



## Committee Report

**Planning Committee South – 23 April 2024**

**Application no** DC/24/0773/VOC

**Location**

Former Deben High School  
Garrison Lane  
Felixstowe

**Expiry date** 18 June 2024

**Application type** Variation of Conditions

**Applicant** East Suffolk Council

**Parish** Felixstowe

**Proposal** Variation of Condition Nos. 4 (materials) and 9a (approved plans for residential development) of DC/23/0539/VOC (Variation of Condition No. 11 of DC/21/0541/FUL [Hybrid Application - Full Application for the construction of 45 apartments and maisonettes and 16 houses in buildings ranging in height from 2 to 3 storeys, conversion of retained assembly hall to provide 250m<sup>2</sup> community space, 16 residential car parking spaces, 1 car park space for community hall, 137 cycle parking spaces, highways and public realm works, hard and soft landscaping, access and associated works and Outline application (with all matters reserved except for access, use and scale) for redevelopment and extension of retained sports hall to provide indoor bowls facility and cricket pitch with pavillion, 32 car parking spaces, 24 cycle spaces, landscaping and associated works. All matters reserved except for access, use and building heights] - alter the number of affordable homes.) Changes to materials for residential units and amendments to approved plans including changes to elevations and revisions to site layout and parking.

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## **1. Summary**

- 1.1. This application seeks a range of design changes to the residential development at the former Deben High School site on Garrison Lane in Felixstowe. This is through the variation of Conditions 4 and 9a of permission DC/23/0539/VOC, granted on 10 August 2023.
- 1.2. Condition 4 requires the dwellings to be constructed in accordance with the materials approved (under application DC/23/1590/DRC) and Condition 9a requires the development to be carried out in accordance with the approved plans.
- 1.3. The application seeks to change some of the materials for the dwellings and amend the approved plans to reflect changes to the elevations of the apartment buildings and houses and revisions to the site layout and parking.
- 1.4. The application has come before members as the applicant and landowner is East Suffolk Council. Felixstowe Town Council recommend approval and one objection has been received from a neighbouring dwelling at the time of writing the report.
- 1.5. The changes to the previously approved scheme are considered to be acceptable and the development would remain in accordance with the development plan and the relevant provisions of the National Planning Policy Framework (NPPF). Importantly the development will continue to deliver 20 affordable homes secured by the planning permission and a further 22 affordable homes which the applicant is voluntarily proposing to deliver. The application is therefore recommended for approval.

## **2. Site Description**

- 2.1 The application site comprises the site of the former Deben High School in Garrison Lane, Felixstowe. The majority of the former school buildings have been demolished, with the exception of the assembly hall which is to be converted to a community space and the sports hall which will be redeveloped to provide an indoor bowls facility. The site includes the former school playing field which is to be re-purposed as a cricket pitch.
- 2.2 Development has commenced on site in respect of the residential units.
- 2.3 The site is located within the settlement boundary of Felixstowe and there are residential properties surrounding the site.

## **3. Background**

- 3.1 Planning permission was granted in 2021 for the redevelopment of the former Deben High School site, ref. DC/21/0541/FUL. This was a hybrid permission, which granted the following:
  - Full planning permission for a residential development of 45 apartments and maisonettes and 16 houses and conversion of the former assembly hall for community use.
  - Outline planning permission for the redevelopment of the former sports hall to provide an indoor bowls facility, and provision of a cricket pitch with pavilion.

- 3.2 The residential development comprises 61 dwellings in total; 45 apartments and maisonettes accommodated within four three-storey blocks (Blocks A, B, C and D) and 16 houses arranged as 8 pairs of semi-detached two-storey houses.
- 3.3 In 2023 planning permission was granted to vary condition 11 of the above permission, reference DC/23/0539/VOC. Condition 11 required a scheme for the provision of affordable housing to be submitted and approved and required no less than 42 of the 61 residential units approved to be affordable housing. Permission DC/23/0539/VOC amended the wording of condition 11 to require no less than 20 units of affordable housing; this was to enable the East Suffolk Housing Development Team to seek funding from Homes England for the additional 22 affordable units that are being provided on a voluntary basis.
- 3.4 This current application seeks to make design changes to the scheme approved under permission DC/23/0539/VOC.

