey shall identify details of any necessary mitigation measures (including methodology, timescale for completion, and long term maintenance and monitoring plan). The mitigation measures shall be implemented in accordance with the approved details unless the Local Planning Authority first gives written approval to any variation.

Reason: To ensure that the impacts of the development on protected species are investigated at the appropriate time of year and to properly mitigate against the predicted impacts.

18. No site clearance, demolition or construction works shall take place until details of mitigation measures to deal with the predicted impacts to bats (as identified by Addendum 5 'Bat Assessment' of the AERC Environmental Statement dated September 2003) have been submitted to and approved in writing by the Local Planning Authority. The details shall include methodology, timescales for completion, long term maintenance and monitoring plan. The mitigation measures shall be implemented in accordance with the approved details unless the Local Planning Authority first gives written approval to any variation.

Reason: To ensure that the impacts of the development on protected species are properly mitigated.

19. No site clearance, demolition or construction works shall take place until an ecological management plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include details of the monitoring of protected species and shall be implemented in accordance with the approved details.

Reason: To ensure that the impacts of the development on protected species are properly mitigated.



## Notice of Planning Decision

20. Further details, which shall include an acoustic report, of sound attenuation fencing and associated landscaping bunding shall be submitted to and approved in writing by the Local Planning Authority as part of the submission of the landscaping scheme referred to at Condition 9. Such details as shall have been agreed, including landscaping, shall be implemented in their entirety and as approved prior to the opening of that phase of the Northern Approach Road to which it relates unless the Local Planning Authority first gives written consent to any variation.

Reason: In order to protect local amenity.

21. No development shall take place within each phase of development or part thereof until a scheme to control construction noise has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented as approved unless the Local Planning Authority first gives written approval to any variation.

Reason: In order to protect local amenity.

22. No work associated with the implementation of this permission shall be carried out outside the hours of 0730-1830 hours Mondays to Fridays; 0730 -1300 hours (Saturdays); and at no time on Sundays or Public Holidays, except with the prior written consent of the Local Planning Authority.

Reason: In order to protect local amenity.

23. No movement of heavy goods vehicles or plant shall occur to, from or within the site associated with the site clearance, demolition or construction of the development (including the operation of plant, machinery or power tools) before 07:30 hours weekdays and Saturdays, nor after 18:30 hours weekdays and 13:00 hours Saturdays, and at no time on Sundays and/or Public Holidays.

Reason: In order to protect local amenity.

24. Details of all construction accesses, lorry/construction routes and any haul road provision relevant to each phase of development or part thereof that are required in connection with site clearance, demolition or construction shall be submitted to and approved in writing by the Local Planning Authority, prior to the commencement of any works within that phase or part thereof. The development shall be implemented in accordance with the approved details unless the Local Planning Authority first gives written approval to any variation.

Reason: In the interests of highway safety and to protect local amenity.



## Notice of Planning Decision

25. In respect of each phase of development or part thereof no site clearance, demolition or construction shall commence until arrangements for the control of dust and mud have been made to prevent, as far as is reasonably practicable, the deposit of dust on nearby property; and the accumulation of mud on the highway. Such arrangements shall be agreed in writing with the Local Planning Authority prior to commencement of each phase of the development or part thereof and shall be implemented in accordance with the approved details unless the Local Planning Authority first gives written approval to any variation.

Reason: In order to protect local amenity.

26. No development shall take place until details (including a date for commencement and completion of construction) of a 9ft/2.75m high brick wall to the rear/side (west) boundaries of 15 and 22 Romulus Close, 11 -16 (inclusive) Remus Close and 158 -166 (inclusive) Mill Road have been submitted to and approved in writing by the Local Planning Authority. The wall shall be constructed in accordance with the approved details unless the Local Planning Authority first gives written approval to any variation.

Reason: In order to protect the residential amenity of the occupants of those properties in Romulus and Remus Close.

### INFORMATIVES

#### 1. Section 106

The developer is advised that this application is the subject of a Section 106 Legal Agreement.

The developer is advised that the Section 106 Legal Agreement requires that reasonable endeavours are used to construct the new grade separated junction with the A12 (T) road within 4 years of the implementation of the Severalls permission (Local Planning Authority ref 0/COL/01/1624). The Local Planning Authority is keen to ensure that the construction of the A12 junction is completed at the earliest opportunity.





## Notice of Planning Decision

### 2. TPO Trees and Landscaping

The developer is advised that the site is covered by Tree Protection Orders 1/91 and 24/01. Any works to trees not expressly authorised by the grant of this planning permission will require the separate consent of the Local Planning Authority. Failure to secure the necessary consent prior to gaining the approval of the Local Planning Authority may result in prosecution.

The applicant/developer is advised, in connection with Condition 9 and 13 above, details of replacement planting shall include a minimum of two replacements in lieu of any one tree lost and should take account of the mitigation measures included within Addendum 4 'Tree Assessment' dated 4 May 2003 of the AERC Environmental Statement October 2001.

The developer is advised that the details submitted in relation to Conditions 9-16 should have regard to AERC Environmental Statement October 2001 Drawings BCAL/16.1, 16.2 and 17 and pages 15-20, 21, 22 and 23.

### 3. Highways and Construction Details

The developer is advised that a Section 278 Agreement will be required to be entered into with the Highways Agency to facilitate the construction of the grade separated junction on the A12(T). Before construction work could commence Highway Act orders would need to be published. The developers attention is drawn to the Section 106 legal agreement that accompanies this planning permission which places obligations upon the developer to secure a Section 278 Agreement in a timely and orderly manner.

All highways related details shall be agreed in conjunction either with Essex County Council Highway Authority or the Highway Agency as appropriate.

The developer is advised that the noise mitigation measures, including sound attenuation fencing and bunding, must be designed to ensure that all existing properties are predicted to receive noise levels below 60dB(A), taken as free field levels expressed as a LA10 (18 hour) (for the year 2013 and assuming high growth factors). The required acoustic report shall demonstrate how these noise levels will be satisfied.

The developer is advised that noise mitigation measures, including sound attenuation fencing bunding and landscaping should generally accord with the mitigation measures contained within the AERC Environmental Statement October 2001 illustrated by Drawing No. BCAL/02 and summarised at page 11-21 paragraph 11.4.38.



Colchester Borough Council

Planning and Protection

PO Box 889  
Town Hall  
Colchester  
Essex  
CO1 1FL

## Notice of Planning Decision

The developer is advised that details of the measures to control construction noise should take account of the mitigation measures identified on page 11-6 of the AERC Environmental Statement October 2001.

The developer is advised that the details submitted in relation to Condition 25 should have regard to the dust control measures contained within the AERC Environmental Statement October 2001 on page 14-10.

### 4. Drainage

The Local Planning Authority is advised by Anglian Water that the surface water drainage from this site can be accommodated at an attenuation discharge rate to be agreed with Anglian Water in the existing surface water public sewer to the west of the Colchester General Hospital.

The Local Planning Authority is advised by Anglian Water that the adoption of sustainable urban drainage systems under Section 104 of the Water Industry Act 1991 will not be considered unless special circumstances or conditions prevail.

The overall design strategy for foul and surface water sewers should be achieved by a gravity system wherever possible.

The Local Planning Authority is advised by Anglian Water that wet balancing ponds will not be adopted.

The developer's attention is drawn to the advisory notes contained within the Environment Agency's letter dated 30 November 2001.

### 5. Wildlife

The developer is advised that site clearance, demolition and construction work times that involve the removal of trees/hedgerows should take account of nesting seasons to cause least disruption to birdlife within the locality.

DC100MW 02/02

**IMPORTANT – ATTENTION IS DRAWN TO THE NOTES ATTACHED**

PD437



Colchester Borough Council

Planning and Protection

PO Box 889  
Town Hall  
Colchester  
Essex  
CO1 1FL

## Notice of Planning Decision

The developer is advised that the mitigation measures to protect and enhance wildlife habitats should take account of those items identified by the AERC Environmental Statement October 2001 pages 12-14 and 12-15 and Addendum 5 'Bat Assessment' dated September 2003.

Date: 21 March 2006

Signed:   
Nicola George, Head of Planning and Protection

In determining this application the Council has taken into account, amongst other things, the following policies:

Colchester Borough Local Plan-2<sup>nd</sup> Deposit Draft (Sept 2000)(including pre-enquiry changes 2001).

DC1-Overall Development Control Policy

CO1 –Countryside

CO3-Landscape Features

CO4-Area of Strategic Land

CO8-Agriculture

UEA12-Design

P1-Pollution

P2-Light Pollution

TCS1-Town Centre and Retailing Distribution

ME1-Mile End Area

Please note that the full technical report on this proposal that was presented to the Council's Planning Committee on Thursday 31<sup>st</sup> July 2003 sets out a comprehensive list of relevant policies and guidance at National, County and Local Plan level including references to the then Adopted Review Colchester Borough Local Plan (Jan1995). Full copies can be obtained from Planning Services

DC100MW 02/02

**IMPORTANT – ATTENTION IS DRAWN TO THE NOTES ATTACHED**

PD437



Colchester Borough Council

Planning and Protection

PO Box 889  
Town Hall  
Colchester  
Essex  
CO1 1FL

## Notice of Planning Decision

### Reasons for granting permission

- 1) The proposal accords with the relevant policies in the Colchester Borough Local Plan-2<sup>nd</sup> Deposit Draft (Sept 2000)(including pre-enquiry changes 2001) and now the Adopted Review Colchester Borough Local Plan-March 2004
- 2) Having had regard to all material planning considerations the Council is of the opinion that the proposal will have an impact on an individuals human rights, but having considered the level of impact and in the general interest of the public and in accordance with planning law, the proposal is considered to be both proportionate and reasonable and will not cause demonstrable harm to interests of acknowledged importance.

# Appendix D. Amended Recommendation

Correction:

Paragraph 3.2 should read 'There is a modern residential development adjacent to the bus-way site, with some of the properties fronting onto the bus-way: No's 7-17 (odds) and 8-12 (evens) Bardsley Close; No. 151 Hakewill Way; and No's 14-24 Bardsley Close.'

Amendment to recommendation:

In response to point 5 of the Myland Community Council comments, received 12<sup>th</sup> March 2013, the Applicant has resolved to include signals at the pedestrian crossings. These signals will signal green for the majority of time, turning red when a bus approaches (essentially a reversal of the normal timings for a pedestrian crossing). Due to this late amendment, amended plans have not been received. Therefore, it is recommended that, following receipt of amended plans that show the signalled pedestrian crossings, the Head of Environmental and Protective Services be authorised under delegated powers to approve the submitted details for condition 6. The details for conditions 4, 7, 14, 17, and 18 would remain unaltered, as set out in the committee report recommendation.

