



Appeal Decision

Inquiry Held between 16 and 30 October 2019

Accompanied site visits made on 24 and 25 October 2019

by Melvyn Middleton BA(Econ), DipTP, MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13th December 2019

Appeal Ref: APP/A1530/W/19/3231964

Land at Queen Street, Colchester, CO1 2PJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Alumno Student (Essex) Ltd against the decision of Colchester Borough Council.
 - The application Ref 182120, dated 23 August 2018, was refused by notice dated 7 March 2019.
 - The development proposed is the demolition of existing buildings/structures and redevelopment to provide purpose-built student accommodation, hotel, commercial space (Use Classes A1, A3, A4, B1(c) and D2), artists' studios and associated vehicular access and public realm improvements.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing buildings/structures and redevelopment to provide purpose-built student accommodation, hotel, commercial space (Use Classes A1, A3, A4, B1(c) and D2), artists' studios and associated vehicular access and public realm improvements on Land at Queen Street, Colchester, CO1 2PJ, in accordance with the terms of the application, Ref 182120, dated 23 August 2018, and the plans submitted with it, subject to the conditions in the attached schedule.

Procedural matters

2. OMC Investments (OMCI), who own property that is used for hospitality purposes, to the north-east of the appeal site, appeared as a Rule Six Party. Their objections to the proposal were presented by a barrister. In addition to the numerous written representations, largely objecting to the proposal, that were submitted both at the time of the application and following the appeal, fourteen individuals or persons representing sections of the local community, attended the Inquiry and presented evidence against the proposal. In particular, but far from exclusively, the design and massing of the buildings and accessibility to the south of the site, especially for persons with disabilities, were referred to.
3. The application was accompanied by a Design and Access Statement, a Heritage Statement, a Public Realm Concept Design Study, a Transport Assessment, and a Statement of Community Involvement, as well as numerous other technical documents that refer to different aspects of the scheme and are contained in Core Documents (CD) 1. It was also accompanied by a site location plan, a site layout plan and a series of levels plans, elevations and

sections of the proposed buildings. Subsequently, and in order to take on board some of the observations made in response to consultations, and before the application was determined, the Appellant submitted revisions to most of these and some other background documents. The revisions are contained in CD 2. I have taken the content of these plans and documents into account, along with all the other evidence submitted to the Inquiry, when reaching my decision.

4. The site's vehicular access proposals are shown on drawing ref: 404-PA-061(2) G and involve the construction of a conventional junction with Queen Street. The Highway Authority supports this aspect of the proposal in principle, as well as the Appellant's proposals to realign the carriageway, widen the pavements and remove non-essential street furniture from Queen Street. Nevertheless, it objects to the insertion of bollards, along the west-east link from Queen Street into the development, and to some of the detail pertaining to the Queen Street improvements. However, these could be overcome by conditions and the Queen Street changes would in any event be covered by a Section 278 Agreement, which would give the Highway Authority control over the final outcome. In these circumstances and in the absence of sustainable objections, I do not discuss these matters specifically any further.
5. The appeal is accompanied by a Statement of Common Ground. Among other matters, it sets out the relevant planning documents and policies and where the Appellant, the Council and the Rule Six party agree or disagree on the matters that are relevant to the determination of the appeal. In particular, the parties disagree about the proposal's impact on the character and appearance of the Colchester No.1 Conservation Area (CA), which extends across the town centre, and the significance of other heritage assets, as well as its conflict with the St Botolph's Quarter Masterplan (MP), Supplementary Planning Guidance (SPG) that the Council has adopted in order to guide development in the area within which the appeal site is located. In addition, the weight to be assigned to public benefits arising from the scheme and the overall quality of the design are disputed.
6. At the end of the Inquiry, the Appellant submitted a signed Deed of Agreement made pursuant to Section 106 of the Town and Country Planning Act 1990. In the agreement the Appellant covenants with the Council not to cause or permit the occupation of the development until it has submitted an Operational Management Plan and received the Council's approval to it. It also agrees to pay to the Council, before any units are occupied, sums of money to contribute towards the provision of sustainable transport initiatives, healthcare improvements, ecological mitigation and CCTV provision, as well as for archaeological purposes and the Appellant's membership of the Colchester Travel Club. Additionally, it agrees to provide unrestricted access to the Public Realm, proposed within the site, and to allow public access into the student quarter and through it to Berryfield, at specified times.
7. Paragraph 2.7 of the document points out that none of the provisions of the agreement shall take effect unless I determine that each obligation is necessary to overcome any relevant objection to the grant of planning permission and that without it, planning permission would be refused¹. I return

¹ Regulation 122 of the Community Infrastructure Levy Regulations 2010.

to discuss the appropriateness of the Agreement's clauses in the context of national and local policy later (paragraphs 143-150).

8. As well as on accompanied site visits on 24 and 25 October, I visited the appeal site and its locality, as well as some of the surrounding area and locations elsewhere in Colchester, unaccompanied, on several occasions between 15 and 30 October 2019.

Main Issues

9. Having regard to all that I have read, heard and seen, I consider the main issue in this case to be:

Whether the proposal is in accordance with the Development Plan (DP) and legislation and guidance that seeks to protect historic assets, with particular reference to

- The design of the proposal;
- The setting of nearby heritage assets;
- The character and appearance of the Colchester No 1. Conservation Area;
- The accessibility of the site from the south.

Reasons

Development Plan

10. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the DP, unless material considerations indicate otherwise. At paragraph 11, the National Planning Policy Framework (Framework) says that proposals that accord with an up-to-date DP should be approved without delay.
11. The statutory DP for the area, in which the appeal site lies, comprises the Colchester Core Strategy (CS), which was adopted in 2008 and amended in 2014; the Colchester Site Allocations (SA) Development Plan Document (DPD), which was adopted in 2010; the Colchester Development Policies (DP) DPD, which was adopted in 2010 but amended in 2014; and the Colchester Proposals map, which was also adopted in 2010.
12. The principle policies that are relevant to the determination of this appeal are set out in paragraphs 5.8 – 5.10 of the agreed Statement of Common Ground². They include CS Policies UR1, UR2, Ce2, and ENV1, which together seek to promote high quality, inclusive design that is sympathetic to the character of the area and enhances historic buildings and features. Policy UR1 also identifies the St Botolph's area, within which the appeal site is situated, as one of five defined regeneration areas that are expected to enhance Colchester's attractiveness as a visitor destination.
13. Policies DP1, DP6, DP12 and DP14 require development proposals to respect and enhance the character of the site, its context and its surroundings in terms of its architectural approach, form, proportions, materials, townscape and detailed design features. DP12 requires high standards of design, construction and layout within residential developments, whilst DP14 does not permit

² Also at Section 7 of the committee report (CD 3.1)

development that will adversely affect a heritage asset. Policy DP6 also encourages appropriate retail, commercial, cultural and leisure areas and an appropriate balance between residential and commercial uses within the MP area.

14. CS Policies UR2 and DP1 and DP12 require inclusive design with people friendly layouts that give priority to pedestrian, cycling and public transport access, including for people with restricted mobility.
15. Policy SA TC1 sets out a mix of uses that will be considered acceptable in the Town Centre and North Station Regeneration Area. These specifically include mixed uses with residential on upper floors within the St Botolph's cultural quarter, which is also the preferred site for a new hotel. The appeal site is within the St Botolph's cultural quarter. With the exception of DP14, which does not follow the Framework's guidance on the treatment of less than substantial harm to heritage assets, I consider the relevant policies to be Framework compliant and up-to-date.
16. The Council has recently prepared a replacement local plan (RLP), which is now the subject of examination. Policy DM10 supports the delivery of student accommodation and the site allocation (SA) TC3 identifies the application site as being suitable for a hotel, student accommodation and retail space. I was told that there is no objection to this proposal before the Examination and that it is consistent with the Framework. In the context of paragraph 48 of the Framework I should give some weight to this policy.
17. The MP was adopted as SPG in 2005. In setting out a vision for new cultural, residential and visitor facilities, it too reinforces the need for high quality design and the protection of the town's historic townscape.
18. None of the principle parties suggests that, despite their age, these policies are not up-to-date and should not be given full weight in the context of paragraph 213 of the Framework. With the exception of Policy DP14, I agree.

Urban design

19. The proposal would build a four-storey hotel, fronting Queen Street and a realigned access into the site from that highway. Behind this and fronting a new street, referred to as Southgate, and the Berryfield open space, immediately to the east of the site, three linked blocks of student accommodation would also front a rampart walk adjacent to the Roman Wall and an improved town square that has already been partially provided between the First Site arts centre and the refurbished Roman House, which now contains the Curzon cinema. At the south-western corner of the site, a new public square, to be called John Ball Square (JBS), is to be created, following the demolition of a disused bus garage that stands atop the Roman Wall. Beneath the student accommodation there would be a mixture of retail, commercial, and creative uses on the ground floor.
20. Whilst the MP promotes a mixed development of affordable and market housing, because of archaeological, urban design and pollution considerations discussed further in paragraphs 142 and 148 and despite the passage of fourteen years, no such implementable scheme has come forward. The observation of Historic England, which has been involved in discussions about the redevelopment of this site for many years, that "in the light of the site's

constraints regarding private residential development, we consider the proposed student accommodation to be generally the most appropriate scheme we have seen to date”, speaks volumes. Policy DP6 and SA TC1 encourage residential uses on the upper floors of new buildings within the St Botolph’s quarter. Student accommodation is a residential use aimed at a specific sector of the population that is a part of the overall housing requirement. RLP Policy DM10 and SA TC3 support the provision of student accommodation within the town centre in general and on this site in particular.

21. Some representors, whilst not objecting to student accommodation per se on this site, did question the amount and density and its ramifications for the scheme’s design and social cohesion in the area. This is not a conventional residential area and the nearest family housing of any quantity is some distance away to the south on Priory Street. There is no credible evidence to demonstrate that 350 students living on this site would have an adverse impact on the vitality and viability of adjacent parts of the town centre, quite the reverse or on social cohesion. In addition to the proposed management initiatives, in which the Council has a role through the Section 106 Agreement, the mix of uses, including their verticality, should help to socialise and self-police the public realm.
22. I was not referred to any other existing or proposed purpose-built student accommodation, within the extensive area surrounded by the Town Wall. There are numerous other university towns, some of them historic, with far more student accommodation, within their town centres and even on individual sites, than would be the case here. There is no evidence to suggest that student accommodation is a serious detriment to the overall wellbeing of those town centres.
23. The proposed mix of uses conforms with the requirements of Policy SA TC1 and mirrors the uses identified for the area in the MP. It is also supported by emerging Policy DM10 and SA TC3. In such circumstances the proposal has to be acceptable in principle.
24. The MP includes a notional layout for the area that envisaged the redevelopment of St James House and Roman House, as well as the bus station and the bus garage. Whilst St James House has been demolished and is now the site of the proposed hotel, Roman House has been converted into a cinema with currently vacant retail/commercial units occupying a part of the ground floor fronting Queen Street. The masterplan layout is clearly now unimplementable in that context. However, that apart, the appeal proposal clearly follows the layout parameters of the MP and the suggested footprint to a remarkable degree, given the changes that have occurred in the years since the MP was adopted.
25. There was much criticism about the deviations in public space and circulation areas from that shown on the masterplan. However, following the decision not to demolish Roman House, the Council’s aspiration to align a new street along Queen Street’s historic alignment is not feasible at this time. The proposed alignment of Southgate is parallel to Queen Street and, in this respect, reflects the historic pattern of street development within the Town Walls. The link from Queen Street has been moved slightly to the south. It would occupy the site of the uncharacteristic single storey ticket office, which is to be demolished. Its removal and replacement by the accessway together with improvements to the