#### **4. Proposal**

- 4.1 This application seeks to make a range of design changes to the approved residential development at the former Deben High School site on Garrison Lane in Felixstowe by varying Conditions 4 and 9a of permission DC/23/0539/VOC.
- 4.2 Condition 4 requires the dwellings to be constructed in accordance with the materials approved (under application DC/23/1590/DRC) and Condition 9a requires the development to be carried out in accordance with the approved plans.
- 4.3 The application seeks to change some of the materials for the dwellings and amend the approved plans to reflect changes to the elevations of the apartment buildings and houses and revisions to the site layout and parking. The submitted Planning Statement explains that the amendments are proposed to ensure that the development is viable and deliverable whilst still achieving high standards of energy efficiency, with the overall scheme having been designed to Passivhaus Standards.
- 4.4 The proposed changes, and reasons for these (where set out in the submitted Planning Statement) are summarised as follows:
- Reduced window sizes to address clashes with internal layout and reduce overheating. Contrasting black brick recessed panels are proposed below windows, for windows above ground floor level. At ground floor level the brick banding feature is proposed to be adjusted to meet the bottom of the windows.
  - Repositioning of windows to address clashes with internal layout.
  - Provision of external rainwater goods.
  - Provision of external letterboxes and meter boxes.
  - Changes to the main entrances of Blocks A and D to no longer be recessed, and material changed from metal cladding to brickwork. Black contrasting bricks to be used in these areas to highlight the main entrances.
  - Free-standing balconies are proposed to all apartment blocks in lieu of cantilevered balconies to overcome structural issues and reduce the risk of thermal bridges.
  - Brick slips to be used on some areas of the apartment blocks, in lieu of full brick, to reduce weight on the timber frame structures.

- Recessed shadow gaps are proposed to be replaced with projecting brickwork feature bands.
- Amendments to balcony depths and heights.
- Removal of GRC (glass reinforce concrete) window heads and sills. Brick soldier courses proposed above windows.
- Removal of brick enclosure features at entrances to the apartment blocks.
- Amendments to House Type 01 including revised siting and removal of garages with terraces above. These houses have been repositioned to avoid the root protection area (RPA) of an Oak tree within a neighbouring property's garden.
- Revisions to the parking layout as a result of the approved car parking spaces (2.4m by 4.8m) not meeting the size standards set out within the Suffolk Guidance for Parking Technical Guidance (2.5m by 5m). This has resulted in a reduction of soft landscaping, however, ensures that the same level of car parking is provided when compared to the approved scheme.
- Changes to siting of substation, ball court, cycle storage and bin storage.
- Increase in height of buildings, as set out in the following table:

| <b>Building</b>            | <b>Finished floor level to parapet as approved (metres)</b> | <b>Finished floor level to parapet as proposed (metres)</b> | <b>Difference (centimetres)</b> |
|----------------------------|---|---|---------------------------------|
| Block A                    | 10.445m   | 10.550m   | +10.5cm                         |
| Block B                    | 10.445m   | 10.550m   | +10.5cm                         |
| Block C                    | 10.445m   | 10.550m   | +10.5cm                         |
| Block D                    | 10.445m   | 10.550m   | +10.5cm                         |
| House Type 01              | 7.300m  | 7.410m  | +10.5cm                         |
| House Type 02              | 7.375m  | 7.410m  | +3.5cm                          |
| House Type 03 – main roof  | 6.745m  | 7.410m  | +66.5cm                         |
| House Type 03 – projection | 7.360m  | 7.915m  | +55.5cm                         |
| House Type 04              | 7.300m  | 7.410m  | +11cm                           |

## **5. Consultees**

- 5.1 The final consultation period for the application expires on 18 April 2024.
- 5.2 Local residents were consulted on 20 March for a 21-day period, which expired on 10 April.
- 5.3 The third party representations and consultee responses received by the time of completion of this report (16 April) are set out below; any subsequent responses received will be set out in the Committee Update Sheet. A full list of Consultees can be found on Public Access.

### **Third Party Representations**

- 5.4 One objection has been received making the following summarised comments:
- Block D is situated 4m from our boundary, having a significant impact on our house and view.
  - Concern regarding increase in height of building and balconies.
  - Request that the end of the balconies that overlook our garden are made a solid wall for privacy and to block sound.

| Consultee                                   | Date consulted | Date reply received |
|---|----------------|---------------------|
| Felixstowe Town Council                     | 20 March 2024  | 4 April 2024        |
| Summary of comments:<br>Recommend approval. |                |                     |

| Consultee   | Date consulted | Date reply received |
|---|----------------|---------------------|
| SCC Highways Department   | 20 March 2024  | 10 April 2024       |
| Summary of comments:<br>The County Council as Highways Authority does not wish to restrict the grant of permission due to the application not having a detrimental effect upon the adopted highway. |                |                     |