7.3 121780 – Chappel & Wakes Colne Station, Station Road, Wakes Colne

Correction to Councillor Chillingworth's call in reason. Should read:-

"I am calling-in on behalf of Wakes Colne and Chappel Parish Councils who have various concerns. The main planning reason is on Highway safety rounds that the proposal will put undue pressure on Station Road and other local road because of the anticipated increase in visitor numbers. Station Road, already has problems with speeding traffic because of the hill and no pedestrian footpath along the lower stretch."

At paragraph 6.4 (relevant planning history) the application No. is 111928.

Agenda Item 8 – Endorsement of proposed amendment to the S106 Legal agreement for development at Brook Street

Members are asked to agree that sites where the affordable housing credit may be used include Rowhedge Port, Stanway Growth Area and/or any other site the Council agrees is appropriate.

# Appendix E. Resolution to Committee Report

The Committee considered a request for the determination of details required by a condition of planning permission for Northern Approaches Road, Mile End, Colchester. This request had come before the Committee as a result of the scale of the condition proposal. It had also been requested by Councillor Goss to come to this Committee on the grounds of: impact on residential amenity; highway safety; environmental impact and air quality; and impact on veteran oak tree. The Committee had before it a report in which all information was set out.

The Committee made a site visit in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site.

Ms Lucy Mondon, Planning Officer, attended to assist the Committee in its deliberations. She updated the Committee regarding the applicant's agreement to the inclusion of signalled pedestrian crossings on the development but that amended plans showing these changes are awaited.

Ms Jean Dickinson addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She stated the boundaries of the proposed application were arbitrary and had not been given the proper consideration. She also suggested that the Station Roundabout would be an appropriate pick-up site, which would alleviate congestion. The complex nature of the Northern Approach Road 2 and 3 Junction was highlighted, with attention also being drawn to the inadequate width of the carriageways at this point of the site.

Councillor Goss attended and, with the consent of the Chairman, addressed the Committee. He provided details of a meeting held last year in relation to this development and suggested that many of the residences' concerns had been addressed. These included the fact that the scheme would no longer permit use by taxis or motorcycles, that the park and ride buses would be single decker only and that the fencing and planting in between the development and adjacent residences had been improved. He considered CCTV needed to be fully functional and backed by enforcement. He drew attention to the fact that the park and ride 7am – 7pm hours of operation were considered satisfactory by residents, but felt that users of the facility may find this insufficient. He also questioned the contradictory advice regarding the cutting down of the veteran oak tree and suggested replanting trees of an equivalent value. He welcomed the introduction of signalled pedestrian crossings and voiced his concern regarding the piecemeal approach to the consideration of the interrelated applications.

Ms Mondon responded that no conditions could be put in place relating to operation times or congestion measures, as planning permission had already been granted. She did suggest, however, that other bus companies may choose to use the route in future at different hours although there were currently no such plans.

Mr Liam McKarry, Arboricultural Planning Officer, responded in relation to the veteran oak tree. He stated that, as the tree was situated next to a busy road, it would be inappropriate for it to remain in its current position. He also suggested that requiring an equivalent financial contribution from the developer may be inappropriate, given the



difficulty in ascertaining an equivalent value and that the tree was in any even coming to the end of its life.

Members of the Committee were pleased to see that many of the residents' issues had been addressed within the scheme and noted that the veteran oak was nearing the end of its natural life and had been subjected to significant acts vandalism.

Mr Adam John, Landscape Planning Officer, confirmed that the loss of the oak had been previously anticipated as part of the design of the now adopted public open space in which it stands; this had resulted in the agreement and planting of a replacement feature oak within the open space. This reinforced by the tree planting proposed along the road itself which has been designed to accommodate anticipated climate change, comprising principally native birch trees for early cover and lime trees for long term structure.

*RESOLVED* (UNANIMOUSLY) that –

- (i) The details for conditions 4, 7, 14, 17 and 18 be approved as per the recommendation and subject to informatives as set out in the report.
- (ii) The details for condition 6, subject to informatives as set out in the report be deferred as per the recommendation and the Amendment Sheet.
- (iii) Upon receipt of amended plans showing the signalled pedestrian crossings, the Head of Environmental and Protective Services be authorised to approve condition 6, subject to informatives as set out in the report.

**103. 121780 Chappel & Wakes Colne Station, Station Road, Wakes Colne, Colchester.**

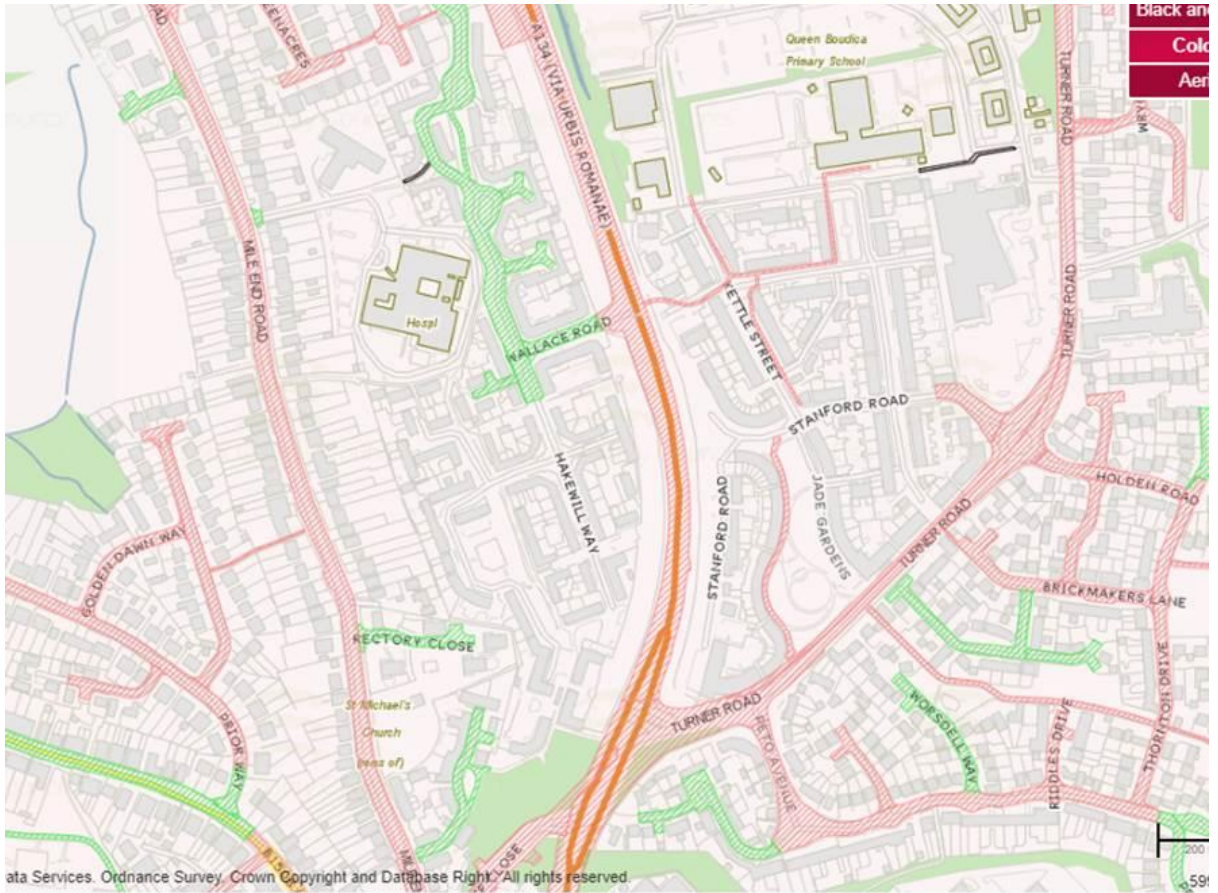
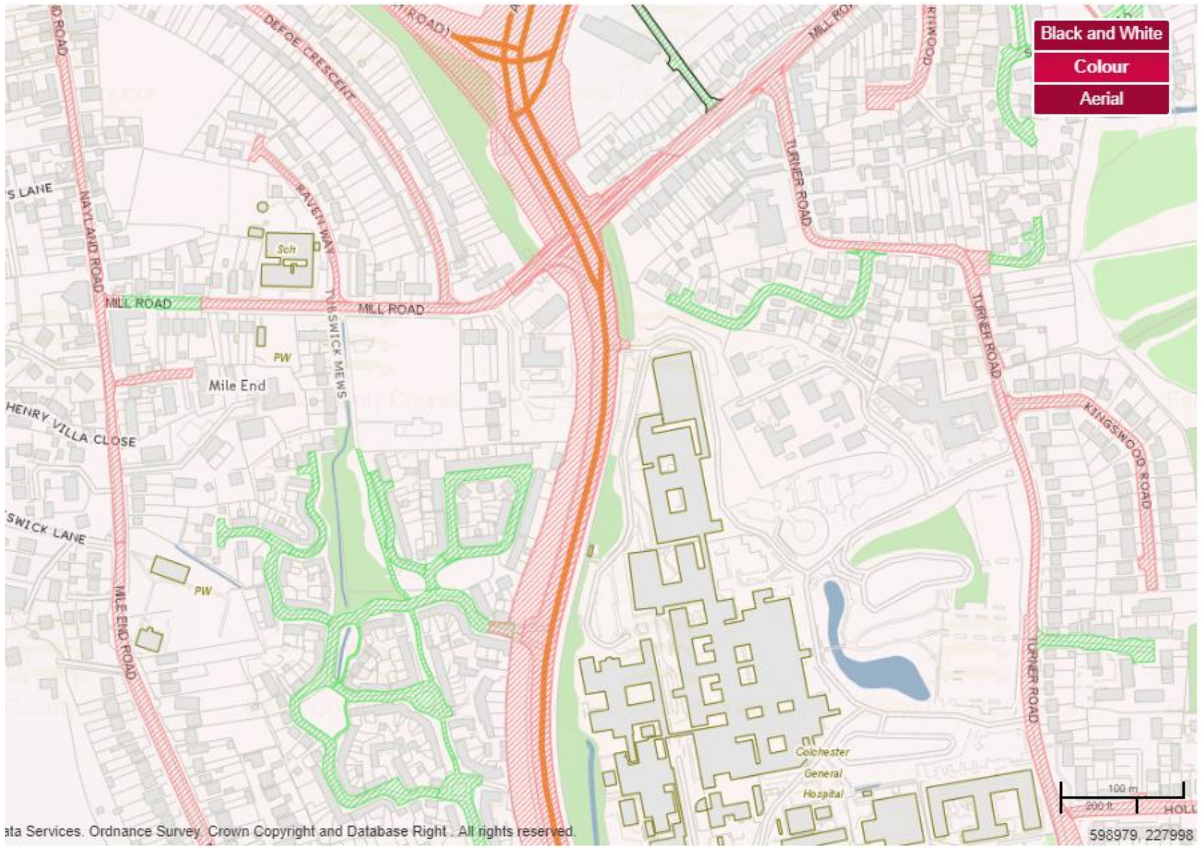
The Committee considered an application for a new restoration shed, pedestrian ramped access, conversion of existing restoration shed to heritage centre and removal of temporary buildings at the East Anglian Railway Museum site at Chappel and Wakes Colne Station, Colchester. The application had been 'called in' to this Committee by Councillor Chillingworth because of concerns relating to Highway safety. The Committee had before it a report in which all information was set out.