- southern flank frontage, would benefit the setting of the listed buildings to its south. The proposal achieves a north-south route through the part of the site to be developed, with ground level activities enhancing its function as a commercial street, just as envisaged in the MP. Its narrowness and that of the routes between the student blocks is also a response to a MP requirement.
26. The MP proposes three east west pedestrian links through the area to Berryfield. One adjacent to the Roman Wall, one across First Site Square and the third as an extension to the vehicular access from Queen Street. The first would be achieved through the construction of the Rampart Walk, the second already exists and the third, between blocks B and C, would be available for the public to use in daylight hours. Although there is not a direct line of sight between Queen Street and Berryfield, there would be one between the Southgate entrance to the student accommodation and Berryfield. The curvature of the First Site building would be clearly visible beyond the open space.
27. At the present time Berryfield is used as a school playing field, with occasional use by community events. The lease to the school still has fifteen years to run on its current term. There is no guarantee that it will be terminated then or that the land will become a public park. In addition to the use of the Rampart Walk route, the Section 106 Agreement secures the use of the route through the student accommodation into Berryfield, for community events, if the Appellant is given appropriate notice. In the long term if the field is able to have continuous public use then the Agreement secures access to the park, during daylight hours, through gates to be provided by the Appellant. In my view it would be unreasonable to expect any more from the Appellant at this point in time, given the circumstances.
28. At its narrowest, there would be a width between buildings along the route, through the student accommodation, of about 5.0 metres, although for much of the route the distance is substantially in excess of this dimension. The relatively narrow streets and walkways that are proposed, reflect the character of much of central Colchester and conform to the MP guidance, which considers it "critical that these routes are narrow".
29. There was criticism of the Appellant's failure to provide a public walkway along the western side of Berryfield, linking the Rampart Walk with First Site Square. However, no such route is proposed on the MP and the Agreement allows public access to the site's boundary with Berryfield during daylight hours, so that views from here of First Site itself could be experienced at those times. Whilst not continuous there would be a pavement, within the site, along the Berryfield boundary for most of its length. Had the Council genuinely had aspirations for something more pronounced, then such a link could no doubt have been prescribed in the lease agreement with the Appellant.
30. The central block of the student accommodation would be five stories in height. This reduces to four in the northern and southern blocks and then to three and two stories in front of the Roman Wall. The MP proposes 3-4 storey buildings, which respect the general scale of buildings in central Colchester but with higher elements in the middle of the scheme. These changes in height help to break up the appearances of the three blocks and sensitively step the building away from the Town Wall and the Rampart Walk.

31. The design has clearly been influenced by the historic plot-derived frontages, both along Queen Street (Southgate elevation) and East Hill (Berryfield frontage). These help to give the components a more human scale. The student garden, courtyard and setback terrace all help to further introduce recess into the façades, as does the refined fenestration. This is particularly distinctive on the frontage to Berryfield, where crenellation on some of the top floors further helps to give additional distinction to the elevation.
32. Facing Southgate there would be a variation of designs that include bay windows as well as recessed windows. The overall design breaks up the elevation in a way that is reminiscent of the varying traditional plot widths along Queen Street and also transposes the window verticality that is clearly evident in the historic buildings along that street.
33. In concluding that the scale and mass of the development would not cause harm I also note that the Colchester Design Review and Design Council CABE supports the scheme and considers it to be "the most appropriate scheme we have seen to date in terms of scale and sensitivity to the surrounding urban grain".
34. The mass of the buildings could be further broken down by a sensitive choice of brick colour and shade that further distinguishes the different components of the buildings from one another. This and other matters of detail are the subject of conditions. If serious attention is given to the choice of quality local materials, rather than uncharacteristic imports and the provision and maintenance of excellence in the landscaping is achieved, then this proposal could be seen as a significant improvement on much of the townscape that has evolved in central Colchester over the last half century. In such circumstances the student complex would enhance as well as complement the existing character of the town centre.
35. Following criticisms from Historic England and others, the elevation to First Site Square was revised, shortly before the Council formally considered the proposal. The building was increased in height, in order to achieve a more resolute appearance but with the fourth storey set back. More expressive detailing, including a ground floor colonnade, feature brickwork, turrets and a gridded elevation, on the top of the building, was introduced to frame this key space and to animate the skyline.
36. Objectors criticised this treatment, claiming that the building would be too close to its "illustrious neighbour" (the First Site art gallery) and as designed and located, would overwhelm this building, which some consider to have been designed as a landmark. The MP, which was prepared at a time when the location and design of First Site was known, and involved that building's architects in its preparation, clearly shows a building marginally closer to First Site than the one now proposed and positioned noticeably further north than the current proposal. In that arrangement, the First Site building does not even front the much smaller square that was proposed.
37. Although the revised First Site Square elevation of the appeal building is now marginally higher than the heights of the First Site building and Roman House, this is one of the pivotal locations within this square, occupying the central position on the southern side. The northern side is currently occupied by an uninspiring three storey building, that is domestic in its proportions and architecture. Despite its location, it does not fulfil any pivotal function in the

architecture of this square or enhance its townscape. In my view the square, as it has come about, needs a distinctive focus and the northern elevation of the student block now has the potential to achieve this.

38. The First Site art gallery is a crescent shaped building clearly designed to reflect the curvature of a footpath within the former garden of East Hill House and the mature trees that align it. Most of the building is devoid of windows but the principle ones that exist are along the northern "concave" elevation and clearly address this part of the former East Hill House Garden. Although adjacent to the square, as now laid out, being located at its south-eastern corner, First Site has clearly been designed to turn its back on the square that bears its name. Its front elevation faces Lewis Gardens, a relatively new access into the area, immediately to the west of the aforementioned crescent, and not First Site Square.
39. Furthermore, in order to further detach the building from the square, there is a triangular extension to the roof that forms a canopy over the front entrance. Its western side is cantilevered above a triangular block of reinforced concrete. This has the effect of restricting views into the square from the entrance to First Site. Indeed, because the appeal building's frontage has been set further south, than originally proposed, much of its northern façade would not be visible from the entrance into the First Site art gallery.
40. This set back would also have the effect of allowing unimpeded views of the flank of First Site, across the square, from the accessway adjacent to Roman House, which leads from Queen Street. First Site would be the first building to be seen and experienced as the visitor moves from Queen Street towards the square, the appeal building being gradually revealed as the visitor moves further along the eastern part of this access and into the square itself.
41. In my view the appeal building would not overwhelm First Site and its construction would greatly enhance the appearance of this now derelict and uninviting area. Along with the commercial uses that it would bring to this area, it would increase footfall to the east of Queen Street and undoubtedly encourage a greater use of the First Site art gallery. It would also provide a much-needed focus for First Site Square.
42. The southern elevation of the First Site building is clearly its rear elevation. Windows are limited but those that exist have direct views across Berryfield towards the Roman Wall and beyond. The appeal proposal would be seen laterally from these windows, framing the western side of the vista. There is a gap between the appeal building and this First Site elevation, slightly wider than that envisaged in the MP. Through this, visitors would be able to appreciate the convex curvature of the building projecting into Berryfield from the square. The development would also provide a public access along the Rampart Wall to Berryfield, from where the full expanse and architecture of First Site could be experienced across the playing field. Such a vista is not available today.
43. The overall scale and massing of the hotel building reflects that of the adjacent Roman House, which it adjoins. The use of a mansard roof would reduce its dominance at the corner of the access road and where it will be most seen in the context of the listed Nos 33-41 Queen Street. Nevertheless, and although I consider the overall scale of the building to be appropriate, I have strong reservations about the proposed detailed design of this building.

44. This side of Queen Street has a strong vertical rhythm in its appearance, a feature of all of the buildings between the access into First Site Square and Priory Street and including Roman House, with the exception of the single storey ticket office and the former bus garage, both of which are to be demolished. The Appellant has reflected the interpretation of plot widths as seen in some of the buildings on East Hill by the imposition of vertical incisions into the brickwork and the windows have been designed to reflect the verticality of the traditional ones in Queen Street.
45. However, it has also inset windows into deep reveals, the ones on the second floor, in particular, having a distinct horizontal emphasis to them. Additionally, the windows are not aligned vertically. When combined with the distinctive cornice line below the mansard roof, which does reflect a feature on some of the existing building in the street, these features create an overall effect of horizontality, which is decidedly not a characteristic of the existing building designs.
46. In my view the overall design is not sufficiently informed by the local context. The implementation of such a design would not be sympathetic to local character and history, as expressed in the surrounding built environment or assist in maintaining a strong sense of place along Queen Street. I consider this aspect of the proposal to be contrary to Policies UR1, UR2 and DP1. The Framework says at paragraph 130 that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area.
47. However, it also says at paragraph 54 that decision makers should consider whether otherwise unacceptable development could be made acceptable through the use of planning conditions. I consider the location and mass of the hotel aspect of this scheme to be acceptable, my concerns being focused on the detailed design of the Queen Street elevation and its corner with the new accessway. There is no reason why a design that is more sympathetic to the local vernacular, could not emerge without necessitating further alterations to other aspects of this design. I therefore do not consider it appropriate to dismiss the appeal on this basis, a more appropriate design being capable of fruition by an appropriate condition.
48. The overall scale and design of the proposal is supported by Colchester's Design Review and the Design Council (CABE). To conclude on this matter, I consider that through the imposition and satisfactory dischargement of appropriate conditions, this scheme could achieve development that has high quality buildings, functions well and creates a distinctive sense of place that is sympathetic to its surroundings. In doing this it is supported by the relevant parts of CS Policies UR1, UR2, Ce2 and ENV1, DP Policies DP1, DP6 and DP12 and SA Policy TC1.

Heritage Assets

49. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires decision makers to have special regard to the desirability of preserving the setting of a listed building when considering whether to grant planning permission for development which affects its setting. When considering the impact of a proposed development on the significance of a designated heritage asset, paragraph 193 of the Framework requires great weight to be given to

the asset's conservation. The more important the asset, the greater the weight should be.

50. Paragraph 194 requires that any harm to the significance of a designated heritage asset arising from development within its setting should require clear and convincing justification. In paragraph 196 it also says that where a proposed development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
51. Apart from the Roman Wall there are no listed buildings or ancient monuments within the site but there are a number within close proximity. I was referred to some of them by the different parties, there not being a consensus as to which assets would be harmed or the extent. However, there was general agreement that any harm would be less than substantial. The participants argued that the harm would either be in the middle of the scale, in a small number of instances, or more generally towards the lower end of the scale.
52. The Framework defines setting as the surroundings in which a heritage asset is experienced. Significance is defined as the value of a heritage asset to this and future generations because of its heritage interest. National Planning Policy Guidance (NPPG) points out that assessing the nature, extent and importance of the significance of a heritage asset and the contribution of its setting, is very important to understanding the potential impact and acceptability of development proposals. It also says that what matters in assessing whether a proposal might cause harm, is the impact on the significance of the heritage asset. As the Framework makes clear, significance derives not only from a heritage asset's physical presence, but also from its setting.

Nos. 67, 67A and 68 High Street, 1, 3 and 7&9 Queen Street

53. These Grade II listed buildings are located on the south-eastern side of the junction of High Street with Queen Street. The significance of these assets is derived primarily from their evidential, historical and aesthetic values. The key contributing aspects of the setting of all of these buildings is their interrelationship with each other. They are best observed as a group from the eastern part of the square to the north of High Street at its junction with Queen Street.
54. There is now a gap between Nos 3 and 7 Queen Street, with views of the sky at eaves level and above, in some vistas between the buildings, when they are observed from certain vantages on the northern side of the junction and when exiting Castle Park at this location. The scene is one of a group of individually built buildings of Georgian or earlier origin and as the Council points out, they are best legible when experienced in the all-encompassing views from the north.
55. When these buildings are observed from Castle Park and its exit, as well as from parts of the square to the north of High Street, the tops of the gridded front elevation and flanking turrets of the appeal proposal, would be seen in the gap. The extent of the appearance of these, above the roof ridges, would depend upon the distance into Castle Park from where the listed buildings were being observed. Even though the upper section has been deliberately modelled to reduce the visual impact, it would undoubtedly change the vista.

