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Item No: 7.1

Application: 172935

Applicant: The Churchmanor Estates Company Plc

Agent: Miss Jessica Ferguson, MRPP

Proposal: Erection of a retail unit with an external yard and retail space (A1), a retail terrace comprising six units with mezzanine cover (A1); two supermarkets (A1) and restaurant units (A1/A3/A5), with associated parking and landscaping

Location: Stane Park Site, Essex Yeomanry Way, Stanway, Colchester

Ward: Marks Tey & Layer

Officer: Lucy Mondon

Recommendation: Approval subject to signing of Section 106 Agreement

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the proposal constitutes a departure from the Local Plan being retail development on a site allocated for Employment uses.

2.0 Synopsis

- 2.1 The key issues for consideration are:
- The principle of the development
 - Highway impact (including parking provision)
 - Sustainability
 - Landscape impact (including trees)
 - Design and layout
 - Impact on amenity
 - Heritage matters
 - Flood risk and drainage
 - Ecology
 - Contamination
 - Air Quality

S106 requirements are also discussed within the report.

- 2.2 The above matters are considered within the report as part of an overall planning balance, leading to the application being subsequently recommended for approval subject to a number of conditions and S106 obligations, and necessary consultation with the Secretary of State.

3.0 Site Description and Context

- 3.1 The application site is currently an open grass field of approximately 6.89 hectares in size. It is bounded by the A12 to the north, Essex Yeomanry Way A1124 to the east and south, and residential development to the west. The site forms part of the wider 'Stane Park', the first phase of which is currently being built out with a range of restaurants and drive-through food outlets.
- 3.2 The site is on the westernmost boundary of Stanway Ward (adjoining Marks Tey and Layer Ward) and is allocated in the adopted local plan and emerging plan as a Strategic Employment Zone within the Stanway Growth Area. Immediately west of the site is the Wyvern Farm residential development, which is now largely completed; established residential development lies to the east. The Stanway Urban District Centre is located to the south-east of the site, comprising of a Sainsbury's supermarket and existing development at the Tollgate Centre, Tollgate West, and Tollgate East.
- 3.3 The site is recorded as being Grade 2 Agricultural Land and within a Flood Zone 1. There are no Public Rights of Way (PROW) within or adjacent the site; the closest PROW being number 149_4 approximately 300 metres to the south-west of the site, running south from London Road.

- 3.4 The existing character of the site is a grassed field that is generally open and level with the road at the southern boundary, becoming approximately 6.5 m lower in level than the road at the eastern and northern boundaries which are densely planted and screen the site from the road. The western boundary with the Wyvern Farm development is again generally level; separation between the two sites being a hedgerow.
- 3.5 The area has seen considerable development in recent years, that in immediate vicinity of the application site include the Sainsburys site (permitted 2010), Wyvern Farm (permitted 2015), and Stane Park Phase 1 (permitted 2016).

4.0 Description of the Proposal

- 4.1 The application seeks planning permission for the erection of nine retail units (23,669sqm) with three café/restaurant kiosks (326.8sqm) and associated parking areas, landscaping, and infrastructure. Units A1-A6 and Unit B are proposed to be subject to a bulky goods condition restricting the range of goods (i.e. not open A1 retail use). The retail units comprise the following:

Units A1-A6 (retail terrace)	5,542sqm plus 4,274sqm mezzanine
Unit B (B&Q)	7,547sqm plus 3,255sqm builders yard
Unit C (Marks and Spencers)	1,488sqm
Unit D (Aldi)	1,725sqm

- 4.2 As well as the necessary drawings (Site Plans; Site Sections; Floor Plans; Roof Plans; and Elevations), the application is accompanied by the following supporting documents:

- Air Quality Assessment
- Arboricultural Impact Assessment
- Archaeological Desk Based Assessment
- Archaeological Trial Trench Evaluation
- Cannons Stage 1 Road Safety Audits and Technical Notes
- Car Parking Justification
- Design and Access Statement
- Ecological Impact Assessment
- Employment Land Report (as well as subsequent comments in response to consultant (Cushman and Wakefield) reviews)
- Flood Risk Assessment
- Geo-Environmental Report
- Geophysical Survey
- Health Impact Assessment
- Landscape and Visual Impact Assessment
- Landscape Plan
- Legal Opinion, dated 13th June 2018 (in respect of 'Lawful Decision Making' and the sequential test)
- Lighting Strategy
- Noise Assessment
- Noise Technical Notes