The Committee made a site visit in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site.

Mr David Whybrow, Principle Planning Officer, attended to assist the Committee in its deliberations.

Ms Stella Hounslow addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She highlighted her concerns regarding the impact of the proposal on the local community and traffic on the road. She was concerned about the impact of the event days and their relationship with the main use of the site and suggested that parking should be limited

# Appendix F. Highways Ownership Map



# Appendix G. Land Registry Title Plan

The electronic official copy of the register follows this message.

Please note that this is the only official copy we will issue. We will not issue a paper official copy.



# Official copy of register of title

Title number EX724797

Edition date 21.03.2017

This official copy shows the entries on the register of title on 12 JUN 2019 at 10:45:43.

This date must be quoted as the "search from date" in any official search application based on this copy.

The date at the beginning of an entry is the date on which the entry was made in the register.

Issued on 12 Jun 2019.

Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.

This title is dealt with by HM Land Registry, Peterborough Office.

## A: Property Register

This register describes the land and estate comprised in the title.

ESSEX : COLCHESTER

- 1 The Freehold land shown edged with red on the plan of the above Title filed at the Registry and being four parcels of land on the west side of Northern Approach, Colchester.
- 2 (03.05.2001) The land has the benefit of the following rights granted by the Transfer dated 3 May 2001 referred to in the Charges Register:-

"3. GRANTED RIGHTS

The Property is transferred with the benefit of the rights set out in Schedule 1 (granted rights)

### SCHEDULE 1

#### Granted Rights

1. Use of Conduits and rights of entry to repair etc

The right (in common with the Transferors and all others authorised by the Transferors) of free and uninterrupted passage of Services from and to any part of the Retained Land through the Conduits currently used for those purposes which now are laid within the Retained Land but not so as to overload the Conduits and the right subject to the capacity of the same and to obtaining the consent of the Transferors to make connections to any Conduits which are now laid within the Retained Land and to repair, maintain, renew or replace such Conduits subject to the conditions in Schedule 4

2. The right to divert the Conduits laid in under through or over the Property as may serve the Retained Land at the expense of the Transferee to a location no less convenient than the existing Conduits (as determined by the Transferee acting reasonably) PROVIDED THAT there is no interruption or diminution in the supply of Services through the Conduits to the Retained Land

3. Entry for Repairs

The right to enter upon the Retained Land at all reasonable times after

## A: Property Register continued

giving reasonable notice (except in case of emergency) so far as may be necessary for the purpose of inspecting, cleaning, maintaining, repairing and renewing any part of any external wall of any building erected on the Property which abuts upon the boundary of the Retained Land, provided that any person exercising this right shall cause as little damage as possible and make good to the reasonable satisfaction of the owner or owners for the time being thereof any damage caused

### 4. Support of Property

The right of support for the Property from the Retained Land

### 5. Entry to Carry out Works

The right to enter upon the Retained Land if necessary to enable the Transferee to construct the Works pursuant to its obligations in Schedule

6 PROVIDED THAT in exercising this right the Transferee shall (in addition to observing the provisions of Schedule 4) comply with any further conditions imposed by the Transferors to safeguard the operation of Colchester District General Hospital"

The Transfer contains the following definitions:-

### "OPERATIVE PROVISIONS

#### 1. DEFINITIONS

In this transfer the following expressions shall have the following meanings:

Access Roads - means the access road known as Phase 11A of the Northern Approaches Road as defined in the Phase 11A Agreement required to be constructed pursuant to that agreement insofar as it is to be constructed on the Western Site and any other roads footpaths and accessways from time to time constructed on the Western Site which are capable of use for the benefit of the Retained Land

Conduits - means sewers drains ducts gutters pipes wires cables watercourses and other conduits and also manholes inspection chambers tanks and apparatus used in conjunction with them which are either in existence at the date of this Transfer or are constructed within the Perpetuity Period

Contamination - means contamination or pollution of any kind including harm as defined by Section 78A(4) of the Environmental Protection Act 1990

Country Park Land - means the freehold land shown edged in red on Plan LPV/111/81 annexed being part of the land comprised in Title No: EX566037

Development - means the residential development of the Property as authorised by the Planning Permission in accordance with the Phase 11A Agreement

Environmental Claim - means all actions proceedings, claims, demands, complaints and enforcement action against the Transferors by any other person (including a regulatory authority) including (without limitation) any resulting from any failure or omission (for whatever reason) to obtain maintain or renew any permit, consent, licence or other authorisation or approval which may be required under Environmental Law and all cost, losses, expenses and liability of the Transferors under Environmental Law

Environmental Law - means all Acts of Parliament, statutory instruments, regulations, bye-laws, requirements of competent authorities, statutory bodies, utility companies or authorities, common law, or regulations, directives or mandatory requirements of the European Union and rules, regulations, notices, circulars, codes of practice and guidance notes made under them including (without limitation) any re-enactment, amendment, consolidation or modification

## A: Property Register continued

of them relating to Contamination which are applicable to the Property whether or not any of the same are in force at the date of this Transfer

Essex Rivers - means Essex Rivers Healthcare National Health Service Trust

Exempt Disposal - means the lease or transfer of:-

a completed house, flat or other separate unit of residential accommodation; or

the site of any sub-station, gas governor, pumping station, balancing pond or any other facility required by any company or organisation providing any utilities or services for the development of the Property; or

the transfer of a completed block of flats or common parts provided for the use of the residents of the Property only to any manager or management company formed or retained to maintain and administer them; or

the transfer of any land to any social landlord registered under the Housing Act 1996 for the provision of low cost or affordable housing on the Property; or

any other disposal of land required to discharge any obligation imposed in any agreement under Section 106 of the Town & Country Planning Act 1990 (as amended) or any statutory modification or re-enactment thereof

Interest - means interest at the rate of the base lending rate or its equivalent from time to time of Lloyds TSB Bank plc (or such other clearing banks as the Transferor may stipulate by written notice to the Transferee) plus in each case 4% (both before and after judgment) accruing on a daily basis and compounded with rests on the usual quarter days

Mental Health Trust - means North Essex Mental Health Partnership National Health Service Trust

MHT Land - means that part of the Western Site forming part of Severalls Hospital comprised in Title No EX464315 shown edged red on Plan LPV/111/83 annexed

Myland Hospital - means the freehold land comprised in Title no EX100873 (other than the parcel lying to the north west of Mill Road)

Perpetuity Period - means the period ending 80 years from the date of this Transfer and this period shall for the purposes of this Transfer represent the perpetuity period specified by Section 1 of the Perpetuities and Accumulations Act 1964

Phase 11A Agreement - means an Agreement dated 28 July 1998 and made between Essex County Council (1) Colchester Borough Council (2) The Secretary of State for Health (3) The North East Essex Mental Health National Health Trust (4) and Essex Rivers (5) pursuant to Sections 38 and 278 Highways Act 1980, Section 111 and 120 Local Government Act 1972 and Section 106 and 299A of the Town and Country Planning Act 1990

Planning Permission - means the planning permissions dated 23 September 1998 granted pursuant to planning applications COL/97/0220 and COL/97/0221 for the development of the former Myland between Myland Road/Boxted Road and North Station Railway Bridge including part of Severalls Hospital and land west of the District General Hospital and Turner Road, Colchester incorporating Phase 11A of the Northern Approaches Road and the planning permission dated 4th November 1999 on application CO/LOL/99/1434 and any subsequent planning permission for the residential development of the Property which complies with the provisions of this Transfer

Property - means Myland Hospital the Western Site and the County Park land



## A: Property Register continued

Retained Land - means the land adjoining or neighbouring the Property owned from time to time by SOSH the Mental Health Trust and Essex Rivers and each and every part thereof

Services - means water foul and surface water drainage gas electricity telecommunications and other services and supplies

SOSH - means the Secretary of State for Health

SOSH's Surveyors - means Healey & Baker 29 St George Street Hanover Square London W1 tel: 020 7629 9292 ref: KJS/NB/M1

Transferors - means SOSH, the Mental Health Trust and Essex Rivers and their respective successors in title

Transferee - means George Wimpey UK Limited and its successors in title

VAT - means value added tax or any tax or duty of a similar nature substituted for or in addition to it

Western Site - means the freehold land comprised in Title nos: EX614299, EX629957 and EX428269, that part of the land comprised in Title no: EX566053, EX464530 and EX641617 shown edged red on Plan LPV/111/82 annexed and that part of the land in Title no: EX464315 shown edged red on Plan LPV/111/83 annexed

Working Day - means any day from Monday to Friday (inclusive) which is not Christmas Day, Good Friday or a statutory Bank Holiday."

NOTE 1: The Country Park land referred to is registered under EX662074. The Myland Hospital land referred to is registered under EX662133, EX696214, EX696213 and EX695980. The land comprising the Western Site referred to is included in the land in this title.

-NOTE 2: Copies of plans LPV/111/81-83 inclusive filed under EX661408.