56. The primary significance of the buildings lies in their group value. This has to be experienced from north of High Street if a full appreciation of the overall group is to be obtained. The best vantages for appreciating the group are on the north-eastern side of the square from where the twentieth century war memorial and the high metal fencing bounding Castle Park do not interfere with the experience of appreciating a group of historic buildings. However as one moves east across the square from the park gates, Roman House occupies an increasing amount of the void between Nos. 3 and 7 and even the vista without Roman House is contaminated by modern street furniture, there being two lamp columns visible in the gap itself and others elsewhere in all of the photographs of this group submitted in evidence. Additionally, when viewed from the north-western part of the Square, the First Site building occupies the gap to a greater or lesser extent, depending on the position.
57. In the views of the group that contain Roman House or the First Site building, these modern structures act as a backdrop. Given their distance (about 60-70 metres away) they are not a prominent feature of the vista and do not prevent or significantly impair the appreciation of the group. The insertion of the top of the First Site Square frontage to the appeal scheme, into this street scene, would similarly not prevent the viewer from experiencing and appreciating the historic assets, although in my view there would be some diminution in the experience as a result of the presence of another modern building in some vistas. I consequently consider that there would be less than substantial harm to these heritage assets and that that harm should be graded towards the lower end of the scale.

Castle Park

58. The Castle and its Park are experienced by walking through the grounds. The appeal building would not be seen when entering the park and whilst experiencing the castle when walking towards it. It would be seen by persons leaving the park at the war memorial exit. However, the building is some distance away and would be seen as a part of the skyline of central Colchester, which already contains many modern buildings. Its presence would not harm the setting of the castle and its park.

War Memorial

59. The war memorial is best appreciated from its front face and thereby from the south. The appeal buildings would not be seen in this vista and I am not persuaded that the proposal would harm its setting. I note that many people attend armistice services in the square. However, the appreciation of the heritage assets is not the primary purpose for their attendance and in the casual glimpses of them that many would experience, the appeal building would be no more a dominant feature in their sight than is the detracting street furniture and other modern buildings, including the appeal building's neighbours, that occupy some of the views now.

East Hill House, Greyfriars House and The Minories

60. These three listed former Georgian residences are located along East Hill. Their primary significance centres around their red brick frontages, which all face onto East Hill. The appeal building would not be visible in these historic front elevational vistas.

61. However, there now is a two-dimensional view of The Minories from the junction of East Hill with Lewis Gardens. This can also be experienced from rooms on each floor in the western wing of Grey Friars, which is now used as a hotel. However, the side elevation to The Minories has been altered and rendered, following which it has been painted blue. There are also modern extensions at the rear. This part of the building's significance is therefore much reduced.
62. At street level the ground floor of this is screened by a modern flat roofed garage and high brick walls. Although more of the elevation can be seen from the upper floors of Grey Friars, these are private views and the walls to The Minories as well as a modern one fronting the east side of Lewis Gardens and bounding East Hill House, dominate the foreground of the setting and the view from Greyfriars.
63. In views of The Minories that include Lewis Gardens, the form of First Site dominates the back-drop but its presence is much tempered by intervening vegetation. The appeal proposal would be visible to the right of First Site. In views from the upper floors of Grey Friars it would be seen above its most western part. However, again the views of the appeal building would be filtered by vegetation. It would be more obliquely seen from the rear of East Hill House but nevertheless would be seen in some views from the building, above the western part of First Site. However, the fact that new development can be seen from within the setting of a listed building does not necessarily make it unacceptable or harmful.
64. The insertion of the appeal building into the backdrop of a secondary view of The Minories that already contains modern buildings and structures would not compromise this heritage experience or those of its listed neighbours. I consider that there would be no harm caused to the setting of East Hill House, Grey Friars or The Minories.

The Minories Summer House

65. This eighteenth century gothic-style folly was once in the garden of East Hill House and approached along a long pathway from which the structure was appreciated. It is best experienced from the north-east where its battlemented screen front, with three 'Gothic' headed arches can be seen. However, at some point during the twentieth century, this pathway was bisected by the construction of Lewis Gardens. This detached the semi-circular summer house, from the garden of its former host, leaving only a small length of the original pathway from which to experience the building and only from close-up vantage points.
66. At the present time these views of the building have a backdrop of vegetation, through which both First Site and Roman House are visible. The insertion of another modern building between these would change the setting to a small extent but I am not persuaded that this would be harmful.

Nos. 33-41 Queen Street

67. This terrace of Grade II listed buildings is located on the eastern side of Queen Street, immediately south of the proposed site access and extending further south as far as the disused bus garage. The significance of these assets is derived primarily from their evidential, historical and aesthetic values. The key

- contributing aspects of the setting of all of these buildings is their interrelationship with each other. The mid-eighteenth-century former Soldiers' Hostel, which was more recently Colchester Police Station, is the most significant. It is brick built with pilasters and vertically aligned windows and occupies the central position within the group.
68. The demolition of the single storey former bus station ticket office (No. 31), would reveal the flank gable to No. 33, giving that building more prominence in the street scene. The Appellant proposes to implement reinstatement works to this side elevation and to implement appropriate art work along the flank frontage to the access road. This could be secured by a condition.
69. I referred to the relationship between this group of listed buildings and the proposed hotel in paragraphs 43-47. At the present time this part of the site is vacant and surrounded by wooden hoardings. In my view the absence of development on this site has a negative impact on the character and appearance of the street and the setting of the adjacent listed buildings. The construction of a new hotel, to a design that complimented the appearance of the listed buildings, would do much to enhance their setting.
70. At the rear of No 37 is the original garden front to the Soldiers' Institute. Other historic extensions to the building also flank the space in front of it. The garden, which is now paved, is land locked at the present time, being hidden from public view by the bus depot to its rear. The proposal would remove this and at the same time open up this rear area to public view, thereby introducing an additional new setting for No. 37. I consider that the proposal should enhance the setting of Nos 33-41 Queen Street.

St Botolph's Priory

71. The ruins of the twelfth century Augustine Priory of St Botolph lies to the south of Priory Street. It was built of roman brick and stone taken from roman buildings. Circular brick columns, supporting arches, are to be found in the nave and the west front has interlacing brick arcades. It is a scheduled ancient monument and a Grade I Listed Building.
72. The Priory itself is largely experienced from within the site. However, there are reciprocal views between the Priory and the Town Wall. Within the Priory grounds to the north of the ruins, between the trees and shrubs and to the west of twentieth century brick dwellings fronting Priory Street, there are views of the Roman Wall with the bus garage atop. The trees and shrubs are close to the Priory Street boundary and dominate the background of most views. This is compounded by the lower ground level of the Priory ruins so that these views are not a dominant aspect of the Priory experience.
73. Nevertheless, there are distant glimpses of the wall and bus garage adjacent to and between some of the Priory structures, as evidenced in some of the photographs submitted in evidence by the Council. At the present time most of the views are dominated by a glimpsed backdrop of the bus garage, which sits on top of the Roman Wall and towers above it. However, at the eastern end the backdrop, in oblique views, is one of vegetation above and beyond the Roman Wall.
74. The appeal proposal would remove the bus garage but build the southern student block beyond the wall. About 50 metres of bus garage would be

replaced by about 70 metres of student accommodation. However, the latter would be noticeably further away from the wall and the Priory Grounds than the bus garage now is. Because of the location of intervening buildings on Priory Street, some of the eastern part of the student block would not be visible from most vantage points within the Priory grounds. The removal of the bus garage would enable a better interpretation of the Roman Wall when viewed from the Priory grounds. The proposal's impact on the current setting of the Priory would consequently be better than neutral.

75. At the present time there are only oblique views of the Priory from the part of the appeal site to the north of the Roman Wall. Very little of the Priory ruins can actually be seen from these locations. However, following the demolition of the bus garage and the construction of the Rampart Walk and JBS, there will be clear direct views of the Priory grounds from above the Roman and Theatre Walls. These works will enable an appreciation of the Priory that has not been available for a long time. It will undoubtedly extend the monument's setting and enable the relationship between the historic town, its wall and their religious neighbour to be much more easily understood and appreciated. I consider that these works would enhance the Priory's setting and weigh in favour of the proposal.

The Church of St Botolph

76. This nineteenth century neo Norman church is located to the south of the Priory. It has a fine square tower at its western end. At the present time there are distant views of the tower in the vicinity of First Site Square. Further south the views are obliterated by the imposing height of the bus garage that intervenes into the southerly view. Its removal would enable the tower to be seen by persons walking down Southgate from the hotel building to John Ball Square, the tower being framed by the western wing of student block C and the rear elevations of the listed 33-41 Queen Street.
77. Further south, the tower will again be clearly visible beyond the Priory grounds in views from the Rampart Walk and JBS. This will enable a much greater appreciation of the tower's architecture from a distance, than is currently possible and will extend and enhance the setting of the listed church. I consider the proposed works in the south-eastern part of the site would enhance the Church of St Botolph's setting and weigh in favour of the appeal proposal.

The Roman Wall

78. Most of the site is located within the southern circuit of the Colchester Town Wall, which was originally constructed towards the end of the first century AD and is designated as a Scheduled Monument. At the moment the wall, which at this point is among the best preserved in the country, is experienced from along Priory Street, from where there are key views of the structure across a car park. These views are from without the Roman Town. The wall extends for most of the width of the site, apart from the westernmost nineteen metres, where its remains are buried below ground and underneath the bus garage.
79. The wall's historical significance stems from it being a part of the very earliest town defences. It is a very legible structure and highly sensitive to the amount of development that could be built within its setting, without causing harm to its significance. Nevertheless, the development of the appeal site also offers

- the potential for the creation and enhancement of the public realm adjacent to the wall and this could positively contribute to its significance.
80. The northern side is marked by raised ground. That part to the east of a bastion was recently occupied by the bus station. That to its west is currently the site of the disused bus garage, much of whose southern wall sits on top of the Roman Wall.
81. The bus garage and the broken concrete surfaces to the north of the eastern part of the wall, are both detracting features. At the present time it is not possible to appreciate the defensive aspects of the wall, its historic relationship with the Priory or the views across the river valley to the south of the town, because there is no public access to its inner side at this point. Additionally, the interpretation of the wall from the south is confused by the merging of parts of the southern elevation of the bus garage into and above its structure.
82. The appeal proposal would remove the bus garage from the Roman Wall and at the same time undertake repairs and maintenance to the parts of the historic structure within the site. These works already have Scheduled Monument consent. Additionally, a rampart walk would be constructed adjacent to the northern side of the wall. The space between the buried Roman Wall and the former Theatre Wall to its south would become a part of JBS. There would be hard and soft landscaped areas to the north of the walk beyond which would be student block C. The MP accepts development fronting onto the Town Wall. Student block C has been redesigned following representations from Historic England. The southern extent has been moved northwards by at least 2.5 metres and the building behind would now be stepped from two to three to four stories. The MP allows for three storey development fronting the wall.
83. The revised proposals would locate the southern elevation of the eastern wing of block C about seven metres north of the wall. The eastern corner of the western wing would be a similar distance away, but the separation extends to about fourteen metres at the western end. The central section would be about sixteen metres to the north of the wall and this or a greater separation distance would be achieved along the majority of the length of the wall within the appeal site. To the north of the walkway would be hard and soft landscaped areas. Although at some points the proposal would be marginally closer to the wall than the schematic layout contained in the MP, for the most part it would be noticeably further away and lower in height than envisaged.
84. The wall was built as a defensive structure to protect the built settlement. Although parts of the appeal site have never been built upon, this is not a typical characteristic of the environs of the Roman Wall. Much of the Town Wall is abutted on its inner side by past development and the bus garage is not the only building that has used it as a foundation. Built development on the appeal site close to the Roman Wall would not therefore be out of character or necessarily detract from its setting.
85. Following the amendments, Historic England concluded that the proposals would not now cause harm to the significance of the Town Wall. Whilst the primary change referred to in the consultation is a further set back of block C by 2.5 metres, other changes, such as the reductions in height of the southern part of block C and changes to the street scape along the Rampart Walk, would also have a profound effect on the impact of the development on the wall's setting.

86. The Rampart Walk would allow public access to the northern side of the wall, enabling visitors to experience the views over the Priory and beyond. Interpretation would also be provided to enable a better understanding of the archaeology and history. Overall the impact of the proposal on the Roman Wall would be decidedly positive.