- Planning Statement
- Retail Assessment (as well as subsequent comments in response to the Council's consultant (Cushman and Wakefield) reviews)
- Statement of Community Involvement
- Surface Water Drainage Scheme
- Transport Assessment (appended by a series of Technical Notes in consultation with Highways England)
- Travel Plan

4.3 As alluded to above, an independent consultant Cushman and Wakefield was instructed by the Council to review and comment on the submitted Employment Land Report and Retail Assessment. This resulted in a formal dialogue between consultants and has formed part of the Case Officer's assessment of the application. The details of this assessment will be set out in the main body of the report.

4.4 Following on from the Legal Opinion submitted as part of the planning application, the Council instructed a legal opinion in respect of policy matters (i.e. the sequential test as part of the NPPF). The Legal Opinion is dated 5th July 2018 and will be discussed in the main body of the report.

5.0 Land Use Allocation

5.1 The site is part of the Stanway Strategic Employment Zone. Site Allocations Policy SA STA3 relates to the Strategic Employment Zone and states:

'Within the Strategic Employment Zone allocated on the Proposals Map, the following uses will be considered appropriate;

- a) Research and Development, Studio's, Laboratories, Hi-tech (B1b), Light industrial (B1c), General industrial (B2), Storage and Warehousing (B8). Any such development will be restricted by way of condition to prevent change of use to B1a.
- b) Display, repair and sale of vehicles and vehicle parts, including cars, boats and caravans
- c) Indoor sport, exhibition and conferencing centres.
- d) Business Incubation space (including land within Stane Park).'

6.0 Relevant Planning History

6.1 Between 1999 and 2001 a number of applications for development of the site were submitted to the Local Planning Authority for consideration, but subsequently withdrawn. The relevant applications are as follows:

1999 Application for Planning Permission (F/COL/99/1534)

Low energy headquarters building for information technology company (B1 use)

1999 Application for Outline Permission (O/COL/99/1533)

Park and ride complex railway halt pedestrian/cycle track bridge over A12 & an information technology business park (B1 use)

2001 Application for Outline Permission (O/COL/01/0008)
Development to include park and ride complex railway halt, pedestrian/cycle track-bridge over A12 and an information technology business park (B1 Use).

2006 Application for Outline Permission (O/COL/06/0891)
Incubator and business development park.

- 6.2 More recently in 2016 Stane Park Phase 1 (the site immediately south of the application site) was granted planning permission following appeal for the development of a pub/restaurant, three restaurant units, and two drive-through restaurant/café units, with associated car parking and landscaping. The details of the applications are as follows:
- 146486 (Appeal Ref: APP/A1530/W/15/3139492)
Pub/restaurant; two restaurant units, with associated car parking and landscaping.
 - 150945 (Appeal Ref: APP/A1530/W/15/3139491)
One restaurant unit and two drive-through restaurant/café units (later varied under planning reference 162005 to allow for an earlier opening time for one unit).

- 6.3 The Inspector's closing comments in respect of both of the above appeals were as follows:

'Overall, therefore, I conclude that there would be no unacceptable loss of employment land, either in quantitative or qualitative terms and that the proposals pass the sequential test. There would be some harm arising from conflict with the development plan, from the significant level of car-borne customers and to the setting of a listed building. However, the totality of that harm is limited and is significantly outweighed by the benefits of the schemes as identified above. There is conflict with the development plan but in respect of both appeals this is outweighed by the other material considerations. I conclude that both appeals should succeed.'

- 6.4 The benefits of the scheme were identified as being: bringing a vacant site into beneficial use; the design of the buildings enhancing the appearance of the area; and the provision of jobs close to residential areas.

- 6.5 A further planning decision of note is the 2017 approval of planning permission (on appeal) for a mixed use leisure and retail development at Tollgate Village (Application Ref: 150239; Appeal Ref: APP/A1530/W/16/3147039). In this case, the Secretary of State agreed with the Planning Inspector's recommendation of approval, with their conclusions being as follows:

'For the reasons given above, the Secretary of State considers that the appeal scheme is not in accordance with Policies CE1, CE2, CE3 and STA3 of the development plan, and is not in accordance with the development plan overall. However, these policies are not consistent with the Framework, are out of date and attract limited weight. The Secretary of State has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.'