3 (10.05.2001) The Transfer dated 3 May 2001 referred to above contains the following provision:-

"6. DECLARATIONS The Transferee is not entitled nor will become entitled to any right of light or air or any other privilege for the benefit of the Property (except as may be expressly granted by this Transfer)

All boundary walls and fences to be constructed by or on behalf of the Transferee under its covenants in this Transfer shall become part of the Property

The rights hereby granted and reserved are subject to the provisions of Schedule 4

### SCHEDULE 4

#### Limitations and Conditions

##### 1. Perpetuity Period

The siting of anything in the future for which rights are granted herein must be ascertained and the exercise thereof must commence before the expiry of the Perpetuity Period but nothing herein shall limit the operation of Section 162(1)(d) of the Law of Property Act 1925

##### 2. Limitation on rights

None of the rights granted or reserved in this Transfer shall apply to, or be exercised over, any part of the Retained Land or the Property transferred to or vested in any statutory authority or service undertaker or covered by a building or the proposed site thereof or within three metres of a building or proposed site thereof (unless in a service margin or intended highway)

##### 3. Diversion

## A: Property Register continued

The owner from time to time of any Access Road and any Conduits shall have the right during the Perpetuity Period to move or replace them or any of them subject to such person providing alternative means of access or Conduits in the same position, or different positions that are no less commodious and in respect of which equivalent rights to those reserved by this Transfer either then exist or are granted, whereupon any rights in respect of the parts of the Access Roads and Conduits that have been so replaced shall cease

### 4. Conditions of Entry

The exercise of the rights of entry referred to in Schedules 1 and 2 is subject to the conditions that:-

before exercising any such right (but not in the case of emergency), the person exercising is to give not less than twenty-eight days written notice specifying the purpose for which entry is required, accompanied by drawings specifications and other written details of the work (whatever its nature), and the method of undertaking the work which that person requires to execute on the other's land, and such other information as he may require

the person exercising any such right requires the prior approval in writing of the other for the works to be done on the other's land, such approval not to be unreasonably withheld in exercising any such right, the person exercising is to execute all work at its own expense, in a good and workmanlike manner, with good and suitable materials complying with good building practice, and in accordance with drawings, specification and other information submitted to and approved by the other, and in accordance with any requisite statutory consents and the requirements of competent authorities

in carrying out the work, the person doing so is to act with due dilligence, and cause as little disturbance, damage and inconvenience as possible, and promptly to make good all damage done to the other's land to his reasonable satisfaction

the person exercising is to keep the other and all persons deriving title under him indemnified against all claims, liability and costs sustained or incurred from, or incidental to, the exercise, or purported exercise, of the right

### 5. Conditions of connection

The rights granted or reserved shall be exercised over such route or routes as the relevant "granting" party shall from time to time reasonably designate and shall be subject to contribution by the "grantee" party of a due proportion of the costs incurred by the "granting" party in respect of the maintenance, repair and renewal of the roads and services; and

such rights shall include all necessary rights for the "grantee" party for those purposes subject to making good all damage thereby caused

The routes, levels, points and means of connection to the Conduits within the Property shall be approved in writing by the Transferee (such approval not to be unreasonably withheld or delayed) and the Transferee may at any time at its own cost divert the route of any such Conduits in under or over the Property provided that such diversion is carried out without material interference to the rights excepted and reserved in Schedule 2

### 6. Entry

The rights of entry to carry out works shall be exercisable with employees, workmen, agents, contractors and invitees; and with such vehicles and equipment and materials as may be reasonably appropriate; and shall be exercised in a reasonable manner and shall be exercisable in common with others

### 7. Damage

## A: Property Register continued

All rights shall be exercised in such manner as to cause as little damage and inconvenience to the owner of the land entered as reasonably practicable

The person exercising any rights shall make good any damage caused to the land entered as soon as reasonably practicable

### 8. Access Roads

The rights of entry shall be exercised in such a manner as to minimise the interruption of the free flow of traffic along the Access Roads

The rights of entry and to carry out works shall not be exercised in such manner as to interfere with or delay the construction of the Access Roads or any of the works to be carried out in development of the land entered

The rights shall not be exercised in such a manner as to prevent, interfere with or delay the adoption by the highway authority of any part of the Access Roads as highway maintainable at public expense

### 9. Conduits

The rights in relation of any Conduits shall not be exercised in such a manner as:

to prevent, interfere with or delay the adoption of such Conduits by the relevant services undertaker as maintainable at public expense

to cause damage to or interfere with any other Conduits or persons entitled to use them or the relevant services undertakers

to overload any Conduits or to interfere with or interrupt the passage of any services through them

The rights shall not permit any Conduits that are designed for foul drainage to be used as surface water drainage or any Conduits that are designed for surface water drainage to be used for foul drainage

Exercise of the rights shall be subject to compliance with any requirements of the relevant service undertaker

### 10. Contributions

The continued exercise of the rights shall be subject to:

payment of any relevant occupier's connection charges and any relevant drainage charges to any service undertakers

compliance with the requirements of all relevant public authorities and service undertakers"

- 4 (10.07.2002) The land has the benefit of but is subject to the rights granted by a Deed dated 14 June 2002 made between (1) North British Housing Limited and (2) George Wimpey UK Limited.

-NOTE: Original filed under EX686205.

- 5 (30.03.2004) The land has the benefit of the rights granted by but is subject to the rights reserved by a Transfer of the land in this title dated 23 March 2004 made between (1) Cofton Estates Limited and (2) The Secretary of State For Health.

-NOTE: Copy filed.

- 6 (30.03.2004) The Transfer dated 23 March 2004 referred to above a covenant as to the grant of rights in the events therein mentioned.

## B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

### Title absolute

- 1 (21.03.2017) PROPRIETOR: BELLWAY HOMES LIMITED (Co. Regn. No. 00670176) of Seaton Burn House, Dudley Lane, Seaton Burn, Newcastle Upon Tyne NE13 6BE and BLOOR HOMES LIMITED (Co. Regn. No. 02162561) of Ashby Road, Measham, Swadlincote DE12 7JP and TAYLOR WIMPEY UK LIMITED (Co. Regn. No. 01392762) of Gate House, Turnpike Road, High Wycombe HP12 3NR.
- 2 (21.03.2017) RESTRICTION: No disposition by a sole proprietor of the registered estate (except a trust corporation) under which capital money arises is to be registered unless authorised by an order of the court.
- 3 (21.03.2017) The Transfer to the proprietor contains a covenant to observe and perform the covenants referred to in the Charges Register and of indemnity in respect thereof.

## C: Charges Register

This register contains any charges and other matters that affect the land.

- 1 (24.12.1996) A Conveyance of the land edged and numbered 1 in blue on the title plan and other land dated 11 November 1952 made between (1) The Reverend Paul Trevor William Tranter (Vendor) (2) The Church Commissioners for England (Commissioners) (3) The Master and Scholars of Balliol College (Patrons) and (4) The Minister of Health (Purchaser) contains covenants details of which are set out in the Schedule hereto.
- 2 (24.12.1996) The land edged and numbered 1 in blue on the title plan is subject to the following rights reserved by the Conveyance dated 11 November 1952 referred to above:-  
  
"EXCEPT AND RESERVED unto the Vendor full and free right and liberty to erect and maintain or suffer to be erected or maintained on adjoining lands belonging to and retained by the said Benefice any buildings whatsoever whether such buildings shall or shall not affect or diminish the light or air which may now or at any time or times hereafter be enjoyed for or in respect of the said land or buildings for the time being thereon subject to the Public right of way running in a northerly direction across the land hereby conveyed from Turner Road and shewn coloured brown on the plan attached hereto and all other rights of way and water and other easements (if any) affecting the same"  
  
NOTE: The right of way coloured brown referred to is tinted blue on the title plan so far as it affects the land in this title.
- 3 (24.12.1996) The land affected thereby is subject to the following rights granted by a Deed dated 10 October 1955 made between (1) The Minister of Health (the Minister) and (2) Colchester Borough Council (the Council):-  
  
"The Minister as Trustee hereby grants unto the Council FULL RIGHT AND LIBERTY to lay and for ever after maintain the water main across the land shown in pink on the plans annexed hereto in the approximate position indicated by a red line on the said plans TOGETHER WITH full right and liberty to enter upon the land of which the Minister is seised in fee simple at such times and with such equipment as may be reasonably necessary to maintain the water main"  
  
NOTE: The pink land referred to and the red line referred to are shown by mauve tint and a brown broken line respectively on the title plan so far as they fall within the land in this title.
- 4 (24.12.1996) The land affected thereby is subject to the following rights granted by a Deed dated 20 June 1956 made between (1) The Minister of Health (the Minister) and (2) Colchester Borough Council (the Council):-

## C: Charges Register continued

"The Minister as Trustee hereby grants unto the Council FULL RIGHT AND LIBERTY to lay and for ever after maintain the water main across the land shown in pink on the plan annexed hereto in the approximate position indicated by a red line on the said plan TOGETHER WITH full right and liberty to enter upon the said land shown in pink on the plan annexed hereto at such times and with such equipment as may be reasonably necessary to maintain the water main"

NOTE: The pink land and the red line within the pink land referred to is hatched brown and shown by a blue broken line between the points A and B respectively on the title plan so far as they affect the land in this title.

- 5 (24.12.1996) The parts of the land affected thereby are subject to the following rights granted by a Deed dated 21 September 1978 made between (1) The Secretary of State for Social Services (Grantor) and (2) Anglian Water Authority (Authority):-

"the Grantor as Trustee (and to the intent that the rights and easements hereby granted shall be appurtenant to all such land and hereditaments used or occupied by the Authority for the purpose of the statutory water supply undertaking of the Authority as are accommodated by the said rights and easements and to each and every part thereof) hereby grants and conveys unto the Authority the following rights and easements:-

FIRST the right of laying beneath the surface of the land and of inspecting maintaining cleansing protecting altering replacing reconstructing removing or rendering unusable a line of pipes 450 millimetres in diameter for carrying conducting or storing water in the approximate position indicated by a red line on the plan annexed hereto at a depth of not less than 1100 millimetres measured from the surface of the land to the top of the line of pipes together with any necessary cables markers valves fittings and chambers (all such pipes cables markers valves fittings and chambers being hereinafter referred to as "the apparatus")

SECONDLY the right of support for the apparatus from the subjacent and adjacent land and soil including minerals of the Grantor

THIRDLY the right to use the apparatus for carrying or conducting water

FOURTHLY the right for the Authority its servants agents and contractors with or without vehicles plant or appliances from time to time and at all times to enter into and upon and pass and repass over and along the strip of land shown coloured pink on the said plan (hereinafter called the easement strip) and to excavate the easement strip or any part thereof for the purposes of exercising the rights hereby granted

The said Deed contains the following covenants by the Grantor:-

"THE Grantor (with the intention of binding the land and every part thereof into whosoever hands the same may come and to benefit and protect the rights and easements hereby granted) hereby covenants with the Authority that without the consent of the Authority (which shall not be unreasonably withheld):-

(a) No building structures or erections of any kind shall hereafter be erected upon or built over the easement strip nor shall any plant or machinery be stored thereon

(b) no trees shall be planted in the easement strip

(c) no soil or other materials shall be deposited over and no excavations or drilling operations shall be carried out in any part of the easement strip AND further covenants with the Authority that (without prejudice to the generality of the foregoing) neither the Grantor nor his successors in title) will do cause permit or suffer to be done anything which may in any way:-

(i) remove injure or damage the apparatus or any part thereof or

# C: Charges Register continued

(ii) interfere with the free flow and passage of water through the apparatus or

(iii) affect the purity of the water in the apparatus or

(iv) interfere with or in any way materially diminish the accessibility of or materially reduce or raise the depth of soil above the apparatus or

(v) lessen or in any way interfere with the support afforded to the apparatus by the surrounding soil including minerals"

NOTE: The red line referred to is shown by a blue broken line between the points C and D on the title plan so far as it affects the land in thos title and the pink land referred to is edged and numbered 6 in blue on the title plan so far as it affects the land in this title.