The character and appearance of the Colchester No 1. Conservation Area

87. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires decision makers to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.
88. This conservation area covers an extensive area within central Colchester. Its appearance today is very varied, the area having seen considerable changes through redevelopment in the twentieth century. Nevertheless, the area still retains a great deal of historic character. In 2003 and 2005 the Council prepared but did not adopt, character appraisals for the area within which the appeal site is located (St Botolph's Quarter 2003 and Queen Street, St Botolph's and Vineyard Street area 2005). Both appraisals recognise the key role that the historic street pattern and property boundaries play in defining the unique and distinctive character of the area. The area has a mixed heritage of historic buildings dating from the 16th to the 19th century, as well as being well endowed with twentieth century buildings.
89. The documents recognise the detracting influence that the former bus station and bus depot have on the area, describing them as bleak and unattractive. They also point to the poor overall architectural quality of Queen Street and the particularly unattractive post-war buildings. Additionally, they aim to restore some of the lost character by reverting to historic street frontages in order to restore the traditional townscape and the enclosure of the street.
90. Regardless of what was said at the Inquiry, in its current state and despite the demolition of St James House and the removal of furniture from the bus station, the appeal site undoubtedly has a negative effect on the character and appearance of the Conservation Area, as well as on the settings of other individually designated heritage assets that are in the vicinity of the site. The redevelopment of the site is an opportunity to enhance this part of the Conservation Area and to improve the wider setting of the heritage assets.
91. The hotel would be built on the historic street alignment, thereby maintaining the traditional pattern of built form and maintaining the historic enclosed character of the streets within the Town Wall. A new street (Southgate) would run parallel to Queen Street and along an alignment that could have occurred historically, if the area had been developed with buildings. It also continues the theme of narrow streets.
92. If the Queen Street elevation is suitably revised, then the proposal's architecture would reflect the appropriate characteristic design themes of both East Hill and Queen Street, in addition to the plot divisions found in historic Colchester. The architecture is unashamedly modern, but it clearly respects the traditions of Colchester and the design of the northern elevation to the student complex has been carefully crafted to achieve an interesting elevation that will confirm its presence and significance in the square that it pivots. There would be occasional views of it from other parts of the Conservation Area that are nearby. However, the fact that new development can be seen within a

conservation area does not make it unacceptable or harmful. Modern buildings are a characteristic component of vistas in this conservation area. In my view the proposal would enhance the character and appearance of the Colchester No. 1 Conservation Area. It is in accordance with CS Policy DP14 and supported by CS Policy UR2.

The accessibility of the site from the south.

93. The MP proposes a new north-south link between Queen Street, to the north of Roman House, and Priory Street opposite St Botolph's Priory. A footpath through the Priory grounds connects to the large Britannia surface car park, Colchester Town Station and beyond.
94. This route needs to cross the Roman Wall at some point and an approximate alignment that crosses the wall, where it is buried under the bus garage floor and subsequently under JBS, has been selected. The route would also need to change height between the level of Priory Street car park and that at the site of the future JBS. At the present time there is a height change of at least 1.5 metres between the car park and the bus garage floor above.
95. This is currently expressed through the former Theatre Wall, atop which a part of the bus garage wall also sits. Whilst only dating from the early nineteenth century, this wall, which is located to the south of the buried Roman Wall, gives the impression of a historic wall continuing all the way across the site and to the rear of the buildings fronting Queen Street. It undoubtedly improves the setting and interpretation of the exposed Town Wall to its east. The restoration and retention of the older part of the Theatre Wall, once the bus garage wall has been removed, was an integral part of the scheme as originally designed. The public would be able to stand behind this wall and look directly at the Priory ruins to its south.
96. There is an entrance to the bus garage up steps through this wall. The original scheme widened the entrance through the wall and rebuilt the steps to modern standards, providing stepped access between Priory Street and JBS. Following representations from disability groups a ramped access was added to the proposal but at a gradient of 1:12.
97. The Council considered this to be unsatisfactory and reason for refusal No. 3 refers to the design of the proposed access ramp to the south of the Town Wall not being accessible to all users with disabilities. Before the Inquiry, the Appellant prepared a further scheme that involved steps and a lift. However, at the Inquiry there was criticism about the operation of a similar lift at Vineyard Street car park. Representors pointed out that that lift was often out of order and no regime for the long-term operation and maintenance of such a lift at the appeal site was put before the Inquiry.
98. The Council and the Rule 6 Party argued that a fully accessible access between the site and Priory Street was a necessary pre-requisite of the proposal. In the absence of one, it is their view that the appeal decision should be dismissed. The Appellant contrarily argued that such an access was not essential for the proper functioning of the scheme, there being adequate pedestrian accesses from Queen Street and from Lewis Gardens. Additionally, if I did consider a pedestrian access to be necessary at this point, then it could be made the subject of a condition. Furthermore, the access did not have to be fully accessible if the site circumstances dictated otherwise.

99. The appeal site is to be a largely vehicle free environment and the tenancy agreement for the accommodation would prevent occupants from parking a vehicle within a defined area within central Colchester or applying to the Council for a residential parking permit. The proposal includes arrangements for occupants to drop off luggage, particularly at the start and end of each term, in the Priory Street car park. That car park would also be used by hotel guests. That being the case, I consider it essential that there is an easy access into the site and to the hotel and student accommodation, that does not involve the carrying of heavy luggage up steps, from that car park. The route via Queen Street, given the restricted pavement widths and busy traffic, is not an appropriate route for students or hotel guests carrying luggage in its present form.
100. During the course of the Inquiry, the Appellant submitted other solutions to the problems posed by this access, culminating in a ramped access with a gradient of 1:15 and 5.0 metre ramps. The scheme meets the requirements contained in the latest published guidance³. Given the uncertainties attached to a lift solution, a ramp may be the most appropriate option. It would not be the only pedestrian access into the site and those from the north that already exist have noticeably shallower gradients. This route, if achieved as described above, would undoubtedly be more suitable and preferable to the use of the parallel route along Queen Street, even after the implementation of the Appellant's improvements to the streetscape, which do not extend down the lower part of the street.
101. Whilst four ramps at a gradient of 1:15, even with intermediate landings, may be too much for some manual wheelchair users, the levels, available space and potential archaeological constraints suggest that a solution with a noticeably shallower gradient is likely to be unachievable. The Appellant can do no more than provide the shallowest gradient feasible within the constraints. In the circumstances, which include other more disability friendly accesses into this site, I consider that the above ramped outcome would provide an acceptable access for able bodied persons accessing the student accommodation and hotel from Priory Street car park and would meet the requirements of the Equalities Act 2010.
102. The proposal would breach the wall for a distance of about 3.7 metres. This may not be the preferred solution of heritage interests. However, this design achieves two flights of stairs as well as a ramped access and a solution with only one stair access to JBS would be workable and would only require the wall to be breached for about 2.0 metres.
103. There would be a requirement for excavation between the buried Roman Wall and the Theatre Wall. Providing due regard is given to the need to excavate in an archaeologically sustainable way, then I can see no reason why this could not be satisfactorily achieved.
104. It seems to me that there is every prospect of an acceptable southern access scheme being implemented. The guidance in the NPPG suggests that in such circumstances it is preferable to impose a Grampian condition, rather than to refuse the application. As suggested by the Appellant, I consider a variation to the Council's proposed condition to be preferable. With the imposition of this condition the proposal would be in accordance with CS UR2 and DP1 and DP12.

³ BS8300 Guidance-1: 2018 Table 3

105. There was also discussion at the Inquiry about an option to arrange for student drop-off and pick-up within the student complex itself. The Appellant submitted a scheme that would utilise the garden within the central courtyard for this purpose. Three car parking spaces would be provided. Given the number of students that could be coming and going over a weekend, at the beginning or end of terms, even with a prior booking system, I do not consider there to be adequate time at appropriate hours of the day for this to work. The outcome would likely be unauthorised unloading in adjacent streets that could affect pedestrian movement on Southgate and even the free flow of traffic in the wider town centre at busy periods.
106. Additionally, this development is not well endowed with open space, given the proposed number of residents. The loss of the central courtyard to car parking would, in my view, result in the scheme, as designed, becoming unacceptable because of an inadequate provision of amenity space for use by its residents.

Other Matters

Consultation

107. The first reason for refusal referred to the Council's opinion that the level of consultation undertaken, prior to the submission of the application, fell below the guidance set out in the Framework. In particular, the pre-application consultation did not engage directly with ward councillors and or local community groups. The Council subsequently withdrew this reason for refusal. However, it continues to agree with OMCI that the design did not adequately respond to or take account of the representations received from the local community.
108. The evidence suggests that the Appellant engaged with the Council over a long period prior to the submission of the planning application and also during its determination. It also suggests that there were discussions with council members and the MP. Local council members, if not directly involved in such discussions, are nevertheless very able to keep themselves abreast of events and to feed into and engage with the process through their officers, assuming that they take the trouble to do this. There was no substance to this supposed ground for refusal or the argument that it should reduce the weight I give overall in favour of the proposal.
109. The Framework at paragraph 128 encourages early discussion between applicants and the local community in order to clarify expectations and reconcile local and commercial interests. The evolving designs should take account of the views of the community where possible. Where it can be demonstrated that proactive and effective engagement with the community has taken place, such proposals should be looked on more favourably than those that cannot. I take this to mean that proposals that comply with this advice, particularly the carrying out of effective engagement, should be given additional weight in any planning balance and those that do not should not.
110. The primary concern of members of the local community, who were involved in the Inquiry, seemed to be centred around the lack of any reconciliation with their expressed concerns. The evidence suggests that there was consultation through publicity, exhibitions and meetings and that members of the public did

comment in detail on the proposals. What is less clear is to what extent the Appellant took on board the observations received.

111. There was significant amendment to the proposals, following representations by statutory consultees and other bodies with which there was direct discussion. Some of these changes undoubtedly mirrored points raised by members of the local community. However, to what extent there were any changes made in response to the representations made solely by members of the local community is far less clear.
112. It is fair to say that there would be many and varied observations from the local community and that some of these would be in conflict with one another. It may also not have been justifiably practical for physical, financial or other reasons to take onboard many of the points raised. However, what is clear is that there was little feedback to the local community, on the part of the Appellant, explaining why the issues raised by local people could not be taken on board and the scheme amended accordingly.
113. The concerns expressed by local disability groups were clearly not adequately addressed at the application stage, and yet in a matter of days at the Inquiry a much more disabled friendly solution, than that considered by the Council was arrived at. If the engagement with the local community had followed the spirit of the Framework's advice to be proactive and effective, this matter could have been fully resolved much earlier, obviating the need for a reason for refusal or now a condition. I therefore conclude that this proposal should not be looked upon more favourably as a result of the extent of the community engagement undertaken.

Housing Land Supply

114. At an appeal at West Bergholt, in August 2019, the Inspector found that the Council did not have a five-year supply of housing land. He concluded that the shortfall was between 400 and 900 dwellings, depending upon the contribution of the proposed student housing at the University of Essex site. Much of his reasoning centres around the lack of clear evidence on the part of the Council to justify the inclusion of sites with outline planning permission. Before and during the Inquiry the Appellant and Council, taking the West Bergholt decision as a starting point, moved matters along in the light of changed circumstances since August and agreed a revised position.
115. The parties agree that the housing requirement is 5,701. They also agree that the University of Essex student proposal would bring forward a dwelling equivalent of 545. The Council maintains that there is a supply of 5,848 dwellings. The Appellant disputes this considering that three sites that would deliver 275 dwellings should be excluded.
116. The circumstances of all of them has changed since the West Bergholt appeal. The Garrison site (25d) has been acquired by Peabody Housing Association, who have made a pre-application enquiry. The Eight Ash Green site (150d, 100d within 5 years) received outline planning permission on 22 October. The Gosbecks site (150 units) is now the subject of a full planning application.
117. The glossary to the Framework defines 'deliverable' as sites that are available now, offer a suitable location for development now and are

achievable, with a realistic prospect that housing will be delivered on the site within five years. Sites that are not major development and sites with detailed planning permission should be considered deliverable until permission expires. Sites with outline planning permission should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.