The Secretary of State considers that both the sequential and impact tests set out in the Framework have been passed. The proposal would not be premature and the location is accessible. The retail scheme would have a slight impact on the vitality and viability of the Town Centre but not the severe impact required by the third bullet point in paragraph 32 of the Framework to prevent development. In addition, the proposal would provide a number of social, economic and environmental benefits, as set out above, to which the Secretary of State gives significant weight. These benefits and the fact that the proposal does not conflict with national policy on ensuring the vitality of town centres and promoting sustainable transport, amount to material considerations that would justify a decision other than in accordance with the development plan in this case.'

- 6.6 Further detail relating to both the Stane Park Phase 1 appeals and Tollgate Village appeal will be discussed in the main body of the report in so far as they are relevant to the current planning application.

7.0 Principal Policies

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

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

- SD1 - Sustainable Development Locations
- SD2 - Delivering Facilities and Infrastructure
- CE1 - Centres and Employment Classification and Hierarchy
- CE2 - Mixed Use Centres
 - CE2a - Town Centre
 - CE2b - District Centres
 - CE2c - Local Centres
- CE3 - Employment Zones
- UR2 - Built Design and Character
- PR2 - People-friendly Streets
- TA1 - Accessibility and Changing Travel Behaviour
- TA2 - Walking and Cycling
- TA3 - Public Transport
- TA4 - Roads and Traffic
- TA5 - Parking
- ENV1 - Environment
- ER1 - Energy, Resources, Waste, Water and Recycling

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

- DP1 Design and Amenity
- DP2 Health Assessments
- DP3 Planning Obligations and the Community Infrastructure Levy
- DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses
- DP6 Colchester Town Centre Uses
- DP7 Local Centres and Individual Shops
- DP17 Accessibility and Access
- DP18 Transport Infrastructure Proposals
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage
- DP21 Nature Conservation and Protected Lanes
- DP25 Renewable Energy

- 7.4 Some “allocated sites” also have specific policies applicable to them. The adopted Site Allocations (adopted 2010) policies set out below should also be taken into account in the decision making process:

- SA STA1 Appropriate Uses within the Stanway Growth Area
- SA STA2 Phasing of Greenfield sites in Stanway Growth Area
- SA STA3 Employment and Retail Uses in Stanway Growth Area
- SA STA4 Transportation in Stanway Growth Area

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

- The Essex Design Guide
- External Materials in New Developments
- EPOA Vehicle Parking Standards
- Sustainable Construction
- Shopfront Design Guide
- Cycling Delivery Strategy
- Sustainable Drainage Systems Design Guide
- Street Services Delivery Strategy
- Planning for Broadband 2016
- Managing Archaeology in Development.
- Developing a Landscape for the Future
- ECC’s Development & Public Rights of Way
- Planning Out Crime
- Air Quality Management Guidance Note, Areas & Order
- Stanway Joint Design Statement and Parish Plan
- Tollgate Vision Statement

7.6 Submission Colchester Borough Local Plan 2017-2033

The Council is developing a new Local Plan that has been submitted to the Planning Inspectorate (October 2017). An Inspector has been appointed and the formal examination commenced in January 2018. The examination is ongoing. The application site remains allocated for employment in the emerging plan.

Relevant policies include:

SP1 - Presumption in Favour of Sustainable Development

SP2 - Spatial Strategy for North Essex

SP4 - Providing for Employment and Retail

SP5: Infrastructure and Connectivity

SP6 - Place Shaping Principles

SG1: Colchester's Spatial Strategy

SG3: Economic Growth Provision

SG4: Local Economic Areas

SG5: Centre Hierarchy

SG6: Town Centre Uses

SG6a Local Centres

SG7: Infrastructure Delivery and Impact Mitigation

SG8: Neighbourhood Plans

ENV1: Environment

ENV5: Pollution and Contaminated Land

CC1: Climate Change

PP1: Generic Infrastructure and Mitigation Requirements

WC1: Stanway Strategic Economic Area

WC2: Stanway

WC4: West Colchester

WC5: Transport in West Colchester

DM1: Health and Wellbeing

DM15: Design and Amenity

DM16: Historic Environment

DM20: Promoting Sustainable Transport and Changing Travel Behaviour

DM21: Sustainable Access to Development

DM22: Parking

DM23: Flood Risk and Water Management

DM24: Sustainable Urban Drainage Systems

DM25: Renewable Energy, Water, Waste and Recycling

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

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

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

8.0 Consultations

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

8.2 Anglian Water

- The foul drainage from this development is in the catchment of Colchester Water Recycling Centre that will have available capacity for these flows.
- Recommended conditions requiring compliance with the agreed drainage strategy (in order to mitigate the risk of flooding downstream as a result of the development); and submission of a foul water strategy.
- Request that advisory text be added to the Decision Notice to notify the applicant/agent/developer that there are assets owned by Anglian Water, or those subject to an adoption agreement, within or close to the development boundary; and that an application to discharge trade effluent to a public sewer must be made to Anglian Water.

8.3 Arboricultural Officer

In agreement with submitted tree survey. The impact of the proposal is minimal given the open nature of the site, with vegetation being situated on the boundaries. It is noted that there are numerous trees intended for removal along the boundary with Wyvern Farm; the loss of these trees will have a visual impact on the views on and off the site. Consideration should, therefore, be given to retaining these trees and increasing the amount of vegetation on the boundary within the landscape scheme. If this is not possible, the planting of this boundary should include larger trees to replace those being removed, as well as 'bulk up' the density of planting to soften the development on and off the site. Strongly advised that planting should be done prior to construction (after protective fencing is installed) so that by the time the development is complete the trees are already performing the function they are intended for.

8.4 Archaeological Adviser

An adequate pre-determination (3%) trial-trenched evaluation has been undertaken by the applicant and the archaeological implications of the development have now been established. Based on the findings of the evaluation, there are no grounds to consider refusal of permission in order to achieve preservation *in situ* of any important heritage assets. However, in accordance with the *National Planning Policy Framework* (Paragraph 141 [correct at time of writing, now referenced in paragraph 199]), any permission granted should be the subject of a planning condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed. In this case, a further (2%) trial-trenched archaeological evaluation will be required via condition. Decisions on the need for any further investigation (excavation before any groundworks commence and/or monitoring during groundworks) will be made on the basis of the results of the evaluation.

8.5 Contamination

The Phase 1 Geo-environmental Desk Study submitted is acceptable. Low/very low contamination risks are considered to be associated with this site and further ground investigation is not required unless any unexpected contamination is encountered during the proposed development works. A condition is required that, should any unexpected contamination be encountered, it must be reported to the Local Planning Authority and any remediation undertaken as necessary.

8.6 Environmental Protection

No objection in principle. Concerns regarding noise (from plant, access and egress, deliveries, and construction); light (from service yard, building illumination, and car parking); and air quality (operational traffic movements contribute to existing areas where road traffic related air pollutants are elevated and/or areas where Air Quality Management Areas are in effect). All these matters can be controlled by condition: house of opening; delivery times; noise assessment relating to plant, equipment, and machinery; hours of construction; lighting report; and mitigation/offsetting of impacts on air quality.

8.7 Essex County Fire and Rescue No comments received.

8.8 Essex Ecology Services Ltd (EECOS)

The mitigation measures outlined in the MLM ecological impact assessment report are appropriate in scale and nature and should result in the avoidance of some potential impacts and the minimisation of others. It will be important to ensure that these measures are carried out, including the retention of the area of habitat in the north west corner of the site, pre-development movement of reptiles to this area and the installation of external lighting which enables bats to continue to make use of the site's northern, eastern and western boundaries.

The report also mentions an ecological enhancement plan and it will be important to ensure that this plan is put into effect and that some provision is made for the future protection and conservation of this area as a wildlife area. A detailed Mitigation and Enhancement Plan (along the lines of the measures outlined in the report) can be conditioned.

8.9 Essex Police No comments received

8.10 Essex Wildlife Trust

In full agreement with EECOS comments and consider that a detailed Mitigation and Enhancement Plan should be conditioned.