6 (24.12.1996) The land is subject to the following rights granted by a Conveyance of The Oaks Hospital dated 1 March 1991 made between (1) The Secretary of State for Health (Vendor) and (2) Community Hospitals Limited (Purchaser):-

"TOGETHER WITH the rights and other matters set out in the Second Schedule hereto

### THE SECOND SCHEDULE

(Rights passing or granted with the Property)

.....  
..

2. The right to the free passage and running of water soil gas electricity and other services through all drains channels sewers pipes wires cables watercourses gutters and other conducting media ("the Service Installations") now or within twenty-one years from the First day of January One thousand nine hundred and ninety ("the Specified Period") laid or constructed in on or under or which belong to the Vendor's retained land ("the Retained Land") and which serve the Property subject to payment of a fair proportion of the cost incurred in cleaning maintaining repairing and renewing the same as are used in common such fair proportion to be determined in the event of dispute as hereinbefore provided

3. The right at any time within the Specified Period to enter upon the Retained Land to lay or construct Service Installations through the Retained Land and to make connection to any Service Installations now or within the Specified Period laid or constructed in on or under the Retained Land causing as little damage as possible and making good to the reasonable satisfaction of the Vendor any damage caused

4. The right to enter after giving reasonable notice at all reasonable times (except in the case of emergency) upon the Retained Land so far as may be necessary for the purposes of inspecting cleaning maintaining repairing and renewing the buildings walls fences and other boundary structures on the Property and the Service Installations causing as little damage as possible and making good to the reasonable satisfaction of the Vendor any damage caused.

7 (24.06.1992) The land edged and numbered 2 in blue on the title plan is subject to the rights reserved by a Transfer thereof and other land dated 9 April 1992 made between (1) The Secretary of State for Health (Transferor) and (2) North East Essex Mental Health National Health Service Trust (NHS Trust).

-NOTE: Original filed under EX464315.

8 (19.06.1992) The land is subject to the following rights reserved by a Transfer of the land edged and numbered 3 and 4 in blue on the title plan and other land dated 10 April 1992 made between (1) The Secretary of State for Health (Transferor) and (2) Essex Rivers Healthcare National Health Service Trust (the NHS Trust):-

## C: Charges Register continued

"THE Transferor excepts and reserves from this Transfer for himself and his successors in title the rights set out in the Second Schedule for the benefit of the Transferor's adjoining land ("the Retained Land")

### THE SECOND SCHEDULE

(Rights excepted and reserved)

1. All rights of drainage light water air and all liberties privileges and advantages now used or enjoyed by the Retained Land (whether as quasi-easements or otherwise and whether or not continuous apparent or reasonably necessary) as if the Property and the Retained Land had been in separate ownership prior to the date hereof

2. Any right of light or air which might (but for this exception) be acquired over the Retained Land to the intent that the Transferor or other the owner or owners for the time being of the Retained Land may build or rebuild on his Retained Land in such manner as he may think fit notwithstanding any interference with the access of light or air to the Property thereby occasioned

3. The right for the Transferor and his successors in title the owner or owners for the time being of the Retained Land (subject to obtaining the prior written consent (not to be unreasonably withheld) of the NHS Trust or its successors in title the owner or owners for the time being of the Property and subject further to such supervision as the NHS Trust or its successors as aforesaid may reasonably require) to make connections into and use any sewers drains water-pipes channels pipes cables and other conduits and ancillary apparatus ("Conduits") now laid or at any time during the period of eighty years from the date hereof ("the Perpetuity Period") to be laid in under or over the Property for the purpose of effecting the passage and running of water soil gas electricity telephone and other services to and from the Retained Land and to any buildings for the time being thereon PROVIDED HOWEVER that in the event that any such Conduits may be found to exist then the Transferor and his successors in title as aforesaid (subject to obtaining the prior written consent (not to be unreasonably withheld) and subject to such supervision as aforesaid) shall be entitled to divert the same or part thereof over a reasonable alternative route at his own expense so far as may be reasonably required by the Transferor or such successors in connection with any development of the Retained Land the person or persons exercising such rights causing no unnecessary damage to the Property in the exercise thereof and making good as soon as practicable any damage actually occasioned to the reasonable satisfaction of the NHS Trust or its successor in title (as the case may be) the owner or owners for the time being of the Property

4. The right for the Transferor to construct such new roads and services or ancillary services (subject to all necessary or desirable authorities consents or permits being first obtained by the Transferor) over the land shown coloured blue ("the Blue Land") in such manner as the Transferor may reasonably require in connection with any development of the Retained Land (subject to obtaining the prior written consent of the NHS Trust or its successors in title (not to be unreasonably withheld) and subject further to such supervision as the NHS Trust may reasonably require TOGETHER WITH:

(a) the right to survey prior to carrying out any works and to carry out any consequential works which may be reasonably considered by such owner to be necessary or desirable or which may be required by the local or any other authority in respect thereof (including the installation moving and connection or reconnection of street lighting and telegraph poles or modification of any existing access ways on the Blue Land to meet such roads and any other works)

(b) the right to widen such route or parts thereof (as altered under the above provisions where applicable) to such width as the local highway authority or other authority may require in connection with such intended development TOGETHER WITH the right to carry out any other works on the Blue Land which may be considered by such owner to be necessary or desirable or which may be required by the local or any other authority in respect thereof (including any consequential works

## C: Charges Register continued

in respect of surface water drains and sewers and any other Conduits which may be affected thereby)

(c) the right at the Transferor's own expense to level or otherwise alter install paving lighting or other road features and carry out any other ancillary works in respect of the whole or part or parts of the said road on the Blue Land (as altered widened and added to under the foregoing provisions) to such standard and in such manner as the Transferor or his successors in title may require in connection with the intended development

(d) a right of way on foot and with vehicles for all purposes at all times of the day and night over and along the said road on the Blue Land (as altered widened extended or modified under the foregoing provisions) PROVIDED THAT the Transferor shall remain liable for the cost from time to time of renewing repairing and maintaining such route until the same is taken over (if at all) by the local authority

(e) the right to require that the NHS Trust or its successor to the whole or part of the Property shall give its consent to adoption of such parts of any Conduits roadways footways or ancillary works relating thereto as the local highway authority or other appropriate authority may wish or require to become adopted or taken over in connection with the intended redevelopment PROVIDED HOWEVER that the Transferor or his successors shall be solely responsible for the cost and expenses involved in making the same or any of them up to such standard as such authority may require as a condition precedent to such adoption

(f) the right of entry to the Blue Land for the purpose of carrying out any works authorised by this paragraph shall be exercisable at all reasonable times and with or without workmen machinery equipment tools and vehicles PROVIDED HOWEVER that the person so entering shall give reasonable prior notice (save in an emergency) to the NHS Trust or its successors to the Blue Land or the Property or (as the case may be) the part affected thereby of the intention to carry out any of the said works and shall provide to the NHS Trust or such successor such particulars of the works intended to be carried out and the intended time scale thereof as they may reasonably require and PROVIDED FURTHER that any such works once commenced shall be completed as soon as may be reasonably practicable using all reasonable endeavours to comply with the time scale indicated and shall be carried out in such manner as may cause as little damage and inconvenience as may be reasonably practicable to the NHS Trust or its successors in title and the occupiers for the time being of the Property and any damage and excavation occasioned to the Property by the exercise of the said rights together with any consequential work which may be necessary shall be made good by the person so entering as soon as reasonably practicable to the reasonable satisfaction of the owners for the time being of the parts of the Property affected thereby

(g) The Transferor shall ensure that in exercising its rights herein the existing accesses services and Conduits to the Property shall be protected and altered where necessary such that accesses and services to the Property are maintained

(h) access through the Blue Land for heavy construction traffic shall be confined to the hours between 8 a.m. and 6 p.m. and then only between Monday and Saturday (inclusive of both days) in each week and any potholes or other damage to roadways or pavements on the Blue Land caused by such heavy traffic shall be made good as soon as may be reasonably practicable and the developer and contractors concerned will procure that such roadways and pavements are kept in a safe and reasonably clean condition on a regular basis having regard to the effect of such traffic

(i) The owner or owners for the time being of the Retained Land shall be notified by the NHS Trust or its successors in title of all new proposals for development on the Property in order that the effect (if any) on the Retained Land and the Blue Land can be assessed as to whether they would detrimentally affect or delay the intended development



## C: Charges Register continued

(j) before any works are commenced the NHS Trust shall be entitled to require (where reasonable) that reasonable security (by way of a parent company guarantee performance bond or other security) for the proper completion of such works is provided

PROVIDED THAT all such intended and actual works as referred to in this paragraph 4 shall be carried out at the Transferor's own expense and in full consultation with the Trust such that no works shall be carried out which would detrimentally affect or delay any development of the Property at any time within the Perpetuity Period

5. Subject to the provisions of paragraph 4 of this Schedule the right to enter upon the Blue Land at all reasonable times on reasonable prior notice (or at any time in an emergency) and with or without workmen machinery equipment tools and materials the person or persons exercising such right causing no unnecessary damage to the Property in the exercise thereof and making good as soon as practicable any damage actually occasioned thereby to the reasonable satisfaction of the NHS Trust or its successors in title the owner or owners for the time being of the Blue Land for the purposes of:

(a) making such connections into the Conduits as aforesaid

(b) laying new Conduits and any additional Conduits which may be required from time to time

(c) repairing cleansing maintaining modifying or renewing or carrying out any other works in respect of such Conduits and additional Conduits and any roadways and footways and any other things serving the Retained Land from time to time

(d) anything necessary for the proper enjoyment of the rights excepted and reserved by this transfer"

NOTE: The "Blue Land" referred to is edged and numbered 4 in blue on the title plan so far as it falls within this title.