118. Although only 25 dwellings, the garrison site is nevertheless major development according to the Framework definition. It has neither a detailed nor an outline planning permission. There is not even a pending planning application. Whilst the site purchase and pre-application discussions suggest that the site is progressing, there is no clear evidence before the Inquiry, such as a statement of the Housing Association's intended programme or evidence that funding has been allocated to the project and when, to confirm that the site is deliverable within five years. The Council has not demonstrated that this site would be delivered within five years.
119. Eight Ash Green now has outline planning permission for 150 dwellings with an expectation that 100 of these will be delivered 2022-24. However, once again there is no clear evidence before the Inquiry, such as a statement of the developer's intentions or evidence of discussions about a timetable to progress the proposal through the next planning stages and when, to demonstrate that housing completions will begin within five years.
120. A full planning application is before the Council for Gosbecks phase 2. This is an ongoing site and it seems reasonable to expect that the developer would wish to achieve a timely transition between phase 1 and phase 2. However, once again there is no conclusive detailed evidence. The trajectory suggests that 20 dwellings would be delivered in 2021, with 50 in each of the two following years but there is no information to suggest that this is what the developer actually intends.
121. Although supposedly the second phase of a development there is no indication that phase 1 would be contributing to the supply during 2019-21 and that phase 2 would thus be a seamless continuation thereafter. Nor is there any explanation as to why development appears to have ceased after phase 1. Whilst it is probable that there would be some delivery at this site, the circumstances suggest that any delivery in 2020-21 is far from certain. I have taken a cautionary approach and assumed that the site would deliver 100 dwellings during the five-year period.
122. In my judgement the Council has a supply of 5,673 or 4.9 years. Although footnote 7 to paragraph 11 d) of the Framework says that where the local planning authority cannot demonstrate a five year supply of deliverable housing sites, permission should be granted for applications involving the provision of housing, it also says that this presumption does not apply where the application of policies that protect designated assets provides a clear reason for refusing the development proposed. In such circumstances there is not an automatic presumption in favour of the proposal, although weight should be given to the provision of housing in the overall planning balance. However, given the small size of the shortfall, this should be tempered accordingly.

Student accommodation

123. The Council accepts that the supply of student housing from the site would be a benefit but like OMCI, who maintain that there is not a demonstrated need for additional student housing in the town centre, it does not consider it to be a benefit to which significant weight should be given such that it outweighs the identified harm.
124. During the course of the Inquiry, the parties agreed much of the background information that contributes to the assessment of student need. Shortly before its close the Appellant submitted revised projections. These take on board anticipated growth in student numbers forecasted by the educational establishments (primarily the University of Essex) and committed developments that will provide additional student accommodation.
125. The analysis suggests that the number of students in need of accommodation in Colchester⁴, who could be housed in purpose-built accommodation, could fall from 63.6% today to 58.9% in 2021/22 and to 57% in 2024/25. This represents a gap of 946 and 2,262 bed spaces respectively. I agree that the proportion of students in Colchester, in purpose-built accommodation, is noticeably above the national average and that there is no evidence to indicate whether or not a higher proportion of students than exists currently would want to live in such facilities.
126. Nevertheless, the appeal proposal could contribute towards maintaining the proportion closer to its current level than would otherwise be the case. It would also add 192 units to the five-year housing supply, making the outcome of that analysis positive. I therefore consider that the provision of student housing on this site should attract moderate weight.

Planning Balance

127. The only harm that I have identified relates to the setting of the group of listed buildings at the junction of High Street and Queen Street and this is less than substantial and towards the lower end of the scale. The Framework says at paragraph 193 that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, securing optimum viable use. At paragraph 193 it also says that great weight should be given to the assets' conservation.
128. Both the Council and OMCI argued that little weight should be given to the benefits of the proposal because other schemes could achieve the same public benefits. However, this presupposes that there are other better schemes that could be implemented, available now and that the purpose of the planning system is to optimise the quality of development.
129. There is no alternative scheme at the present time and there is no certainty that a different scheme would not cause the same, different or even more harm to that argued against this one. Legislation and the Framework clearly say that planning applications should be determined in accordance with the DP, unless material considerations indicate otherwise. This appeal should be determined on its own merits in that context.
130. The proposal would provide a Rampart Walk that would enable an appreciation of the Town Wall from within the site and allow an experience that

⁴ Total students – students who live at home

significantly improves the interpretation of its defensive significance and its historic relationship with the Priory. It would also, through the removal of the bus garage, significantly improve the understanding of this part of the Roman Wall when observed from Priory Street.

131. Public access to the south-west corner of Berryfield would allow an appreciation of the southern side of the First Site building, which a number of representors suggested is destined to be a landmark. The completion of First Site Square and the removal of the derelict area to its south, would also enhance the appreciation of this iconic cultural building
132. Additionally, the implementation of the scheme would improve the Queen Street setting of Nos. 33-41 and significantly improve the setting of the fine eastern elevation of No. 37 Queen Street. Furthermore, the introduction of a part of the Heritage Trail to the site and the provision of interpretive material, would provide other benefits in the context of the understanding of the area's heritage assets. I give substantial weight to the scheme's overall benefits to historic and cultural heritage.
133. Additionally, the proposal would provide housing accommodation in a Borough that has not demonstrated a five-year supply and of a type that the Council accepts will be a benefit. I give this moderate weight.
134. The regeneration of the site and the introduction of over 300 residents to the Town Centre would transform the use and appearance of the area and increase spending power (estimated at an additional £1.9m pa.). Vacant shops are a modern characteristic of Queen Street. The spending power of hotel guests and students would help to reduce this. Along with the proposed new retail and commercial premises, this would greatly benefit the area's vitality and viability as promoted through CS Policies UR1 and DP6 and SA TC1.
135. Additional economic benefits include employment creation and ongoing job opportunities, the spending of the site's workforce during the site's construction period, as well as that of hotel guests (estimated at £2.7m pa.). I give the economic benefits significant weight.
136. Further social benefits include the freeing up of existing local rented housing, some of which would otherwise have to be used to house the growing student population. Additionally, the proposal would extend and improve publicly accessible open space and amenity space within the town centre and provide public art. I give these moderate weight.
137. Environmental benefits include the replacement of an unsightly derelict area with well designed buildings and an associated high-quality public realm. Improved accessibility through the area including an inclusive link to Priory Street, a new electric car charging point, tree planting and other ecological enhancements as well as energy efficient measures, including blue roofs to minimise surface water run-off would also be achieved.
138. At the present time rain falling on the site immediately runs off the concrete surfaces and into the off-site drainage system. In periods of heavy rain this accentuates flooding to areas downstream. The retention of water on the site through the blue roof system, would reduce the amount of water immediately being discharged from the site, in times of heavy rainfall. This would help to

reduce the risk of flooding downstream. I give the environmental benefits significant weight.

139. Overall, I consider the weight that should be given to the public benefits of this proposal far outweigh the less than substantial harm to the group of heritage assets.

Conditions and legal agreement

140. The forty-five conditions agreed by the parties and set out in the SoCG, were considered and some amended in the context of the discussions at the Inquiry, the Framework and the advice in the NPPG. They were discussed in detail at an informal session at the Inquiry, on a without prejudice basis, and in a formal session prior to hearing closing submissions.
141. They include the usual plans condition. Additionally and to enable the development to meet DP policies that seek to achieve sustainable development, conditions concerning the landscaping and public realm works, drainage (including surface water management), ecological and environmental protection and enhancements, contamination, archaeology, piling, construction, demolition and site management (including acoustic, air quality and odour management), movement and energy ratings were suggested.
142. The conditions are set out in a schedule at the end of the decision. Those that were contentious are discussed in the body of the report. I have considered the need for all of the conditions in the context of the six tests contained in paragraph 55 of the Framework and the advice contained in the NPPG. The conditions are necessary in order to ensure that the development is of a high standard, creates acceptable living conditions for future residents within the development, as well as a high-quality public realm for the benefit of residents, workers and visitors, is safe and sustainable, minimises the impact on the environment and complies with the relevant DP Policies. Additionally, the conditions comply with the requirements of paragraphs 54 and 55 of the Framework and meet the other statutory tests.
143. To avoid disturbing the underlying archaeology, the development is to have no basements. If there are to be active frontages to narrow streets, occupied by retail and commercial uses, as envisaged in the MP, then the opportunities for on-site car parking will be further reduced. The scheme has consequently been designed on the basis that in a parking context, the development should be largely car free. As a result, the accommodation is being provided for a specific cohort of the population that tends to have comparatively low car ownership rates, namely students.
144. If a workable car free environment is to be achieved, then it is essential that the nature of the population residing in the accommodation is controlled and enforceable measures are in place to prevent the occupiers of the accommodation from parking cars in the area on a regular basis. An Operational Management Plan is necessary to achieve this and to regulate the overall use of the development.
145. The west-east links through the development would allow easy access from Queen Street and the rest of the town centre to the Berryfield open space. This would be a recognisable public benefit of the proposal that has policy

support. The obligation ensures that this will be achieved through the development.

146. The site is located within an air quality management area and to minimise vehicular emissions, as well as to overcome the site's constraints concerning parking that are discussed above, the development is to be largely car free. In consequence, the measures that are aimed at more sustainable transport choices will assist in reducing the reliance of occupiers of the development on this less sustainable means of transport and encourage the further use of more sustainable modes.
147. Existing local healthcare facilities do not have capacity to meet the requirements of the population that would reside in the appeal development. The agreed financial contribution would enable the Health Authority to provide for the health requirements of the appeal development at Abbeyfields Medical Centre and is therefore justified.
148. The archaeological and ecological contributions will assist the proposal to mitigate against the effects of the development on the historic and natural environment at the site and in the wider area. The provision of CCTV is necessary to protect the amenity of occupiers in a town centre area that suffers from a heightened record of crime and anti-social behaviour.
149. The Agreement, which is discussed in paragraphs 6-14 is also related to the requirements of the relevant DP policies. In my judgement the financial contributions and the other measures achieved through it, are necessary to make the proposal acceptable in planning terms. It is directly related to the development and fairly and reasonably related in scale and kind to it, mitigating potential harmful effects on the environment and community services, as well as securing some of the benefits promoted by the scheme. I am also satisfied that the undertaking and its ramifications comply with the requirements set out in the Framework at paragraph 56 and 57, the advice in the NPPG and with Regulation 122 of the *Community Infrastructure Levy Regulations* (CIL) 2010. Additionally, there is no conflict with CIL Regulation 123(3).

Conclusion

150. In conclusion, I consider that, on balance, the adverse impact of the development proposed, namely the less than substantial harm to the heritage assets at the junction of High Street and Queen Street, would be significantly and demonstrably outweighed by the benefits. The proposal is supported by or meets the requirements of CS Policies UR1, UR2, Ce2, ENV1; Policies DP1, DP6, DP12, DP14, and SA Policy TC1. It is consequently in accordance with the DP when read as a whole. The scheme would, constitute sustainable development, having regard to all three aspects set out at paragraph 8 of the Framework and the presumption in favour of such development, as set out in paragraph 11 of that document should be applied. In such circumstances, planning permission should be granted.
151. I recognise that this finding will be disappointing for those who oppose the development scheme and am mindful, in this regard, of the Government's 'localism' agenda. However, even under 'localism', the views of local people, very important though they are, must be balanced against other considerations, including national and local planning policy. In coming to my conclusions on the various issues that have been raised, I have taken full and

careful account of all the representations that have been made, which I have balanced against the provisions of the DP, the Framework and other material considerations. On balance though, the evidence in this case leads me to the conclusion that the appeal should succeed.