8.11 Health and Safety Executive (HSE)

The development does not intersect a pipeline or hazard zone. HSE Planning Advice does not have an interest in the development.

8.12 Highway Authority

The Highway Authority consider the proposal to be acceptable (from a highway and transportation perspective) subject to certain requirements as follows:

- That a construction traffic management plan be submitted and agreed;
- That certain highway improvements are undertaken;
- That a footway/cycleway between Essex Yeomanry Way and the existing cycleway north of the Sainsburys building is provided;
- That two bus stops are provided on the site access road (between Stane Park Phases 1 and 2);
- That £25,000 is contributed towards improvement at the Stanway Western Bypass/London Road roundabout (with additional monitoring fee); and
- That a Travel Plan is submitted and approved in accordance with Essex County Council guidance (a monitoring fee applies).

8.13 Highways England

No objection subject to conditions requiring detailed design of improvements to the A12 junction 26 (and these improvements to be carried out in full prior to occupation of any unit); restrictions to unit sizes; and a site-wide travel plan.

8.14 Landscape Adviser

The landscape content of the application is satisfactory subject to a condition requiring full landscape details to be submitted and approved.

8.15 Minerals and Waste Planning No comments received.

8.16 Natural England No comments received.

8.17 Planning Policy

The Planning Policy team have provided detailed comments on the weighting to be applied to relevant planning policies in the adopted Local Plan; the consideration of employment land and viability; application of the Framework's sequential test; and the retail impact of the proposed development. In conclusion, the Planning Policy team consider that the proposal satisfies both the sequential test and the retail impact test and does not trigger the requirement to refuse an application, as set out in paragraph 90 of the NPPF. The detailed content of the Planning Policy comments will be set out as part of the Case Officer assessment in the main body of the report.

8.18 Street Services No comments received.

8.19 SUDS (Essex County Council)

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

8.20 Transport Policy

Comments were made on the original submission which has led to some amendments and further work being undertaken and submitted. Formal comments on the latest submissions is expected and will be reported to the Planning Committee on the Committee Amendment Sheet or verbally at the meeting.

8.21 Urban Design Officer

Objects to the proposal. Main reasons for objection as follows:

- The provision of retail uses in an out-of-town car-based location will compete with designated centres in more sustainable locations;
- Loss of employment land within walking and cycling access of the growing Stanway population;
- The sprawling retail park format is an inefficient use of land, lacks mixed use qualities, is car dominated; and lacks the place-making qualities required of designated centres;
- Poor relationship with Lemur Lane in conflict with key place-making principles in the Essex Design Guide and Essex Parking Standards. In particular, Unit C turns it's back (service yard) to the street, and Unit D is set behind car parking so that it appears unattractively car dominated and in conflict with pedestrian and cycle access. [Note: suggested solutions have been put forward to the Applicant, although these have been rejected for largely commercial reasons]; and
- Car reliant format would significantly contribute to car-orientated settlement patterns in Colchester, leading to increased congestion, road infrastructure and pollution, as well as less appealing walking and cycling conditions (as evidenced by the proposal to widen the bypass).

9.0 **Parish Council Response**

9.1 Stanway Parish Council have stated that they raise no objections to the proposal.

10.0 **Representations from Notified Parties**

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

General (7)
Generally in favour, but concerned about the road structure going onto and off the A12; Queues are regular on Junction 26 sliproad both northbound and southbound and the development may make this worse. The development would also impact on the Tollgate roundabout with traffic currently blocking the roundabout.

Concern that the environmental **noise** of deliveries and 600+ cars entering the site (hour after hour), combined with existing traffic noise, will be excessive to local residents.

Requires more **landscaping** to hide the development and form a barriers to the daily disruption and noise of motor vehicles. The landscaping should be designed to bring wildlife back to the area. High embankments topped with native shrubs and trees will also alleviate late night delivery noise and headlights.

Need to use the opportunity to enhance the natural beauty of the site for all generations, especially those living within close proximity. Colchester's Developing A **Landscape** for the Future is not working here. It is the Developer's responsibility to build something that is of high quality and attractive as a single environment.