| Consultee  | Date consulted | Date reply received |
|--|----------------|---------------------|
| SCC Flooding Authority   | 20 March 2024  | 10 April 2024       |
| Summary of comments:<br>The LLFA does not believe the proposed variations to have a material impact on the approved scheme drainage strategy and therefore do not wish to restrict approval. |                |                     |

| Consultee                                    | Date consulted | Date reply received |
|--|----------------|---------------------|
| East Suffolk Design And Heritage             | 20 March 2024  | 20 March 2024       |
| Summary of comments:<br>No comments to make. |                |                     |

| Consultee  | Date consulted | Date reply received |
|--|----------------|---------------------|
| East Suffolk Landscape Team                                    | 20 March 2024  | 4 April 2024        |
| Summary of comments:<br>Comments included in assessment below. |                |                     |

| Consultee  | Date consulted | Date reply received |
|--|----------------|---------------------|
| East Suffolk Ecology   | 20 March 2024  | 8 April 2024        |
| Summary of comments:<br>Comments included in assessment below. |                |                     |

| Consultee                             | Date consulted | Date reply received |
|---------------------------------------|----------------|---------------------|
| East Suffolk Environmental Protection | 20 March 2024  | 28 March 2024       |

Summary of comments:

The application results in some amendments to the soft and hard landscaping of the site. It would appear from the planning statement and plans that this results in a slight reduction of soft landscaping and a slight increase in hard landscaping to accommodate changes to some parking elements and therefore should be an issue. That said, given the importance of the landscaping design in addressing potential residual risk from contamination, clarification is sought that the changes in the design have been considered in this context and that the remediation strategy remains appropriate and adequate.

| Consultee                                     | Date consulted | Date reply received |
|---|----------------|---------------------|
| Ipswich & East Suffolk CCG & West Suffolk CCG | 20 March 2024  | 10 April 2024       |

Summary of comments:

As the number of dwellings has not changed, please refer to our comments on the previous application.

| Consultee               | Date consulted | Date reply received |
|-------------------------|----------------|---------------------|
| SCC Section 106 Officer | 20 March 2024  | 21 March 2024       |

Summary of comments:

There are two unilateral undertakings sealed by Deed as dated 7 March 2023 and 27 July 2023 which must remain binding on any new planning permission granted approval. Otherwise, I have no comments to make on this application.

## Publicity

The application has been the subject of the following press advertisement:

| Publication              | Published date | Expiry date   | Reason            |
|--------------------------|----------------|---------------|-------------------|
| East Anglian Daily Times | 28 March 2024  | 18 April 2024 | Major Application |

## Site notices

| Site Notice Type    | Date Posted   | Expiry date   | Reason            |
|---------------------|---------------|---------------|-------------------|
| General Site Notice | 21 March 2024 | 11 April 2024 | Major Application |

## **6. Planning policy**

East Suffolk Council Suffolk Coastal Local Plan 2020:

- SCLP3.1: Strategy for Growth
- SCLP3.2: Settlement Hierarchy
- SCLP3.3: Settlement Boundaries
- SCLP3.5: Infrastructure Provision
- SCLP5.8: Housing Mix
- SCLP5.10: Affordable Housing on Residential Developments
- SCLP7.1: Sustainable Transport
- SCLP7.2: Parking Proposals and Standards
- SCLP8.1: Community Facilities and Assets
- SCLP8.2: Open Space
- SCLP9.2: Sustainable Construction
- SCLP9.6: Sustainable Drainage Systems
- SCLP9.7: Holistic Water Management
- SCLP10.1: Biodiversity and Geodiversity
- SCLP10.3: Environmental Quality
- SCLP11.1: Design Quality
- SCLP11.2: Residential Amenity
- SCLP11.3: Historic Environment
- SCLP11.6: Non-Designated Heritage Assets
- SCLP11.7: Archaeology

Supplementary Planning Documents (SPDs) and other guidance:

- East Suffolk Council Affordable Housing SPD (2022)
- East Suffolk Council Sustainable Construction SPD (2022)
- East Suffolk Council Historic Environment SPD (2021)
- East Suffolk Council Recreational Disturbance Avoidance and Mitigation Strategy SPD (2021)
- Suffolk County Council Guidance for Parking Technical Guidance (2023)

National Planning Policy Framework (NPPF) 2023

## **7. Planning Considerations**

- 7.1 This application is made under section 73 of the Town and Country Planning Act 1990 (as amended) to vary Conditions 4 and 9a of planning permission DC/23/0539/VOC in order to make design changes to the approved scheme in respect of the residential development granted full planning permission.
- 7.2 Section 73 of the Town and Country Planning Act 1990 can be used to make a material amendment by varying or removing conditions associated with a planning permission. There is no statutory limit on the degree of change permissible to conditions under s73, but the change must only relate to conditions and not to the operative part of the permission.