M Middleton

INSPECTOR

Schedule of Conditions

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

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

- 1803-A-03-100 GA Level 00 Rev K
- 1803-A-03-101 GA Level 01 Rev F
- 1803-A-03-102 GA Level 02 Rev F
- 1803-A-03-103 GA Level 03 Rev F
- 1803-A-03-104 GA Level 04 Rev G
- 1803-A-03-105 GA Level 05 Rev F
- 1803-A-H-03-200 Hotel GA Sections Rev B
- 1803-A-H-03-310 Hotel GA Elevations Rev C
- 1803-A-R-03-200 Residence GA Long Sections D
- 1803-A-R-03-300 Residence GA Elevation East & West Rev E
- 1803-A-R-03-301 Residence GA Elevation South & North Rev E
- 1803-A-R-03-302 Residence GA Elevation Courtyard Rev D
- 1803-A-H-21-001 Hotel Typical Façade Bay Study Rev D
- 1803-A-H-21-002 Hotel Typical Façade Bay Study Rev A
- 1803-A-R-21-001 Residence Typical Façade Bay Study C
- 1803-A-R-21-002 Residence Typical Façade Bay Study D
- 1803-A-R-21-003 Residence Typical Façade Bay Study B
- Public Realm Landscape Layout 404 PA 061 (2) H

3 No works shall take place until the works required to remediate the site have been undertaken. The remediation scheme must be carried out in accordance with the details in the *Symbiotic Solutions, Remediation Method Statement, Land at Queen Street, St Botolph's, Ref 1006 R01: Issue 2, dated 4/9/18*. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of the measures identified in the approved remediation scheme, a verification/validation report that demonstrates the effectiveness of the remediation carried out must be provided and approved in writing by the Local Planning Authority.

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

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

6 The development hereby permitted shall be undertaken in accordance with the Written Scheme of Investigation for Archaeological Mitigation (Dated 19/9/18). In addition, and in accordance with the details set out in the Written Scheme of Investigation, Supplementary Method Statements shall be submitted to and approved in writing by the Local Planning Authority prior to any works being undertaken in the areas identified in the Written Scheme of Investigation (Dated 19/9/18). Following approval of the Supplementary Method Statement(s) an archaeological contractor, who shall have previously been agreed by the Local Planning Authority, shall undertake the Scheme of Investigation which shall be submitted to and approved in writing by the Local Planning Authority.

7 No works shall take place within 10m of the Town Wall (including removal of the bus depot) until an updated condition survey (survey 1) of the Town Wall (the scope of which shall have been agreed in writing by the Local Planning Authority) has been

submitted to and approved in writing by the Local Planning Authority. Following the substantial completion of the works within 10m of the Town Wall, a further condition survey of the Town Wall (survey 2) shall be submitted to and approved in writing by the Local Planning Authority. Any new remedial/repair works identified in survey 2 (i.e. damage caused by demolition or construction works) shall be undertaken in accordance with a scope of works and to a timeframe that has previously been agreed in writing by the Local Planning Authority. The approved works shall be implemented in full prior to the occupation of any part of the development.

8 Prior to the commencement of on-site works, a detailed scheme for the protection of the Town Wall during the period of the development shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall thereafter be implemented and so maintained throughout the period of development.

9 Unless otherwise agreed in writing by the local planning authority, the piling works associated with the construction of the hotel shall reuse the existing piles associated with the now demolished St James House.

10 All new piling works shall be undertaken using the Continuous Flight Auger method and shall be undertaken in accordance with BS5228. In addition, no piling work shall take place or plant and/or heavy machinery stored within 3m of the Town Wall.

11 Prior to the demolition of the bus depot, a Demolition Method Statement shall be submitted to and approved in writing by the Local Planning Authority in respect of these works. The Demolition Method Statement shall include: drawings clearly indicating the extent of the structure to be removed, evidence that the works will not adversely affect the structural stability of the part of the bus depot that is to remain standing (together with any stabilisation works required), the measures taken to protect the Town Wall (to include the appointment of an archaeological professional to supervise and report on the proposed work and/or necessary repairs). The demolition works shall be undertaken in accordance with the approved Demolition Method Statement.

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

13 Notwithstanding the details submitted, a Method Statement relating to how the junction of the inner face of the Town Wall and the proposed paving is to be treated shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

14 Notwithstanding the details submitted, full details of all landscape works shall be submitted to and approved in writing by the Local Planning Authority and the works shall be carried out prior to the occupation of any part of the development unless an alternative implementation programme is subsequently agreed in writing by the Local Planning Authority. The submitted landscape details shall reflect the general principles shown on Public Realm Landscape Layout 404 PA 061 (2) H and shall include:

- Proposed finished levels or contours;
- Vehicle and pedestrian access and circulation areas;
- Hard surfacing materials (including samples which shall be permeable as appropriate), including dimensions, bonding and pointing;
- Details of junctions with other areas of public realm including drainage;
- Details of the up-stand kerb (including materials), paving to the Town Wall and the railings;
- All boundary treatments / means of enclosure within and around the development, including an alternative design to the gates / routes through to Berry Fields and the frontage enclosure to Berry Fields and fronting onto the Town Wall and/or Theatre Wall;
- Details in plan and section of the retaining walls to the ground floor amenity areas and the ramps and steps;
- Works to the internal face of the Theatre Wall and the window opening to the bastion;
- Minor artefacts and structures (e.g. furniture, refuse or other storage units, signs, etc.);

- Lighting (which shall comply with the recommendations as set out in the Silcock Dawson & Partners Report (V3) dated July 2018);
- Proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc, indicating lines, manholes, supports, tree pits and their relationship to archaeology etc.);
- Earthworks (including the proposed grading and mounding of land areas, the levels and contours to be formed, and the relationship of proposed mounding to existing vegetation and the surrounding landform);
- Details of the demarcation and interpretation of the Town Wall;
- Planting plans, including details of the green and brown roofs;
- Written specifications (including cultivation and other operations associated with plant and grass establishment);
- Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate;
- Implementation timetables and future management and monitoring programs.

15. Prior to the commencement of development, a scheme to provide an inclusive access between Priory Street and John Ball Square (including any necessary alterations to the Theatre Wall) shall be submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall include:

- Detailed drawings (including specifications where relevant);
- An installation programme and accompanying method statement;
- The depth of any excavations and foundation details;
- Full details (including samples) of materials and finishes;
- Arrangement for the maintenance and management of the access scheme;
- In the event that the access scheme incorporates a lift, the scheme shall include health and safety measures for the lift, details as to operational controls, hours of operation, and service, maintenance and repair arrangements (including a protocol for dealing with defects, repairs, damage and breakdowns);
- In the event that the access scheme incorporates a ramp, the scheme shall be designed in accordance with the recommendations set out in BS8300 – 1:2018 “Design of an accessible and inclusive built environment” and include a protocol for dealing with defects, repair, damage and maintenance.

The access arrangements and associated works shall be implemented in accordance with the approved details and made available for use by the general public prior to occupation of any part of the development and shall thereafter be maintained and managed in accordance with the approved details.

16 Prior to any above ground slab construction works, a Public Arts Feature Strategy (based on the St Botolph's public realm concept design studies), including, but not limited to, selection of the artist(s), the timeframe for developing the public art (including proposals for working with the local community and an implementation timetable) shall be submitted to and approved in writing by the Local Planning Authority. The proposed public art, which shall have previously been agreed in writing by the Local Planning Authority, shall be installed in accordance with the approved implementation timetable and maintained for the lifetime of the development or as otherwise approved in writing by the Local Planning Authority.

17 The roof areas of the buildings shall only be accessed for maintenance purposes and shall not be used as a balcony, roof garden or for similar purposes. No alterations at upper floor levels shall be carried out to create access to them.

18 A Scheme of Ecological Mitigation and enhancement (based on the submitted ecological reports and survey work and supplemented by a vegetation survey) shall be submitted to and approved in writing by the Local Planning Authority. The approved Scheme of Ecological Mitigation shall be fully implemented prior to the occupation of any part of the development.

19 Within three months of the substantial demolition of the former bus depot, a scheme for the temporary enclosure of the south west boundary of the site (including the making good of the exposed bus depot building resulting from the demolition works required to facilitate the development work hereby permitted) shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the adjacent public space (John Ball Square) being used by / open to the general public.

20 Notwithstanding the details submitted, no works shall commence (above ground floor slab level) until sample materials and additional drawings (at scales between

1:20 and 1:1) that show details of the architectural detailing of the development hereby approved, have been submitted to and approved in writing by the Local Planning Authority. The drawings shall include:

- External facing materials including sample boards of all facing materials;
- Details of brick bond, mortar mix (colour) and joint profile;
- Details of decorative brickwork and stringcourse;
- Sectional drawings at 1:5 (unless otherwise agreed) through all typical external elements/details of the facades including all openings in external walls (including doors, all window types and reveals, heads and cills);
- Full details of windows (including method of opening) and projecting bays;
- Details of rainwater goods;
- Roof details in plan and section showing the detail of and relationship between, plant, guardrails and parapets;
- Details of all flue and extract vent terminals.

The works shall be completed in accordance with the approved details prior to first occupation of the relevant building(s).

21 Notwithstanding the details submitted, no works shall start on any shopfront(s) until additional drawings (at scales between 1:20 and 1:1) that show the detailed design of the relevant shopfront(s) have been submitted to and approved in writing by the Local Planning Authority. The approved shopfront(s) shall be fully implemented as approved prior to the occupation of the relevant unit(s).

22 The development (both the student accommodation buildings and the hotel building) shall be constructed to achieve a BREEAM Very Good rating in accordance with an approved BREEAM pre-assessment. The approved scheme shall then be provided in accordance with these details. A certificated BREEAM Post Construction Review, or other verification process agreed with the LPA, shall be provided, confirming that the agreed standards have been met, three months post occupation of the development.

23 Immediately following the demolition of the former ticket office, the exposed flank gable wall shall be made wind and weathertight to the satisfaction of the Local Planning Authority. Prior to the first occupation of the hotel building or the associated commercial units (whichever is earlier), a scheme for the improvement of the

exposed flank gable shall be implemented in accordance with details that shall have previously been agreed in writing with the Local Planning Authority.

24 No works shall take place until detailed engineering drawings (to include typical details, cross sections) of each component of the surface water drainage scheme has been submitted to and certified as technically acceptable in writing by the SUDs approval body or other suitably qualified person(s). The certificate shall thereafter be submitted by the developer to the Local Planning Authority as a part of the developer's application to discharge the condition. No development shall commence until the detailed scheme has been approved in writing by the Local Planning Authority.

25 Not used

26 Notwithstanding the details submitted, a Travel Plan specific to the hotel use, shall be submitted to and approved in writing by the Local Planning Authority. The hotel shall not be occupied until the Hotel Travel Plan has been approved and the use shall thereafter be operated in strict accordance with the approved Travel Plan.

27 Prior to the occupation of the student accommodation and in accordance with the submitted 'Amended Framework Travel Plan' (Royal Haskoning DHV dated 20.12.18 ref:T&PPB7319R002F2.0), a travel plan coordinator shall be appointed by the developer who shall report on the progress of delivery of the Framework Travel Plan in accordance with an agreed framework to be submitted to and agreed in writing by the Local Planning Authority. The student accommodation shall be operated thereafter strictly in accordance with the agreed details.

28 Notwithstanding the details submitted, no works shall commence (above ground floor slab level), until a scheme for cycle parking has been submitted to and approved in writing by the Local Planning Authority. All long stay cycle parking shall be covered and provided within a lockable structure. The approved cycle parking shall be installed prior to the occupation of the building that it is intended to serve in accordance with the approved details and shall thereafter be maintained for this use at all times.

29 Prior to the first occupation of Block A and/or Block B hereby permitted, the disabled parking bay (5.5 metres deep x 3.4 metres wide) shown on the Public Realm Landscape Layout drawing (ref 404 PA 061 (2) H) shall be marked out for this purpose and made available for use and retained solely for this purpose thereafter.

30 Notwithstanding the details shown on drawing no. TP PB7319SK003 DO8, a revised scheme for the proposed public realm works in Queen Street (including a priority site access junction off Queen Street), shall be submitted to and approved in writing by the Local Planning Authority. The scheme as subsequently approved shall be fully implemented prior to the occupation of any part of the development

31 No bollards or other measures intended to restrict access to the site shall be installed on the access road (to the south of the hotel building).