9 (24.12.1996) The land is subject to the following rights granted by a Transfer of Colchester General Hospital registered under EX464530 dated 10 April 1992 made between (1) The Secretary of State for Health (Transferor) and (2) Essex Rivers Healthcare National Health Service Trust (NHS Trust):-

"THE Transferor grants the NHS Trust the benefit of the rights easements and other matters set out in the Third Schedule hereto

### THE THIRD SCHEDULE

(The Rights Granted to the NHS Trust)

1. The right for the NHS Trust and its successors in title the owner or owners for the time being of the Property (subject to obtaining the prior written consent (not to be unreasonably withheld) of the Transferor or his successors in title the owner or owners for the time being of the Retained Land and subject further to such supervision as the Transferor or his successors as aforesaid may reasonably require) to make connections into and use any Conduits now laid or at any time during the Perpetuity Period to be laid in under or over the Retained Land for the purpose of effecting the passage and running of water soil gas electricity telephone and other services to and from the Property and to any buildings for the time being thereon PROVIDED HOWEVER that in the event that any such Conduits may be found to exist then the NHS Trust and its successors in title as aforesaid (subject to obtaining the prior written consent (not to be unreasonably withheld) and subject to such supervision as aforesaid) shall be entitled to divert the same or part thereof over a reasonable alternative route at its own expense so far as may be reasonably required by the NHS Trust or such successors in connection with any development of the Property the person or persons exercising such rights causing no unnecessary damage to the Retained Land in the exercise thereof and making good as soon as practicable any damage actually occasioned to the reasonable satisfaction of the Transferor or his successors in title (as the case may be) the owner or owners for the time being of the Retained Land

## C: Charges Register continued

2. The right to enter upon the Retained Land at all reasonable times on reasonable prior notice (or at any time in an emergency) and with or without workmen machinery equipment tools and materials the person or persons exercising such right causing no unnecessary damage to the Retained Land in the exercise thereof and making good as soon as practicable any damage actually occasioned to the satisfaction of the Transferor or his successors in title the owner or owners for the time being of the Retained Land for the purposes of:

(a) making such connections with the Conduits as aforesaid

(b) laying new Conduits and any additional Conduits which may be required from time to time

(c) repairing cleansing maintaining modifying or renewing or carrying out any other works in respect of such Conduits and additional Conduits and any roadways and footways and any other things serving the Property from time to time

(d) anything necessary for the proper enjoyment of the rights granted by this transfer"

NOTE: The Retained Land referred to includes part of the land in this title. The Perpetuity Period referred to is 80 years from 10 April 1992.

10 (29.07.1992) The parts of the land affected thereby are subject to the following rights granted by a Transfer of adjoining land dated 19 June 1992 made between (1) The Secretary of State for Health and (2) Haven Healthcare Limited:-

"TOGETHER ALSO WITH the rights set out in the First Schedule hereto

THE FIRST SCHEDULE above referred to

The rights granted to the Transferee and its

successors in title for the benefit of the Property

1. The right for the Transferee and its successors in title the owners and occupiers of the Property or any part thereof and all persons authorised by it or them (in common with all others having the like right) to pass and repass with or without motor vehicles of all types at all times and for all purposes in connection with the use and enjoyment of the Property (including without prejudice to the generality of the foregoing the construction of the said Nursing Home) over and along the land shown coloured brown on the Plan (part of such land being comprised in the above-mentioned Title Number EX428269) and over the roadway to be constructed thereon (hereinafter called "the Roadway") subject to payment of one half of the cost of maintaining repairing and renewing the Roadway

2. The right at any time after the 28th day of February 1993 for the Transferee and its successors in title as afoesaid to do such top surfacing maintenance and other works on the Roadway as are required to make the Roadway serviceable for the proper use and enjoyment of the said Nursing Home

3. The right to the free passage and running of water soil surface water gas electricity and other services through all drains channels sewers pipes cables watercourses gutters and other conducting media (hereinafter called "Service Installations") now or within the period of eighty years of the date hereof (hereinafter referred to as "the Perpetuity Period") laid or constructed or to be laid or to be constructed in on or under or which belong to the Retained Land (including the Roadway) and which serve or are to serve the Property subject to payment of a fair proportion according to user of the cost incurred in cleaning maintaining repairing and renewing the same as are used in common

4. The right for the Transferee and its successors in title as aforesaid at any time within the Perpetuity Period to enter with all

## C: Charges Register continued

necessary workmen and appliances upon the Retained Land (including the Roadway) and to break open the surface thereof or any part thereof for the purposes of laying or constructing Service Installations manholes and other ancillary apparatus in on under over or through the Retained Land along such route or routes as the Transferor shall have previously approved in writing (such approval not to be unreasonably withheld or delayed) or to make connections to any Service Installations now or within the Perpetuity Period laid or constructed or to be laid or to be constructed in on over or under the Retained Land (including the Roadway) at such point or points of connection in on over or under the Retained Land (including the Roadway) as the Transferor shall have previously approved in writing (such approval not to be unreasonably withheld or delayed) causing as little damage and inconvenience as possible and making good to the reasonable satisfaction of the Transferor any damage caused

5. The right to enter after giving reasonable notice at all reasonable times (except in the case of emergency) upon the Retained Land (including the Roadway) so far as may be necessary for the purposes of inspecting cleaning maintaining repairing and renewing the buildings walls fences and other boundary structures on the property and the Service Installations causing as little damage and inconvenience as possible and making good to the reasonable satisfaction of the Transferor any damage caused".

NOTE: The Roadway coloured brown referred to does not fall within the land in this title.

- 11 (24.12.1996) The land affected thereby is subject to the following rights granted by a Transfer of land at Church Farm Way dated 22 April 1994 made between (1) The Secretary of State for Health (Transferor) and (2) The New Possibilities National Health Service Trust (NHS Trust):-

"TOGETHER WITH for the benefit of the NHS Trust and its successors in title the owners and occupiers for the time being of the Property the rights set out in the First Schedule

### THE FIRST SCHEDULE

(The Rights Granted)

1. To use for all proper purposes connected with the Property in common with all other persons now or hereafter similarly entitled any sewers drains watercourses pipes cables wires or other channels or conductors now laid in under or over any adjoining or neighbouring property now or formerly belonging to the Transferor with power at any time upon prior written notice in writing (save in case of emergency) to enter thereupon for the purpose of repairing renewing maintaining inspecting or cleansing the same the NHS Trust and its successors in title causing no unnecessary damage to the said property in the exercise of this right and making good as soon as practicable any damage actually occasioned to the satisfaction of the Transferor or her successors in title (as the case may be)"

- 12 (24.12.1996) The land is subject to the following rights granted by a Transfer of 74-86 (even) Mill Road and other land dated 22 April 1994 made between (1) The Secretary of State for Health (Transferor) and (2) The New Possibilities National Health Service Trust (NHS Trust):-

"TOGETHER WITH for the benefit of the NHS Trust and its successors in title the owners and occupiers for the time being of the Property the rights set out in the First Schedule

### THE FIRST SCHEDULE

(The Rights Granted)

1. The use for all proper purposes connected with the Property in common with all other persons now or hereafter similarly entitled any sewers drains watercourses pipes cables wires or other channels or conductors now laid in under or over any adjoining or neighbouring property now or formerly belonging to the Transferor with power at any

## C: Charges Register continued

time upon prior written notice in writing (save in case of emergency) to enter thereupon for the purpose of repairing renewing maintaining inspecting or cleansing the same the NHS Trust and its successors in title causing no unnecessary damage to the said property in the exercise of this right and making good as soon as practicable any damage actually occasioned to the satisfaction of the Transferor or her successors in title (as the case may be)

2. A right of way for the NHS Trust and its successors in title the owner or owners for the time being of the Property in common with the Transferor and all others similarly entitled at all times of the day and night and for all purposes connected with the use and enjoyment of numbers 74-86 Mill Road aforesaid with or without vehicles over and along that part of the road coloured brown on the Plan SUBJECT TO the person or persons exercising such rights contributing a fair proportion according to user (such proportion to be calculated by the Surveyor for the time being of the Transferor or her successors in title acting reasonably) of the reasonable cost incurred from time to time of repairing and maintaining the said road"

NOTE: No brown roadway was shown on the plan supplied with first registration.

13 (24.12.1996) The land affected thereby is subject to the following rights granted by a Deed dated 20 March 1995 made between (1) The Secretary of State for Health (Grantor) and (2) Community Hospitals Limited (Grantee):-

"The Grantor as trustee hereby grants to the Grantee the following rights:-

2.1 a full and free right of access to enter upon the Servient Land with or without vehicles machinery materials or workmen and authorised persons for the purpose of digging a service channel of a maximum width of 3 metres ("the Channel") and laying a foul sewer ("the Foul Sewer") and a surface water drain ("the Surface Water Drain") therein at a depth of not less than 1 metre the approximate route of the Foul Sewer and Surface Water Drain being marked with a brown and blue line respectively on the Plan causing as little damage to the Grantor's property as possible and making good at the Grantee's expense all such damage caused as soon as practical to the reasonable satisfaction of the Grantor or of the Grantor's duly appointed agent;

2.2 .....

2.3 a right to the free and uninterrupted passage of water sewage and waste through the Foul Sewer and Surface Water Drain and through the Existing Drains for the benefit of the Dominant Land; and

2.4 a right to enter upon the Servient Land at all times giving at least seven days' previous notice (except in the case of emergency) for all purposes with or without vehicles or machinery and authorised persons in connection with the enjoyment of the rights granted in this Clause 2 and for inspecting maintaining repairing renewing and cleansing the Channel and/or the Foul Sewer and/or the Surface Water Drain and/or the Existing Drains (until such time as the Existing Drains are adopted) causing as little damage to the Grantor's property as possible and making good at the Grantee's expense the surface of the Servient Land and any other such damage in the exercise of such right as soon as practical to the reasonable satisfaction of the Grantor or of the Grantor's duly appointed agent"

The said Deed contains the following covenants by the Grantor:-

"The Grantor covenants with the Grantee with the intent that the burden of this covenant may run with and bind the Servient Land and each and every part thereof and to the intent that the benefit thereof will run with the Dominant Land:-

3.1 not to do or cause or permit to be done on the Servient Land anything calculated or likely to cause damage on injury to the Foul Sewer the Surface Water Drain, the Channel or the Existing Drains and to take all reasonable precautions to prevent such damage or injury;

## C: Charges Register continued

3.2 not to install or cause or permit to be erected or installed any building or structure or apparatus upon or over the Foul Sewer and/or the Surface Water Drain and/or the Channel PROVIDED THAT this covenant shall not preclude the construction by or on behalf of the Grantor or of any successor in title to the Grantor of any roads on the Servient Land for the purposes of providing access to parts of the Servient Land from other parts of the Servient Land ("Estate Roads");

3.3 not to connect into the Foul Sewer and/or the Surface Water Drain without the prior written approval of the Local Authority and the prior written approval of the Grantee or of any successor in title to the Grantee (such approval not to be unreasonably withheld or delayed) and in any event to ensure that the capacity of each of the Foul Sewer and the Surface Water Drain is not exceeded as a result of such connection beyond the capacity for which the same have been designed; and

3.4 in making any of the connections mentioned in Clause 3.3 above not to damage either the Foul Sewer and/or the Surface Water Drain

4. The Grantor covenants with the Grantee:-

4.1 to install manholes in any Estate Roads built over or upon the Foul Sewer and/or the Surface Water Drain to the reasonable satisfaction of the Grantee both in number and construction at the Grantor's expense;

4.2 to maintain repair and replace any connection pipes laid into the Foul Sewer and/or the Surface Water Drain and immediately to make good any damage caused to the Foul Sewer and Surface Water Drain at its own expense; and

4.3 in the event that a connection is made into either or both of the Foul Sewer and Surface Water Drain by the Grantor to pay a reasonable and fair proportion according to user of the costs of maintaining repairing and renewing such sewer and drain"

NOTE 1: The Servient Land referred to is edged and numbered 5 in blue on the title plan and the Dominant Land referred to is The Oaks Hospital.