- 7.3 Permission granted under section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended. It is open to the applicant to decide whether to implement the new permission or the one originally granted.
- 7.4 The national guidance regarding section 73 applications such as this states that local planning authorities should, in making their decisions, focus their attention on national and development plan policies and other material considerations which may have changed significantly since the original grant of permission.
- 7.5 Whilst this development has commenced and is at quite an advanced stage of construction, the works undertaken are limited to the foundations and timber framing of buildings. The buildings are not yet externally finished and have not had windows and doors fitted or roofing finishes added. The footprint and dimensions of the blocks constructed do not exceed the implemented planning consent and the positions of the constructed buildings remains unchanged. As it stands the buildings have not materially exceeded their approved heights, though as they come to be completed they are proposed to be subject to some very minor increases in height (10.5cm in most cases). Four of the dwellings (House Type 03) would be up to 66.5cm higher, however, construction of the timber frames of these houses has not commenced. It is concluded therefore that this is not a retrospective (section 73a) application and the determination of this minor material amendment application under section 73 is acceptable in principle.
- 7.6 Section 73(2) states: “On such an application, the local planning authority will consider only the question of the conditions subject to which planning permission should be granted.” As such, the sole consideration in this case is whether the proposed amendments to the extant planning permission are acceptable. The principle of the redevelopment of the site has been established by the grant of permissions DC/21/0541/FUL and DC/23/0539/VOC, as have the number and types of dwellings to be provided. The assessment below therefore considers the proposed changes to the previously approved scheme only.
- 7.7 Paragraph 140 of the NPPF states: “Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used)”. This is particularly relevant to section 73 applications such as this. Care must be taken in addressing the necessary practical reasons for post-planning design changes to ensure that the quality of design is not eroded, or eroded to an extent that the design becomes unacceptable. For this reason, the applicant has engaged with officers prior to the validation of the application to address the design changes required and to receive feedback from officers to reduce the aesthetic impacts of some of the changes required for construction purposes.



## Design Quality

- 7.8 Local Plan policy SCLP11.1 seeks to secure locally distinctive and high quality design that clearly demonstrates an understanding of the key features of local character and seeks to enhance these features through innovative and creative means.
- 7.9 The NPPF similarly places a high importance on good design as a key aspect of sustainable development (paragraph 131). Paragraph 135 states that planning decisions should ensure that developments:
- Will function well and add to the overall quality of the area.
  - Are visually attractive as a result of good architecture, layout and appropriate and effective landscaping.
  - Are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).
  - Establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit.
  - Optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development.
- 7.10 Paragraph 139 of the NPPF states that development that is not well designed should be refused. Conversely, significant weight should be given to:
- a) development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes; and/or
  - b) outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.
- 7.11 Of particular relevance to section 73 (variation of condition) applications such as this, paragraph 140 of the NPPF states that local planning authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used). The various changes proposed to the approved scheme are considered below.
- 7.12 Windows have been reduced in size across the residential development to address clashes with the internal layout and reduce overheating. This change reduces the overall quality of the development as it results in a greater proportion of brickwork as opposed to glazing. In order to rebalance the elevations, contrasting black brick recessed panels are proposed below windows (for windows above ground floor level). At ground floor level the brick banding feature is proposed to be adjusted to meet the bottom of the windows.
- 7.13 Windows have also been repositioned, and in some cases omitted, to also avoid internal layout clashes. The alignment of the windows within the approved scheme was based on a well-balanced series of elevations, and their realignment has therefore resulted in an unbalanced visual finish to the elevations of the buildings.