32 The demolition and construction of the development shall be carried out in accordance with the Site-Specific Construction Management Plan Rev A prepared by HG Construction and dated 03/8/18. The hours of demolition and construction shall not occur outside the hours of 08.00 – 18.00 Monday to Friday and 08.00 – 13.00 on Saturdays and not at all on Sundays or Bank Holidays, except when prior consent has been sought and approved in writing by the Local Planning Authority.

33 Prior to the commencement of any works and notwithstanding the contents of the submitted Site-Specific Construction Management Plan, details of the measures to be put in place to stop mud and detritus entering the highway shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the details subsequently approved

34 Lighting during the construction phase shall be directed so it does not shine directly into residential premises. Lighting that illuminates residential premises shall be switched off outside of construction hours. Low level security lighting is permitted but must not cause annoyance or nuisance to residential premises.

35 All piling works carried out on the proposed site shall be carried out in accordance with the Central Piling Report prepared by HG Construction and dated 14/8/18, using the continuous flight auger method of piling. The piling shall be carried out between 08.00 – 18.00 on Monday to Friday and 08.00 – 13.00 Saturdays and not at all on Sundays and Bank Holiday.

36 The site shall be developed and maintained thereafter in accordance with the acoustic report submitted to the local planning authority by Sound Advice Acoustics Limited, SA-5382-Revision 7. In addition, noise emitted from the site's plant, equipment and machinery shall not exceed 0dB(A) above the background levels determined at all facades of or boundaries near to noise-sensitive premises.

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

38 The development hereby approved shall be implemented in accordance with Air Quality Assessment Revision: dated 13 August 2018 02/Final Ref PB7319I&BRP1805181622, and its recommendations unless otherwise agreed in writing by the Local Planning Authority.

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

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

41 No deliveries shall be received at the commercial units outside of the following times:

- Weekdays: 07.00 - 22.00;
- Saturdays: 07.00 – 22.00;
- Sundays and Public Holidays: 08.00 – 18.00.

42 Prior to the first occupation of the commercial unit(s) (Use Classes A1, A3, A4, B1(c) and D2); artist studios) the hours of operation for the relevant unit(s) shall be submitted to and approved in writing by the Local Planning Authority. The hours of use for that unit(s) shall thereafter operate in accordance with the agreed hours.

43. Notwithstanding the details submitted, no works shall commence (above ground floor slab level), on each building, until details of refuse and recycling storage facilities for that building have been submitted to and agreed, in writing, by the Local Planning Authority. The refuse and recycling facilities as approved shall be implemented prior to the first occupation of the relevant building and all such facilities shall thereafter be retained to the satisfaction of the Local Planning Authority at all times.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Simon Pickles of Counsel

He called

Michael Carr MA, BA, Dip LA,
Dip UD, MA/PG

Christopher Morley BA, M Phil, MCifa

Nicola Parsons BA, Dip UP, MRTPI

Simon Cairns BSc, Dip TP, Dip BC,
MRTPI IHBC

Alistair Day MA, BSc, Dip TP, MRTPI,
IHBC

Karen Syrett

Martin Mason MSc, MCILT

Pegasus Planning Group

Pegasus Planning Group

Pegasus Planning Group

Colchester Borough Council

Colchester Borough Council

Colchester Borough Council

Essex County Council, Highways

FOR THE APPELLANT:

Richard Wald of Counsel

He called

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Sarah Simpson BA, MSc

Ben Wrighton BA, Dip TP. MRTPI

Francis Mallinson

MJP Architects

Shiels Flynn

Turley

Royal Haskoning DHV

Turley

Lexington Communications

FOR OMC INVESTMENTS

Meyric Lewis of Counsel

He called

Peter Buist MA, BA Arch, Dip Pg, RIBA

Kathryn Oelman MSc, BSc, MRTPI

Instructed by Lawson Planning
Partnership

Purcell Architecture

Lawson Planning Partnership

INTERESTED PERSONS REPRESENTING ORGANISATIONS:

John Burton

Josephine Edwards

Michael Steinke

Colchester Civic Society

1 Marriage Yard, Colchester, CO1 2ZE

Colchester Civic Society

43 Priory Street, Colchester, CO1 2BQ

Walk Colchester,

Roseberry and Smythies Residents
Association

5 Roseberry Avenue, Colchester, CO1
2UP

OTHER INTERESTED PERSONS:

Wendy Bailey	185 Maldon Road, Colchester, CO3 BL
Nicholas Chilvers	50 Creffield Road, Colchester, CO3 3HY
Simon Crow	24 Croywick Grove, Colchester, CO2 8TR
Pauline Hazell	17 Lockhart Avenue, Colchester, CO3 3QQ
Dorian Kelly	3 Gladstone Road, Colchester
Darius Laws	25 Belle Vue Road, Colchester, CO1 1XA
Rowena Macaulay	89 Maidenburgh Street, Colchester CO1 1TT
Gerard Oxford	C/O Colchester Borough Council
Bob Russell	35 Catchpool Road, Colchester, CO1 1XN
Alan Short	57 Oaks Drive, Colchester, CO3
Henry Spyve	16 Wakefield Close, Colchester, CO1 2SD

INTERESTED PERSON'S DOCUMENTS

- 1 Two statements submitted by John Burton
- 2 Statement submitted by Nicholas Chilvers
- 3 Statement submitted by Simon Crow
- 4 Statement submitted by Josephine Edwards
- 5 Statement submitted by Mark C Goacher
- 6 Statement submitted by Pauline Hazell
- 7 Two statements, one with appendices and a closing submission submitted by Dorian Kelly
- 8 Statement submitted by Rowena Macaulay
- 9 Statement submitted by Gerard Oxford
- 10 Statement submitted by Timothy Oxton
- 11 Two statements and a closing submission submitted by Bob Russell
- 12 Three statements with appendices submitted by Taas Sayed
- 13 Statement submitted by Alan Short
- 14 Statement submitted by Michael Steinke

DOCUMENTS SUBMITTED BY ALUMNO STUDENT ESSEX

Document Ref	Title	Date Submitted
ASE/0/1	Appearance List	16/10/2019
ASE/0/2	Opening Statement	16/10/ 2019
ASE/0/3	Addendum Statement of Community Involvement dated 14 October 2019	16/10/2019
ASE/0/4	Note discussing Study of Student Accommodation Need (Additional Issues) prepared by Jeremy Leach Research Limited dated 21 October 2019	22/10/2019
ASE/0/5	Article from Dezeen.com dated 22 September 2011 regarding Firstsite	22/10/2019
ASE/0/6	Email correspondence from Carter Jonas LLP on behalf of Travelodge dated 21 October 2019	22/10/2019
ASE/1/5	Plan produced by MJP Architects showing Privacy to Ground Floor Windows between Building B and Building C	22/10/2019

ASE/0/7	Note identifying the extent of Roman Town Wall listing or Ancient Monument	22/10/2019
ASE/0/8	Examples of Conditions relating to approval of building materials used in other heritage-sensitive sites developed by the Appellant	22/10/2019
ASE/0/9	Photographs showing examples of Buildings in Colchester seen behind the Town Wall	22/10/2019
ASE/0/10	Map showing location of Tertiary Education Institutions in relation to the Site	23/10/2019
ASE/0/11	Email correspondence from Space Studios dated 22 October 2019	23/10/2019
ASE/0/12	Updated Note on Student Housing Need prepared by Jeremy Leach Limited dated 23 October 2019	23/10/2019
ASE/0/13	Council Officer's Report to Planning Committee relating to approval of Curzon Cinema	23/10/2019
ASE/0/14	Council Officer's Report to Planning Committee relating to approval of Firstsite	23/10/2019
ASE/0/15	Examples of Reconstituted Stone on Buildings designed by MJP Architects	23 /10/2019
ASE/0/16	Plan showing area measurements of Public Realm in Appeal Scheme	23/10/2019
ASE/0/17	Revised Public Realm / Landscape Layout Plan prepared by Sheils Flynn reference 404-PA-061(2)H	23/10/2019
ASE/0/18	Plan showing indicative alternative arrangement for layout of John Ball Square reference 404-PA-081(2)A	23/10/2019
ASE/0/19	Plan showing indicative alternative student drop-off option within the Site reference 404-PA-081(3)A	23/10/2019
ASE/0/20	Step and Lift Option Drawing reference 404-PA-108-A	23/10/2019
ASE/0/21	Detail Plan for Platform Lift reference 404-PA-081(4)A	23/10/2019
ASE/0/22	Plan showing revised ramp option for southern access reference 404-PA-081(6)A	24/10/2019
ASE/0/23	Plan reference 404-PA-081(5)A showing John Ball Square Layout Options with the revised ramp option at ASE/0/22 in situ	24/10/2019
ASE/0/24	Email Correspondence from Corinthian Curzon Ltd dated 28 October 2019	30/10/2019
ASE/0/25	Perspective montage of the southern elevation of the student accommodation from Priory Street	30/10/2019
ASE/0/26	Perspective montage of the north elevation of the student accommodation to Firstsite Square	30/10/2019
ASE/0/27	Supplementary Statement of Common Ground on Student Accommodation Need	30/10/2019
ASE/0/28	Note on draft Condition 15 – Southern Access between Priory Street and John Ball Square	30/10/2019
ASE/0/29	Judgment in Hotak vs Southwark LBC [2015] 2 WLR 1341	30/10/2019
ASE/0/30	Closing Submissions	30/10/2019
ASE/0/31	Completed section 106 agreement dated 30 October 2019	30/10/2019
ASE/1/5	Plan showing privacy to ground floor windows between building B and Building C	23/10/2019
ASE/4/5	Ms Simpson Inquiry Note on Internal Transport Operations (including appendices)	23/10/2019

DOCUMENTS SUBMITTED BY COLCHESTER BOROUGH COUNCIL

Document Ref	Title	Date submitted
CBC/0/1	Opening statement	16/10/19
CBC/0/2	Housing Land Supply note by K Syrett	18/10/19
CBC/0/3	CBC Housing Land Supply Position Statement	18/10/19
CBC/0/4	Tiptree Statement of Common Ground	18/10/19
CBC/0/5	UoE Planning and Economic Statement	18/10/19
CBC/0/6	Student Housing Note by N Parsons	20/10/19
CBC/0/7	Colchester Town Wall: Management Plan 2019-2024	22/10/19
CBC/0/8	A survey of the Town Wall in the Bus Depot, Queen Street, Colchester, Essex (2016)	22/10/19
CBC/0/9	CBC Land ownership plan	22/10/19
CBC/0/10	Historic England letter regarding demolition of St James' House	23/10/19
CBC/0/11	Application for Scheduled Ancient Monument Consent	23/10/19
CBC/0/12	Latest draft conditions	23/10/19
CBC/0/13	Details of Curzon condition 9 application	25/10/19
CBC/0/14	Housing Land Supply Statement of Common Ground	30/10/19
CBC/0/15	List of appearances for CBC	16/10/19
CBC/0/16	Closing submissions for CBC	30/10/19

DOCUMENTS SUBMITTED BY OMC INVESTMENTS LTD

Document Ref	Title	Date submitted
OMCI/0/1	Opening statement	16/10/19
OMCI/0/2	Pack containing details of locations requested the Inspector visits: Colchester Town Centre Route Map, Map of East Hill House, Site Location Plan and Layout Plan of King Edward Quay, Colchester	24/10/19
OMCI/0/3	Draft Maps showing Adopted and Emerging Local Plan Policy Designations	16/10/19
OMCI/0/4	Note from Lawson Planning Partnership concerning student need	21/10/19
OMCI/0/5	OMCI Leaflet: 13-14 Buckingham Street	24/10/19
OMCI/0/6	List of appearances for OMCI	16/10/19
OMCI/0/7	Closing statement for OMCI	30/10/19