The statements within the Landscape and Visual Impact Assessment (4.9) must be enforced and guaranteed by the developers before work is approved. Need to minimise any future **landscape and visual impact** arising from the development.

Objecting is a waste of time because Stane Park has been mooted for some time and the Local Council, Town Council, and Central Government seem to be saying yes to everything proposed for Stanway.

Surprised to see yet more restaurant units on the application; do we not have enough already?

Biggest concern is **safety**: need sufficient pedestrian crossings; access of the A12 (already a problem); traffic bottle-necks; environmental effects and health concerns for those who live in the area; lack of open space.

Aldi is bound to have an effect on Sainsburys (and B&Q upon Homebase): are there any rules on building a similar enterprise close to another? I appreciate the need for **jobs**, but not at any cost. Stanway has had more than its fair share of these developments.

Trust that respect will be given in terms of **opening times**; collection of **rubbish**; and **safety** on the A12.

Despite objections, this proposal will sail through. Agree with all previous comments/objections.

Speed limits need to be dropped and enforced and **safety** measures need to be taken into consideration for pedestrians.

An issue with Stanway is that there is **no sense of community**, only one of development. Serious thought needs to be given to community centres and schools for use by a cross section of residents, not just business development for jobs.

Why do we need a B&Q when we have a Homebase and a B&Q already exists in Colchester.

Need to actively encourage development where people can **walk or cycle**, not get in their cars.

Sainsburys (who could be said to be enabling this application with the relocation of B&Q from the Hythe) should take steps to discourage and reduce private car trips to their store in order to reduce **congestion**.

Impacts such as **pollution, vehicles, rubbish and disturbance** associated with retail units. The impact on the A12 is a major concern as there are long tailbacks from the sliproad.

Sequential test: The Council should be very cautious about granting consent for a scheme which it is agreed fails the sequential test. Example given of where the Agent has objected to the Sainsbury's Lightship Way application (ref: 143715) on the grounds of failure to meet the sequential test. (see Indigo Planning letter dated 31st July 2018 for further detail).

Conflict with local employment land policy: The application site is located within designated Employment land, both within adopted and emerging plans. A wholly retail development on designated employment land is contrary to local policy. Cushman and Wakefield [Case Officer Note: Cushman and Wakefield were independent consultants instructed to review the employment land and retail reports submitted with the application] recognise the policy conflict and advise that employment floorspace should be included within a mixed-use scheme. A mixed-use scheme is not proposed and there remains a conflict with employment land policy. (see Indigo Planning letter dated 31st July 2018 for further detail).

A current planning application at the Tollgate Centre (ref: 181382), which proposes to lift existing restrictive conditions to allow A1 retail use of units, should be taken into account and the **cumulative impacts** of both developments fully assessed (both in terms of retail impact and highways impact).

Support (2)

Major upgrades are needed to existing road as **traffic** is close to bursting. There needs to be **pedestrian crossings** which are severely lacking at present.

The Council has recently granted planning permission for the conversion of offices to residential [Case Officer Note: the example provided at Moss Road/Peartree Road was a Prior Approval application under permitted development rights and not an application for planning permission] which undermines the Council office space argument. The Phase 1 inquiry identified **vacant office and industrial space and considerable capacity**. The same arguments against Phase 2 cannot be made.

Support **employment opportunities** that the development will bring.

Identified tenants (in contrast, the Council has not identified any tenants for the vacant office/commercial space).

Object (3)

More development without sufficient **infrastructure**.

There is insufficient **infrastructure** to cope with further development. There is already very significant **traffic congestion** in the area, particularly since the opening of the new road linking Warren Lane and London Road. Additional traffic around Junction 26 will cause traffic to tail back on both exist slip roads from the A12 (which is already an issue). This will place road users on the A12 at peril with traffic queues tailing back onto the A12 carriageway.

The proposed development will, if developed, cause **distraction to drivers** of vehicles travelling at significant speed on the adjacent A12 (particularly those travelling north). Any collisions are likely to be serious.

The extra vehicle and pedestrian **traffic** using the site will cause additional **pollution** in the form of noise, vehicle emissions, and litter.

The proposal has the potential to undermine Colchester's position at the apex of the Borough's **retail hierarchy** and its role as the Borough's main town centre (Further details in GL Hearn objection letter dated 7th February 2018).