- 7.14 External rainwater goods are proposed on all residential units; these were not shown on the approved scheme and this was apparently an omission from the original architect's plans. These are in prominent locations, however, efforts have been made to balance their appearance. External letterboxes and meter boxes are also now proposed. In order to minimise their prominence on the buildings it is proposed to finish these in sympathetic colours, i.e. cream against buff brickwork, red-brown against red brickwork and bronze against the dark brickwork.
- 7.15 Building entrances to apartment Blocks A and D have been amended to no longer be recessed, with the material finish also changed from metal cladding to brickwork. The original design sought to signify the building entrances via alternative materials and detailing, including door sizes. Black contrasting bricks are however proposed to accent these key arrival spaces. Brick slips are to be used on some areas of the apartment blocks (facing the cricket pitch) in lieu of full brick, to reduce weight on the timber frame structures.
- 7.16 Free-standing balconies are proposed to all apartment blocks in lieu of cantilevered balconies to overcome structural issues and reduce the risk of thermal bridges. The balconies have also been amended in terms of their depths and heights relative to the buildings, albeit these dimensional changes are modest.
- 7.17 The approved scheme included recessed shadow gaps to break up the elevations of the buildings, and these are proposed to be replaced with projecting brickwork feature bands in some areas, and with the external rainwater goods in others.
- 7.18 The approved scheme included GRC window heads and sills, which have now been omitted. Brick soldier courses are however proposed above windows, with contrasting brickwork below the windows.
- 7.19 Four houses (House Type 01) towards the northern end of the residential development are proposed to be repositioned in order to avoid the root protection area (RPA) of an Oak tree within a neighbouring property's garden to the rear. These houses were approved as a row of four, linked via attached garages with terraces above the garages. It is proposed to split the houses into two pairs, moving one pair slightly north and the other pair further south, and to omit the garages and terraces. A continuous brick frontage is however proposed in order to mimic a mews character.
- 7.20 As noted in the table above, the heights of buildings across the residential development are also proposed to be increased. The apartment blocks (Blocks A, B, C and D) are all proposed to increase by approximately 10.5cm to the parapets. The applicant has advised that this is due to the roofs being designed as green roofs with PV panels, which will require ongoing maintenance, and that the increased parapet heights will provide protection during maintenance. The houses are also proposed to be increased in height to provide consistency throughout the development. The height increases are not considered to have a material impact on the design quality of the development, as features from the approved scheme such as the projecting balconies on the apartment blocks and the varied roof form of House Type 03 (the dwellings that face Garrison Lane) have been carried through to this proposed scheme.

- 7.21 A number of changes are proposed to the layout of the residential scheme in terms of parking, landscaping, cycle storage and bin storage. The substation and ball court are also proposed to be repositioned.
- 7.22 The approved scheme includes 61 car parking spaces for the residential units (i.e. 1:1), including 3 blue badge spaces, together with 1 blue badge space for the community hall. It should be noted that the reference to '16 residential car parking spaces' in the description on the extant permission is a typographical error, where this should have stated '61'. The car parking spaces did not meet the size standards set out within the Suffolk Guidance for Parking Technical Guidance – measuring 2.4m by 4.8m rather than 2.5m by 5m. The proposed scheme therefore seeks to address this.
- 7.23 The proposed scheme would provide 61 car parking spaces for residents, including 3 blue badge spaces, and would therefore continue to provide one space for each residential unit in line with the approved scheme. A blue badge space for the community hall would also be provided, as before. In addition, two drop-off spaces are proposed together with a contractor parking space and a blue badge visitor space. No objections have been raised by Suffolk County Council as local Highway Authority regarding the proposals, and the principle of a 1:1 ratio of car parking spaces to residential units was accepted under the previously approved scheme.
- 7.24 Minor changes are proposed to the siting of the substation, ball court, cycle stores and bin stores. Under the approved scheme, the substation was shown to the north of the access road into the site and directly adjacent to a neighbouring dwelling's boundary. This is proposed to be moved away from the boundary and closer to the access road. Although this is a prominent location, it is similar to the approved position for the substation and it is anticipated that some additional screening, such as hedging, can be secured as part of a detailed landscaping scheme (to be conditioned).
- 7.25 The ball court adjacent to the play street would be in a similar position to that previously approved but turned to be parallel to the street. The bin store and the cycle store to the south of Block A would be separated, with the cycle store sited next to the ball court and the bin store moved further east. The second cycle store, located in the landscaped area between Blocks C and D, is proposed to be relocated further east within this area. The bin store to the north of Block C has been enlarged, and the bin store to serve Block D would be moved closer to Block D.
- 7.26 As noted by the Council's Senior Landscape Officer, the proposed changes have resulted in a reduction in the amount of soft landscaping in the communal areas of the residential development, predominantly due to the increase in parking space sizes. It is also unfortunate that the parking bays cannot be broken up with some planting, as this was a positive of the approved scheme. Although this is unfortunate, officers have had to balance this against the need to provide a car parking space for each residential property. The Landscape Officer advises that opportunities should be explored for additional tree planting to be incorporated across the site, including around the SuDs basin and within the community growing area. A detailed landscaping scheme for the site will (as before) need to be secured by condition.