CORE DOCUMENTS

CD1	Application Documents and Plans
1.1	Cover letter prepared by GL Hearn dated 23 rd August 2018
1.2	Site location plan, ref: A-01-50
1.3	Site plan, ref: A-01-100 Rev D
1.4	GA level 00, ref: A-03-100 Rev E
1.5	GA level 01, ref: A-03-101 Rev D
1.6	GA level 02, ref: A-03-102 Rev D
1.7	GA level 03, ref: A-03-103 Rev D
1.8	GA level 04, ref: A-03-104 Rev D
1.9	GA level 05, ref: A-03-105 Rev D
1.10	Hotel GA sections, ref: A-H-03-200
1.11	Hotel GA elevations, ref: A-H-03-310
1.12	Hotel façade study, ref: A-H-21-001 Rev B
1.13	Hotel façade study, ref: A-H-21-002
1.14	Section long, ref: A-R-03-200 Rev B
1.15	Elevation east and west, ref: A-R-03-300 Rev A
1.16	Elevation south and north, ref: A-R-03-301 Rev A
1.17	Elevation courtyard, ref: A-R-03-302 Rev A
1.18	Elevation façade study, ref: A-R-21-001 Rev A
1.19	Elevation façade study, ref: A-R-21-002
1.20	Elevation façade study, ref: A-R-21-003
1.21	Planning Statement (August 2018) prepared by GL Hearn
1.22	Design and Access Statement (August 2018) prepared by MJP Architecture

1.23	St Botolph's Public Realm Concept Design Studies prepared by Sheils Flynn
1.24	Heritage Statement (August 2018) prepared by Lanpro
1.25	Townscape and Visual Impact Assessment (July 2018) prepared by Lanpro
1.26	Archaeological Desk-based Assessment (August 2018) prepared by Lanpro
1.27	Written Scheme of Investigation for Archaeological Mitigation (August 2018) prepared by Lanpro
1.28	Archaeological Evaluation at St Botolph's (June 2018) prepared by Colchester Archaeological Trust
1.29	Phase I Geoenvironmental Assessment (June 2014) prepared by Gemco
1.30	Phase II Geoenvironmental Assessment (August 2014) prepared by Gemco
1.31	Geotechnical Assessment (September 2014) prepared by Gemco
1.32	Transport Assessment (August 2018) prepared by Royal Haskoning DHV
1.33	Framework Travel Plan (August 2018) prepared by Royal Haskoning DHV
1.34	Construction Traffic Management Plan (August 2018) prepared by Royal Haskoning DHV
1.35	Drainage Strategy and Flood Risk Assessment (August 2018) prepared by Conisbee
1.36	Student Management Plan prepared by Derwent FM
1.37	Air Quality Assessment (August 2018) prepared by Royal Haskoning DHV
1.38	Preliminary Ecological Appraisal (June 2018) prepared by Enims
1.39	Bat Roost Survey Report (June 2018) prepared by Enims
1.40	BREEAM Verification Statement (July 2018) prepared by Enims
1.41	Energy Strategy for St Botolph's Hotel (August 2018) prepared by Silock Dawson

1.42	Energy Strategy for St Botolph's Student Accommodation (August 2018) prepared by Silock Dawson
1.43	Environmental Noise Impact Assessment (July 2018) prepared by Sound Advice Acoustics Ltd
1.44	External Lighting Planning Report (July 2018) prepared by Silock Dawson
1.45	Statement of Community Involvement (August 2018) prepared by Lexington
1.46	Site Waste Management Plan (August 2018) prepared by HG
1.47	Student Accommodation Study of Need (July 2018) prepared by Jeremy Leach Research Ltd
1.48	The Impact of Higher Education on the Economy of Colchester (July 2018) prepared by Jeremy Leach Research Ltd
1.49	Local Business Survey (July 2018) prepared by Jeremy Leach Research Ltd
1.50	BREEAM New Construction Pre-assessment Report for Retail / Restaurant Units (July 2018) prepared by RPS
1.51	BREEAM New Construction Pre-assessment Report for Student Accommodation (July 2018) prepared by RPS
1.52	BREEAM New Construction Pre-assessment Report for Travelodge (July 2018) prepared by RPS
1.53	Summary of Utilities for Planning (August 2018) prepared by Silock Dawson & Partners
1.54	Construction Management Plan (August 2018) by HG Construction
1.55	Piling Method Statement (August 2018) by HG Construction
1.56	Remediation Method Statement (September 2018) by Symbiotic Solutions
CD2	Additional / Amended Reports and / or Plans submitted after validation
2.1	Planning Application Addendum (December 2018) prepared by Turley
2.2	GA level 00, ref: A-03-100 Rev K
2.3	GA level 01, ref: A-03-101 Rev F
2.4	GA level 02, ref: A-03-102 Rev F

2.5	GA level 03, ref: A-03-103 Rev F
2.6	GA level 04, ref: A-03-104 Rev G
2.7	GA level 05, ref: A-03-105 Rev F
2.8	Hotel GA sections, ref: A-H-03-200 Rev B
2.9	Hotel GA elevations, ref: A-H-03-310 Rev C
2.10	Hotel façade study, ref: A-H-21-001 Rev D
2.11	Hotel façade study, ref: A-H-21-002 Rev A
2.12	Section long, ref: A-R-03-200 Rev D
2.13	Elevation east and west, ref: A-R-03-300 Rev E
2.14	Elevation south and north, ref: A-R-03-301 Rev E
2.15	Elevation courtyard, ref: A-R-03-302 Rev D
2.16	Elevation façade study, ref: A-R-21-001 Rev C
2.17	Elevation façade study, ref: A-R-21-002 Rev D
2.18	Elevation façade study, ref: A-R-21-003 Rev B
2.19	Revised Design and Access Statement (December 2018) prepared by MJP Architecture
2.20	Revised St Botolph's Public Realm Concept Design Studies (December 2018) prepared by Sheils Flynn
2.21	Revised landscape drawing, ref: 404-PA-061(2) rev F prepared by Sheils Flynn
2.22	Revised landscape drawing, ref: 404-PA-061(2) rev G prepared by Sheils Flynn
2.23	Revised Heritage Statement (November 2018) prepared by Lanpro
2.24	Heritage Consultation Response Letter (7 December 2018) prepared by Lanpro
2.25	Revised Townscape and Visual Impact Assessment (December 2018) prepared by Lanpro
2.26	Revised Transport Assessment (December 2018) prepared by Royal Haskoning DHV

2.27	Revised Framework Travel Plan (December 2018) prepared by Royal Haskoning DHV
2.28	Ecology Consultation Response re Bats prepared by Enims
2.29	Ecology Consultation Response re Stag Beetles prepared by Enims
2.30	Lichen Survey Report (January 2019) prepared by Enims
2.31	Appropriate Assessment (November 2018) prepared by Enims
2.32	Arboricultural Impact Assessment (November 2018) prepared by A.T. Coombes Associates Ltd
2.34	Detailed Fire Strategy (July 2018) prepared by Omega Fire
2.35	Post decision revised access proposal: Level 00 floorplan 1803 A 03 100 Rev L
2.36	Post decision revised access proposal: Public realm layout 404-PA-061(3) Rev A
2.37	Post decision revised access proposal: Platform and step drawing 404-PA-101(3) Rev A
CD3	Committee Report and Decision Notice
3.1	Officers report to committee (28 February 2019) for application 182120
3.2	Minutes of committee dated 28 February 2019
3.3	Decision notice for application 182120
3.4	Scheduled Monument consent S00803800
3.5	Officers report to committee (15 August 2019) for appeal 3231964 / planning application 182120
3.6	Minutes of committee dated 15 August 2019
CD4	The Development Plan (and supporting guidance)
4.1	Core Strategy (adopted 2008, amended 2014)
4.2	Site Allocations DPD (adopted 2010)
4.3	Development Policies DPD (adopted 2010, amended 2014)
4.4	Proposals Map (adopted 2010) (Central Colchester inset)
4.5	Proposals Map (adopted 2010) (Key)
4.6	St Botolph's Quarter Masterplan Planning Guidance (2005)
4.7	Essex Planning Officers Association Vehicle Parking Standards SPD (2009)
4.8	Better Town Centre SPD (2012)
4.9	Town Centre Public Realm Strategy (2011)
CD5	Emerging Development Plan
5.1	Emerging Local Plan Section 2 (2017)

5.2	Emerging Local Plan Policies Maps (pages 1-4 of document only)
CD6	Relevant Appeal Decisions
6.1	Land off Colchester Road ref: APP/A1530/W/18/3207626
CD7	Relevant Judgements
7.1	East Northamptonshire v Secretary of State for Communities and Local Government [2014]
7.2	Palmer v Herefordshire Council and ANR [2016]
7.3	Dorothy Bohm and others v SoS for Communities and Local Government [2017]
7.4	Jones V Mordue Anor (2015) EWCA CIV 1243
7.5	Catesby Estates Ltd V Steer, EWCA CIV 1697, 2018
7.6	South Lakeland District Council Appellants V Secretary of State for the Environment and another Respondents, (1992) 2 A.C.
7.7	R DCLG and Nuon UK Ltd V Bedford Borough Council
7.8	R (Forge Field Society) V Sevenoaks District council (2014) EWHC 1895 (ADMIN)
CD8	Other
8.1	CBC Statement of Community Involvement (2018)
8.2	CABE and English Heritage Building in Context (2002)
8.3	Inclusive Mobility (2005)
8.4	Essex Design Guide (1997)
8.5	Essex Design Guide (2018 update) 'Built Context' section
8.6	Previous scheme pre-application: CABE letter dated 6 March 2017 (meeting of 21 February 2017)
8.7	Appeal scheme pre-application: CBC and HE letter undated (meeting of 5 December 2017)
8.8	Appeal scheme pre-application: CBC and HE letter undated (meeting of 14 February 2018)
8.9	Appeal scheme pre-application: CBC letter undated (meeting of 26 March 2018)
8.10	Appeal scheme pre-application: CABE letter dated 23 May 2018 (meeting of 2 May 2018)
8.11	Appeal scheme pre-application: HE email dated 29 May 2018
8.12	Appeal scheme pre-application: CBC email dated 3 July 2018 (meeting of 5 June 2018)
8.13	Appeal scheme pre-application: GL Hearn meeting notes email dated 5 July 2018 (meeting of 4 July 2018)

8.14	CBC comments during application: email dated 22 November 2018
8.15	Consultee comments during application: HE comments dated 17 October 2018
8.16	Consultee comments during application: HE comments dated 16 January 2019
8.17	Meeting notes from HE meeting dated 10 May 2019
8.18	Meeting notes from HE meeting dated 6 June 2019
8.19	Revised access proposal: CBC officer email confirming acceptability of access 16 July 2019 16:51
8.20	Conservation Area Appraisal St Botolph's Quarter (May 2003)
8.21	Colchester Town Centre Conservation Area Character Appraisal: Study Area 5 (2007)
8.22	Historic England Good Practice Advice Note 2 (2015)
8.23	Historic England Good Practice Advice Note 3 (2017)
8.24	Listed building consent ref:182253 for works to rear of 37 Queen Street
8.25	2008 English Heritage conservation Principles Policies and guidance for the Sustainable Management of the Historic Environment
8.26	BS 8300-1:2019 Design of an accessible and inclusive built environment Part 1: External environment – Code of practice (extracts)
8.27	The Building Regulations 2010: Part K Protection from falling, collision and impact (extracts)
8.28	St Botolph's marketing brief
8.29	LLP letter to HE 7 February 2019
8.30	Historic England – Understanding Place (2017)
8.31	Historic England Good Practice Advice Note 1 (2019)
8.32	NPPG Historic environment extract
8.33	Manual for Streets (2007)
8.34	Building Regulations Part M Volume 2
8.35	Appeal scheme pre-application: CBC letter undated (meeting of 20 April 2018)
8.36	CIHT: Creating Better Streets (2018)
8.37	Tiptree appeal cover letter 7 October 2019
8.38	Tiptree SoS recovery letter 2 October 2019
8.39	Tiptree appeal programme
8.40	Tiptree SoCG
8.41	West Bergholt CBC letter to PINS 29 August 2019
8.42	West Bergholt SoCG
8.43	National Design Guide (2019)