NOTE 2: The brown, blue and orange lines referred to are shown by blue broken lines between the points E and F, H and I, F and G, and I and J respectively on the title plan and the points X and Y referred to are shown by the points F and I respectively on the title plan.

14 (10.05.2001) A Transfer of the land in this title and other land dated 3 May 2001 made between (1) The Secretary of State for Health and others (Transferors) and (2) George Wimpey UK Limited (Transferee) contains covenants details of which are set out in the Schedule hereto.

15 (10.05.2001) The land is subject to the following rights reserved by the Transfer dated 3 May 2001 referred to above:-

"4. RESERVED RIGHTS

There are reserved out of the Property for the benefit of the Retained Land the rights set out in Schedule 2 (reserved rights)

The benefit of equivalent reserved rights to those set out in Schedule 2 (reserved rights) may be granted in any future transfers of any parts of the Retained Land

### SCHEDULE 2

#### Reserved Rights

##### 1. Rights of way

The right to connect into and to use any Access Roads or any substituted roadways as may be constructed within the Perpetuity Period on the Property in order to gain access between the Retained Land and the public highway

## C: Charges Register continued

### 2. Future development of Retained Land

The right to deal as it may think fit with the Retained Land and to erect or permit to be erected upon it any buildings or structures, even if they also affect or diminish the light or air which may now or at any time benefit the Property and the right of oversail of the jib of any crane used in connection with the development of the Retained Land

### 3. Use and installation of Conduits

The right of free and uninterrupted passage of Services from and to any part of the Property through the Conduits commonly used for those purposes which are now, or may in the future be, laid within the Property and the right to install and use within the Property Conduits to serve the Retained Land

### 4. Connections

The right to make connections to any Conduits which are now, or may in the future be, laid within such parts of the Property as are from time to time unbuilt upon subject to the conditions in Schedule 4

### 5. Entry for Conduits rights

The right to enter upon the Property for the purposes of repairing, maintaining, renewing, replacing, installing or connecting such Conduits subject to the conditions in Schedule 4 and without prejudice to the generality of the foregoing the right to enter on any Access Roads for such purposes

### 6. Entry for repairs

The right to enter upon the Property at all reasonable times after giving reasonable notice (except in case of emergency) so far as may be necessary for the purposes of inspecting cleaning, maintaining, repairing, connecting into, disconnecting, modifying and renewing or carrying out any other works to any Services and Conduits on any part of the Retained Land which has a common boundary with the Property, causing as little damage as possible and making good to the reasonable satisfaction of the owner or owners for the time being of the Property any damage caused

### 7. Support

The right of support for the Retained Land from the Property

### 8. Entry on breach

The right

8.1 at all reasonable times to enter the Property to carry out any works of repairing, maintaining, cleaning or disconnecting any Conduits which serve the Retained Land; and/or to carry out any works necessary as a result of any breach by the Transferee or any successor to any of the covenants imposed upon it by this Transfer or any subsequent replacement covenants which the Transferee or any successor has failed to carry out after reasonable notice requiring it to do so

8.2 in default of the Transferee complying with its obligations to do so following reasonable written notice (except in an emergency) to enter into and upon the Property from time to time for the purpose of constructing any Access Roads and Conduits to be constructed on the property so as to connect up with the Retained Land and repairing, maintaining, cleansing, relaying, renewing or carrying out any other similar works in respect of any Access Roads and Conduits

and all reasonable costs and expenses incurred by the Transferors thereby shall on demand be paid by the Transferee"

16 (02.11.2001) By the Transfer dated 3 May 2001 referred to above the rights reserved by the Transfer dated 10 April 1992 referred to above were expressed to be released in the following terms:-

## C: Charges Register continued

"Each of the Transferors hereby surrender to the Transferee any rights or easements over the Property which benefit the Retained Land or any part thereof which existed immediately before the completion of this Transfer."

- 17 (09.05.2002) By a Deed dated 29 March 2001 made between (1) The Secretary of State for Health and (2) New Possibilities National Health Service Trust the rights granted by the Transfer dated 22 April 1994 referred to above were expressed to be varied as therein mentioned. The Deed as varied contains additional easements and the parts of the land affected thereby are subject thereto.

-NOTE: Copy filed under EX662055.

- 18 (10.02.2016) UNILATERAL NOTICE in respect of an Agreement for Sale dated 16 October 2015 made between (1) Homes and Communities Agency and North Essex Partnership University NHS Foundation Trust (2) Bellway Homes Limited and Bloor Homes Limited and Taylor Wimpey UK Limited.

A Deed of Variation dated 11 December 2015 made between (1) Homes and Communities Agency (2) North Essex Partnership University NHS Foundation Trust (3) Bellway Homes Limited and Bloor Homes Limited and Taylor Wimpey UK Limited.

- 19 (10.02.2016) BENEFICIARY: Bellway Homes Limited (Co. Regn. No. 00670176) of Seaton Burn House, Dudley Lane, Seaton Burn, Newcastle Upon Tyne NE13 6BE, Bloor Homes Limited (Co. Regn. No. 02162561) of Ashby Road, Measham, Swandlicote, Derbyshire DE12 7JP and Taylor Wimpey UK Limited (Co. Regn. No. 01392762) of Gate House, Turnpike Road, High Wycombe, Buckinghamshire HP12 3NR.

## Schedule of restrictive covenants

- 1 The following are details of the covenants contained in the Conveyance dated 11 November 1952 referred to in the Charges Register.

"THE Purchaser to the intent that the covenants hereinafter contained shall bind the said land into whatsoever hands the same may come and for the benefit and protection of the adjoining and neighbouring lands of the Vendor or any part or parts thereof hereby for himself and his successors in title but not so as to bind the Purchaser after he has parted with all interest in the said land covenants with the Vendor and also by way of separate covenant with the Commissioners as follows:-

.....  
..

(b) Not to do or permit any act deed matter or thing in or upon the said land or any part thereof which may be or become a nuisance annoyance or disturbance to the Vendor or the owner or occupier for the time being of the Rectory shewn upon the said plan or to the Minister for the time being conducting or the congregation attending Divine Service in the Parish Church or Myland or in the churchyard surrounding the same

(c) Not to use or permit to be used the said land or any building erected thereon as a Church Chapel Church Hall or Meeting Place for religious purposes or for any purpose connected or associated to any religious body or organisation other than the Church of England or for a place of amusement hotel tavern inn or public house and not to sell or permit to be sold spirituous or fermented liquors at any time in or upon the said land or any part thereof"

NOTE: The Rectory referred to was sited under Rectory Close.

- 2 The following are details of the covenants contained in the Transfer dated 3 May 2001 referred to in the Charges Register.

"11. TRANSFEREE'S COVENANTS

11.1 The Transferee covenants with the Transferors as specified in Schedules 5 and 6 and on a disposal of the whole or any part of the Property to procure that the Transferee covenants (if more than one

## Schedule of restrictive covenants continued

jointly and severally) with the Transferors for the benefit of the owner or owners of the Retained Land to observe and perform the covenants set out in Schedules 5 & 6 in so far as the same relates to the land hereby transferred provided that such covenants shall not apply to any transferees or lessees acquiring any part of the property by way of an Exempt Disposal

11.2 The Transferee covenants with the Transferors to the intent that the covenants will bind the Property and will benefit the Retained Land into whosoever the same may come as mentioned in Schedule 7

### SCHEDULE 5

#### Covenants

##### 1. Restrictions on Use Access Roads and Conduits

The Transferee covenants:

1.1 not to develop the Property otherwise than for residential use and not otherwise than in accordance with a Planning Permission and the Phase IIA Agreement unless prevented from complying with its terms as a result of the Transferors having not given vacant possession

1.2 to observe and perform the covenants and conditions contained in the Phase IIA Agreement insofar as it relates to the development of the Property or works to be carried out on it and to indemnify and keep the Transferors indemnified against any actions costs claims proceedings or demands whatsoever arising from any breach non observance non performance of the covenants and conditions contained therein provided that the Transferee shall have no liability to the Transferors should it be unable to carry out such works because the Transferors have not been able to obtain vacant possession to enable such works to be implemented

1.3 to carry out the Development and without prejudice to the generality of the same to construct, maintain, repair and, where necessary, renew:

1.3.1 the Access Roads to adoptable standard until adopted as highway maintained at public expense;

1.3.2 the Conduits which are within the Property and also serve the Retained Land until adopted and maintained at public expense

subject to the Transferors reimbursing the Transferee upon demand a fair and reasonable proportion (according to user) of the cost of maintaining and repairing any Access Roads and those of the Conduits which are on the Property and served the Retained Land in common with the Property until the same shall be adopted for repair and maintenance at public expense

Such proportion shall be calculated by the Transferee's Surveyor and any dispute as to such proportion shall be referred to arbitration by a single arbitrator agreed between the parties; or failing agreement between the Transferee and the Transferors as to his appointment, nominated on the joint application, or either of them fails forthwith to concur in such application, then on the sole application of the other, by the President for the time being or other appropriate officer of the Royal Institution of Chartered Surveyors; and the provisions of the Arbitration Act 1996 or any statutory modification shall apply to any such determination

##### 2. No Interruption

The Transferee shall not at any time cause or permit any interruption or interference with the accesses and the Conduits serving the Retained Land; and in the event of any such interruption or interference as aforesaid the Transferee will forthwith reinstate and restore the same at the cost of the Transferee; and shall fully indemnify the Transferors and keep the Transferors indemnified against all costs, charges, expenses, actions, claims and demands in respect of any damage or injury to any property or person in respect of any loss arising by



## Schedule of restrictive covenants continued

reason of this provision; and shall be responsible for and make good or pay compensation for any such damage or injury to the reasonable satisfaction of the Transferors Provided that the Transferee may at the cost of the Transferee relocate and divert the Conduits serving the Retained Land so long as there is no interruption or interference caused thereby