## Residential Amenity

- 7.27 Local Plan policy SCLP11.2 seeks to ensure that developments will provide for adequate living conditions for future occupiers and will not cause an unacceptable loss of amenity for existing or future occupiers of development in the vicinity.
- 7.28 The proposed amendments to the approved scheme that require consideration in terms of residential amenity impacts are:
- Amendments to House Type 01 including revised siting and removal of garages with terraces above.
  - Increase in height of buildings.
- 7.29 Four houses (House Type 01) towards the northern end of the residential development are proposed to be repositioned in order to avoid the root protection area of an Oak tree within a neighbouring property's garden to the rear. These houses were approved as a row of four, linked via attached garages with terraces above the garages. It is proposed to split the houses into two pairs, moving one pair slightly north and the other further south with additional parking provided in between, and to omit the garages and terraces.
- 7.30 As a result of this amended siting, there would be a greater extent of built development (the southern-most house, plot H54) close to No. 107 Garrison Lane when compared to the approved scheme. However, as before, no first floor windows are proposed in the rear elevations of House Type 01 and as such the proposed changes would not result in any overlooking in this respect. In addition, the removal of the first floor terraces from this house type will reduce the impact of the development on neighbouring properties in Garrison Lane in terms of privacy. House Type 01 is proposed to be increased in height by approximately 10.5cm, however, this is a modest change that would not have a significant impact on neighbour amenity when compared to the approved scheme.
- 7.31 As noted in the table earlier in this report, the apartment blocks are proposed to increase in height by 10.5cm (to parapet). Of these, Block D is close to neighbouring properties to the south in Newry Avenue. Although Block D is approximately 4m from the boundary with neighbouring gardens, the proposed increase in height is modest in the context of the approved scheme. It is also noted that the original plans did not show level changes across the site and the actual site levels place this block lower than the 'flat' level shown on the approved plans. Concerns have been raised regarding potential overlooking from the balconies on Block D, however, there is a condition on the extant permission requiring obscured glazed privacy panels to be fitted on the southwest elevation of the southernmost balconies at both first and second floor level to a height of 1.7m from balcony floor. This condition would also be imposed on the permission for the proposed scheme if granted.
- 7.32 There are existing dwellings to the north and south of House Types 02 and 03, and to the south of House Type 04, and it is proposed to increase the heights of these buildings by between 3.5cm and 66.5cm (as set out in the above table). Given however the two-storey scale of the proposed houses and their relationships to surrounding development, it is not considered that the height increases would have a significant impact on residential amenity when compared to the approved scheme.

## Ecology

- 7.33 The site is within the Suffolk Coast RAMS Zone of Influence (Zone A - within 13km of the Stour and Orwell Estuaries Special Protection Area and Ramsar). As such, a financial contribution, or equivalent mitigation identified via a Habitats Regulations Assessment, is required in order to mitigate in-combination recreational disturbance impacts on habitats sites (European designated sites) arising from new residential development. This was secured through a section 111 with an upfront payment made under application DC/21/0541/FUL. The applicant has confirmed that the RAMS fund paid should be transferred to this application.
- 7.34 The site is within 5km of seven statutory sites and within 2km of two country wildlife sites (CWS). The statutory sites were six sites of scientific interest, and one local nature reserve. The closest site is the Landguard Common SSSI, which is 2.4km south of the site. The closest CWS is the Egypt Wood CWS, which is 1.9 km north. Due to these distances, it is considered unlikely that the sites will be impacted by the development.
- 7.35 Biodiversity net gain (BNG) became mandatory from 12 February 2024, however, BNG does not apply to:
- retrospective planning permissions made under section 73A; and
  - section 73 permissions where the original permission which the section 73 relates to was either granted before 12 February 2024 or the application for the original permission was made before 12 February 2024.
- 7.36 As this is a section 73 application and the original application DC/23/0539/VOC was granted before 12 February 2024, mandatory BNG does not apply in this case.
- 7.37 The Council's Ecology Team note that the remaining habitat within the site boundary provides little suitable habitat for protected species. Bat boxes and swift boxes are proposed on the apartment blocks in line with the ecological enhancement measures recommended at the time the previous applications on the site were considered. A detailed landscaping plan will be secured by condition, which will also be expected to deliver biodiversity enhancement via planting.

## Land contamination

- 7.38 A number of conditions are attached to permission DC/23/0539/VOC to address land contamination. Of these conditions, the pre-commencement conditions requiring site investigation and a remediation method statement (RMS) for the residential development have been discharged, with the approved RMS being required to be completed in its entirety prior to any occupation of the dwellings.
- 7.39 The Council's Environmental Protection Team note that the proposals result in amendments to the soft and hard landscaping of the site, with a slight reduction in soft landscaping to accommodate changes to parking. They highlight that the landscape design is important in addressing potential residual risk from contamination, and therefore requested clarification that the changes have been considered in this context and that the approved remediation strategy remains appropriate and adequate.