### 3. Pay default costs

The Transferee shall pay on demand to the Transferors any cost or expense incurred by the Transferors arising out of any entry upon the Property properly made by the Transferors in order to remedy any failure by the Transferee to comply with its covenants set out in this Schedule together with interest thereon from the date of such demand

## SCHEDULE 6

### Works Covenants

#### 1. Master Plan

1.1 The Transferees shall prior to commencement of any development on the Western Site prepare a master plan showing its proposals for the Access Roads and Conduits and submit the same to the Transferors for approval such approval not to be unreasonably withheld or delayed if the master plan includes adequate provision for access and Services or further capacity within such Services to be provided to enable the development of the Retained Land as herein provided

1.2 The Access Roads shown on the master plan shall be constructed to a size and specification and location to be approved by and agreed with the Transferors such as to provide access to the residential redevelopment of the Retained Land and to facilitate as a minimum 1500 residential units (of which 150 shall be on that part of the land in title as EX566053 lying to the south west of the Western Site, 250 shall be on the southern part of the former Turner Village Hospital site to the east of the Western Site and 1100 shall be on the Severalls Hospitals site lying to the east of the MHT Land Phase IIA) and in accordance with any relevant adoption standards and other requirements of the adopting authority

#### 2. Access Roads construction

The Transferee shall commence the construction of the Access Roads within one year of the date hereof and shall complete the same in accordance with the requirements of the relevant highway authority for a highway maintainable at the public expense and to this end the Transferee will carry out all necessary maintenance works required as a condition for adoption by the highway authority and shall use best endeavours to ensure that the Access Roads are adopted as public highways maintainable at public expense

The Transferee shall not do, or cause or permit to be done, or omit to do on the Property anything which may prevent, inhibit or delay the adoption for maintenance by the appropriate authority at the public expense of any roads, footpaths, combined cycleway/footpath, or Conduits constructed or to be constructed on the Property

The Transferee shall ensure that following completion of construction of each section thereof to base course level the Access Roads are kept free from building or other materials and reasonably cleansed (so far as consistent with any work from time to time being carried out on the Property or any part thereof)

The Transferee shall not be liable to the Transferors if the Transferee is prevented from completing the Access Roads or Conduits as a result of any delay or failure on the part of the Transferors in obtaining vacant possession

#### 3. Procure adoption

3.1 The Transferee shall enter into any relevant agreement for the dedication or transfer of the Access Roads, and/or the Conduits as the

## Schedule of restrictive covenants continued

adopting authority may require and shall comply with its obligations under any such agreement and shall maintain them until such adoption takes place

3.2 Neither party shall do any matter or thing or omit to do any matter or thing which may unreasonably delay or prevent the adoption of any Access Road intended to be adopted as publicly maintainable or any of the Conduits to be constructed within the Property and intended to be so adopted

### 4. Default

If the Transferee fails to commence and thereafter complete the construction of the Access Roads and the Conduits the Transferors shall be entitled to enter upon the Property and to carry out the necessary works and the Transferee shall reimburse the costs of the Transferors incurred thereby on demand with interest calculated from the date of such demands at 4 per cent above National Westminster Bank Plc base rate

### 5. Redundant Services

The Transferee shall properly stop off and cap such redundant services to the Retained Land no longer require for the benefit of the Retained Land as the Transferors may specify to the reasonable satisfaction of the Transferors and in accordance with the requirements of any relevant service provider (the latter prevailing in the event of any conflict)

### 6. Hoardings and fences

The Transferee shall erect and maintain thereafter temporary protective hoarding along the boundary of the Retained Land separating the Property from the Retained Land prior to commencement of any works so as to protect and secure the Retained Land whilst the Property is being developed

Before the Northern Approaches Road (as required by the Phase IIA Agreement) is open for traffic the Transferee shall erect and maintain the fencing and environmental barriers shown on the drawings prepared by Denis Wilson Partnership attached hereto or such other equivalent fencing as may be required by the Transferors and such noise fencing as complies with the Highway Agency's "Specification for Highway Works" Clause 2504 a copy of which is attached, such works to be in such materials as shall be approved by the Transferors and the local or other statutory authority the approval of the Transferors not to be unreasonably withheld along the boundaries between the Property and the Retained Land. Insofar as such fencing is not adopted by the local highway authority, the Transferors shall maintain it after construction

### 7. Gas Governor Station

Subject to the Transferors obtaining the approval of BG Transco Plc the Transferee at the request of the Transferors shall relocate the Gas Governor Station presently situated on that part of the Retained Land known as Constable Close from its present position on the Retained Land to a new position on the eastern boundary of the Retained Land at Constable Close or to such other location as BG Transco Plc may approve on the Retained Land.

### 8. Services Infrastructure

#### 8.1 The Transferors may require the Transferee

8.1.1 to vary the design and construction of the MHT Land Phase IIA at any time prior to practical completion of the same (as that phrase is commonly construed in the construction industry) to connect with the Severalls Hospital site lying to the east of the MHT Land Phase IIA and

8.1.2 to increase the size and capacity of any Conduits on the Western Site at any time before practical completion of the same so that connections may be made by the Transferors with new Conduits to be laid to serve the development upon the Retained Land as described in paragraph 1.2 of this Schedule 6

## Schedule of restrictive covenants continued

8.2 In requiring the Transferee to vary the MHT land Phase IIA and/or the Conduits the following procedures and provisions shall apply:-

8.2.1 in obtaining planning permission for the development of Severalls Hospital the Transferors shall obtain the consent of the local planning and highways authorities to any delay in completing the MHT Land Phase IIA resulting from any variation contemplated by this paragraph 8 such consent to be incorporated in a variation of the Phase IIA Agreement

8.2.2 prior to either practical completion of the MHT Land Phase IIA or the construction of any Conduits on the Property the Transferee shall advise SOSH's Surveyors of the projected date for practical completion of the MHT Land Phase IIA and shall inform SOSH's Surveyors of the Transferee's proposal for the Conduits to be constructed on the Property as appropriate

8.2.3 within one calendar month of receipt from the Transferee for the information referred to in sub paragraph 8.2.2 above (or such extended period as the Transferee and SOSH's Surveyors shall agree) SOSH's Surveyors shall either approve the same or stipulate the Transferors' requirements for the variation in the design and construction of the MHT Land Phase IIA or the increased size and capacity of such Conduits as appropriate

8.2.4 as soon as possible after receiving the Transferors' requirements for the variation in the design and construction of the MHT Land Phase IIA or for the increased size and capacity of the Conduits the Transferee shall advise SOHS's Surveyors or Transferee's estimate of the additional costs to be incurred in varying the design and construction of the MHT Land Phase IIA or providing the increased size and capacity of any such Conduits as appropriate with such information as SOSH's Surveyors shall reasonably require to support such estimated costs

8.2.5 if on receipt of the Transferee's estimates as to the additional costs SOHS's Surveyors indicate to the Transferee and the Transferors wish to proceed then the Transferors and the Transferee shall agree the additional costs to be incurred within ten (10) Working Days of receipt by SOHS's Surveyors of the Transferee's estimated additional costs and if the parties within such period fail to agree the additional costs the same shall be determined by an independent surveyor, acting as an expert, agreed between the parties and in the absence of agreement between the parties appointed by the President of the Royal Institute of Chartered Surveyors on the application of either party and such expert shall use all reasonable endeavours to give his decision as to whether the additional costs are appropriate and reasonable as speedily as possible and in any event within ten (10) Working Days after his appointment (or such extended period as shall be agreed between the expert and the parties) and whose fees shall be payable in such proportion as he shall determine or in default of determination equally between the parties

8.2.6 the Transferors shall pay any additional costs agreed or determined as aforesaid on production of certificates of expenditure issued by or on behalf of the Transferee accompanied by supporting invoices and such information as the Transferors shall reasonably require to support such certificates

8.2.7 the Transferors agree and acknowledge:

8.2.7.1 the Additional Costs with reference to sub-paragraph 8.2.4 shall include not only the cost of additional works but also all other consequential costs including the costs of bonding facilities having to be extended any additional maintenance costs resulting from any delay in completing the MHT Land Phase IIA and its adoption by the local highways authority or in completing any sewers and their adoption by the local drainage undertaker or in completing the Conduits

8.2.7.2 the Transferee shall be entitled to refuse to execute any variations under the sub-paragraph 8 if the Transferors have not entered into any variation of Phase IIA Agreement extending the period for completing the Northern Approaches Road as referred to in Clause

## Schedule of restrictive covenants continued

8.2.1 above

8.3 For the avoidance of doubt, the Transferee's obligations under this clause shall only relate to the construction of sewers, pipes, and watercourses or ducts for Services to be provided within the Western Site. The Transferee shall not be obliged to procure the provision of any increased capacity in any sewage works, substations or other service facilities on any other land which may be necessary to enable the Transferors to use the extra capacity in such on-site facilities provided by the Transferee nor shall the Transferee be obliged to increase the capacity of any pump station or sub-station being provided on the Property to take account of any such additional capacity

### SCHEDULE 7

#### Restrictive Covenants on the Property

1. Not to obstruct the use by the Transferors and those authorised by the Transferors of the Access Roads in accordance with the right granted by this Transfer

2. Not to exercise any right of entry on to the Retained Land except:

2.1 in a reasonable manner causing as little damage or disturbance as reasonably possible to the Retained Land and those authorised to use it and

2.2 after first giving reasonable written notice of the proposed entry to the Transferor (except in the case of emergency)

3. Not to obstruct or otherwise interfere with the access use quality or quantity of the light and air as is now or as will be within the Perpetuity Period available to the Retained Land

4. Not to erect any building or structure within three metres of any Conduits in under through or over the Property which serve or are intended to serve the Retained Land (unless these are laid in a service margin or intended highway) and not to obstruct access to such Conduits on foot and with any necessary vehicles plant or equipment

5. Not to discharge into the Conduits serving the Retained Land any substance which may be harmful to the environment or to human health or corrosive or which may cause any damage to or obstruction of or deposit in the Conduits

6. Not to use the Property or any building erected on it from time to time for any purpose which may be or become a nuisance to the Transferor or any tenants or occupiers of the Retained Land including not to:

6.1 emit smoke or noxious fumes

6.2 cause excessive noise or

6.3 use the Property for the deposit of rubbish or refuse otherwise than in a suitable receptacle

7. Not to use Myland Hospital and the Western Site for any purpose other than for purposes within the meaning of Class C 3 of the Town and Country Planning Act (Use Classes) Order 1987 and uses ancillary thereto.

8. Not to erect more than 826 dwellings on the Property"

End of register