- 7.40 The approved remediation strategy identified that the areas within the residential development of the site requiring remediation are limited to areas of soft landscaping, both in communal areas and private gardens. Remediation is not required beneath planned building footprints, although it was highlighted that this should be reviewed if the proposed layout changes. Remediation is also not required within the areas where hard landscaping is proposed (including parking areas). The approved strategy for all soft landscaped areas is the placement of a suitable, inert soil cover system suitable for use in a residential setting.
- 7.41 As the layout changes in this case result in a slight reduction in soft landscaping and an increase in hard landscaping within the communal areas of the residential development, it is anticipated that the agreed remediation approach remains appropriate. The approved remediation strategy will need to be updated to reflect the layout changes, and this can be secured by condition. In terms of the revised siting of House Type 01, this involves a rearrangement of building footprints and hard landscaping (parking) and is not therefore anticipated to raise any additional issues in terms of remediation.

### Contributions

- 7.42 The scheme as approved under DC/21/0541/FUL and DC/23/0539/VOC is subject to a Planning Obligation, via a Unilateral Undertaking, for the provision of contributions towards early years and primary years places to serve the development. The contributions are required to be paid to the County Council prior to occupation of the first dwelling, and the obligations secured by the Unilateral Undertaking also apply to any subsequent section 73 applications such as this current application.

## **8. Conclusion**

- 8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise. The development plan in this case is the East Suffolk Council Suffolk Coastal Local Plan (adopted September 2020). The National Planning Policy Framework (NPPF) 2023 is a material consideration in planning decisions, and at the heart of the Framework is a presumption in favour of sustainable development (paragraph 11). For decision-taking this means approving development proposals that accord with an up-to-date development plan without delay.
- 8.2 The national guidance regarding Section 73 applications such as this states that local planning authorities should, in making their decisions, focus their attention on national and development plan policies and other material considerations which may have changed significantly since the original grant of permission. There have been no significant changes to the development plan, the NPPF or other material considerations since application DC/23/0539/VOC was determined.
- 8.3 Overall, officers consider that some of the above architectural changes have a 'downgrading' aesthetic effect on the architectural quality of the development. However, the original application was of a very high standard of architectural design. High quality design is an aspiration of major planning applications, and it should be celebrated when achieved. In hindsight the original designs were of a higher standard than would have been

required to achieve planning permission on this site. A well-designed scheme not only needs to be aesthetically pleasing but it also needs to function well and be capable of construction to the standards expected. In this case the design driver is to achieve Passivhaus status and it is apparent that the original design, whilst proposed as having that status, was incapable of it when it came to construction design.

- 8.4 The changes presented here, as a minor architectural downgrade, do not materially diminish the quality of the approved scheme to such an extent that the design is unacceptable. The proposals seek to bring forward the key positive features of the approved development, adapting the permitted scheme to ensure that it is functional, practical, and deliverable whilst maintaining a good standard of design.
- 8.5 This revised scheme is considered to accord with the relevant provisions of the development plan and the National Planning Policy Framework.

## **9. Recommendation**

9.1 Approve subject to conditions to address the following matters:

- Time limit for commencement of residential development (with full planning permission).
- Time limit for the commencement of development (with outline permission).
- Time limit for the submission of reserved matters (for development with outline permission).
- Dwellings to be constructed in accordance with approved materials.
- Removal of permitted development rights for extensions and alterations, roof alterations and outbuildings in respect of the residential development.
- Removal of permitted development rights for walls and fences.
- Removal of permitted development rights for additional windows above ground floor level.
- Requirement for windows above ground floor level serving bathrooms to be fitted with obscure glazing.
- Development to be carried out in accordance with the approved plans and documents.
- Provision of storage areas for bins.
- Development to be carried out in accordance with approved scheme for provision of affordable housing.
- Details of external lighting to be agreed.
- Construction hours to be limited to 7.30am to 6pm Mondays-Fridays, 8am to 1pm on Saturdays and no construction work to take place on Sundays and Bank Holidays.
- Protective fencing for existing trees to be implemented as approved.
- Noise assessment to be submitted.
- Requirement for a minimum of 5% of car parking spaces for staff/visitor use to be provided with EV charging points (development with outline permission).
- Requirement for all dwellings with off-street parking and a minimum of 10% of spaces in private communal parking areas to be provided with EV charging points.
- Site investigation in respect of land contamination to be carried out (development with outline permission).
- Remediation method statement (RMS) in respect of land contamination to be submitted.

- RMS to be completed prior to occupation of the development.
- Validation report in respect of land contamination to be submitted.
- Landscaping scheme to be submitted for approval.
- Management plan for maintenance of communal areas to be submitted for approval.
- Residential development to be carried out in accordance with the approved drainage strategy including construction surface water management plan.
- Strategy for disposal of surface water to be submitted for approval (development with outline permission).
- Details of implementation, maintenance and management of the strategy for the disposal of surface water to be submitted for approval (development with outline permission).
- Surface water drainage verification report to be submitted for approval.
- Construction Surface Water Management Plan detailing how surface water and storm water will be managed on the site during construction to be submitted for approval (development with outline permission).
- Southern-most balconies at first and second floor levels on apartment Block D to be fitted with an obscured glazed privacy panel on their southwest elevation to a height of 1.7m from balcony floor.

### **Informatives:**

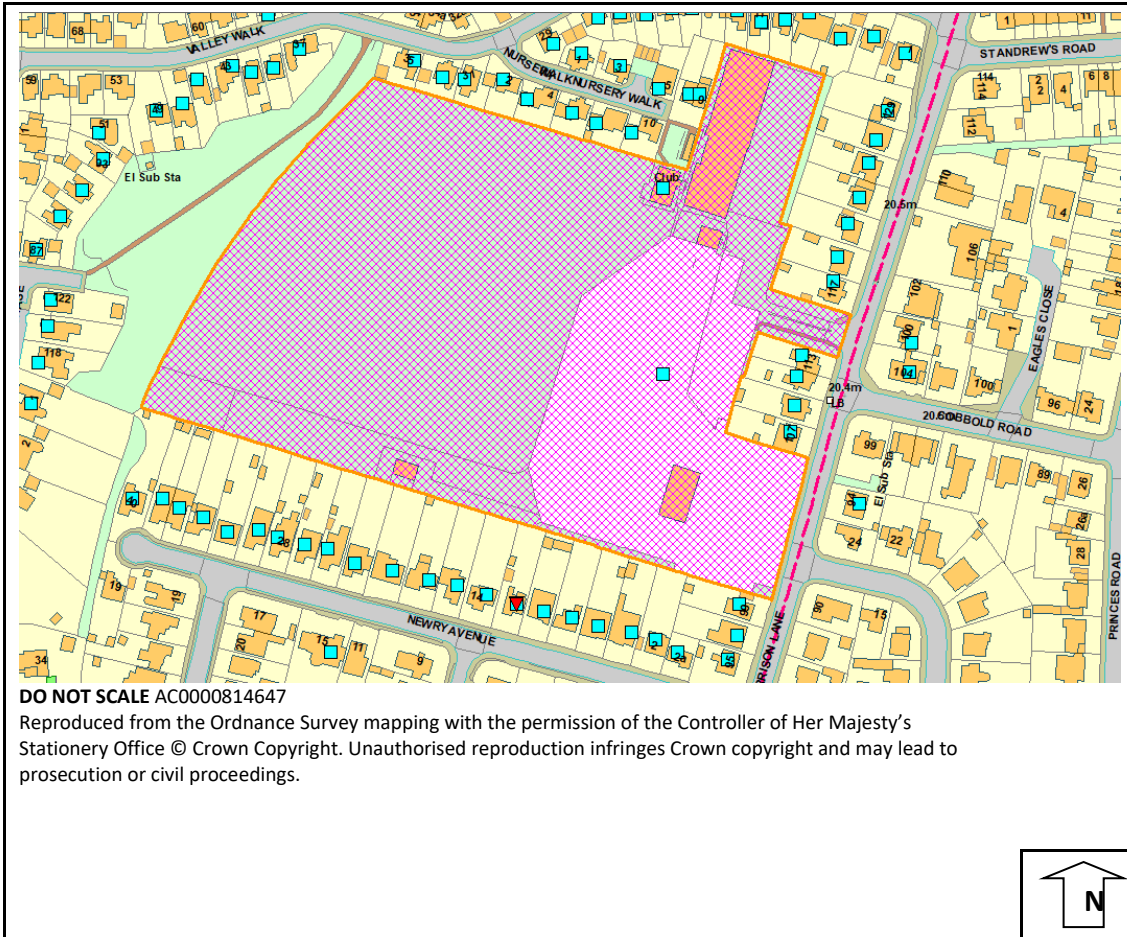
1. The Local Planning Authority has assessed the proposal against all material considerations including planning policies and any comments that may have been received. The planning application has been approved in accordance with the objectives of the National Planning Policy Framework and local plan to promote the delivery of sustainable development and to approach decision taking in a positive way.

### **Background information**

See application reference DC/24/0773/VOC on [Public Access](#)



# Map



## Key



Notified, no comments received



Objection



Representation



Support