The documents accompanying the application do not fully assess the sequential or impact tests set out in **retail planning policy** and thus the application should be refused on that basis (Further details in GL Hearn objection letter dated 7th February 2018).

There are a number of issues with the assumptions underlying the **Transport Assessment** and we note that Highways England have raised similar concerns and required further modelling (Further details in GL Hearn objection letter dated 7th February 2018).

A fundamental principle behind the planning system is the **plan led approach**. The current application could undermine the emerging Local Plan (Further details in GL Hearn objection letter dated 7th February 2018).

11.0 Parking Provision

11.1 The adopted Vehicle Parking Standards SPD would require the following parking provision:

<u>A1 retail use excluding food (i.e. the retail terrace and B&Q)</u>	
Car parking spaces	1,021 (Maximum)
Disabled Spaces	45 (Minimum)
Cycle parking spaces	102 (Minimum)
Powered Two-Wheeler spaces	31 (Minimum)

A1 retail use food sales (i.e. the Aldi and Marks and Spencers)

Car parking spaces	230 (Maximum)
Disabled Spaces	16 (Minimum)
Cycle parking spaces	16 (Minimum)
Powered Two-Wheeler spaces	11 (Minimum)

A3 restaurants and cafes (i.e. kiosks)

Car parking spaces	66 (Maximum)
Disabled Spaces	9 (Minimum)
Cycle parking spaces	8 (Minimum)
Powered Two-Wheeler spaces	4 (Minimum)

TOTALS

Car parking spaces	1,317 (Maximum)
Disabled Spaces	70 (Minimum)
Cycle parking spaces	126 (Minimum)
Powered Two-Wheeler spaces	46 (Minimum)

11.2 The proposal includes the following:

- 674 car parking spaces (including 10 electric charging spaces), with each space measuring 5.0m x 2.5m;
- 20 parent and child car parking spaces;
- 33 disabled parking bays;
- 12 van spaces; and
- 64 cycle spaces (at 8 cycle stands throughout the site)

11.3 In terms of the minimum parking standards, the proposal is deficient in disabled parking (by 37 spaces); cycle parking (by 72 spaces); and powered two-wheeler spaces (by 46 spaces).

11.4 A car parking justification has been submitted as part of the planning application and this will be discussed and assessed in the main body of the report.

12.0 Open Space Provisions

12.1 There are no open space requirements for this type of development.

13.0 Air Quality

13.1 The site is outside of any Air Quality Management Area (AQMA), but the development is considered to cause additional traffic movements through AQMA's, such as Lucy Lane North. The impact on air quality will be discussed in the main body of the report.

14.0 Planning Obligations

14.1 The following obligations are considered necessary in order for the planning application to be considered acceptable in planning terms.

- Mitigation contribution (£150,000 proposed by the Applicant) towards funding the Council's economic development initiatives to improve the commercial attractiveness of Colchester;
- Employment initiatives to ensure that occupier's seek employees on opening through local agencies (e.g. Job Centre); and
- Provision of an extended footpath/cycleway link between the existing footpath/cycleway which currently terminates south of Essex Yeomanry Way and north of the Sainsbury's building;
- A £25,000 index-linked contribution towards improvements at the Stanway Western Bypass/London Road roundabout (plus a contribution monitoring fee in accordance with Essex County Council guidance); and
- A Travel Plan monitoring fee.

15.0 Report

15.1 The main issues in this case are:

- The principle of the development
- Highway and sustainability matters (including parking provision)
- Landscape impact (including trees)
- Design and layout
- Impact on amenity
- Heritage matters
- Flood risk and drainage
- Ecology
- Contamination
- Air Quality

Principle of proposed Development

15.2 In terms of the principle of development and conformity with the development plan and NPPF, the key elements to consider are: whether the proposed development represents sustainable development, and whether it would have a detrimental impact on centres and employment. Core Strategy Policies SD1, UR1, CE1, CE2, CE3 and TA1 are relevant, along with Development Plan Policy DP5 and Site Allocation Policy SA STA3. These policies relate to the following:

- SD1 seeks to locate growth at the most accessible and sustainable locations in accordance with the settlement hierarchy (Colchester Town and Stanway being at the top of that hierarchy).
- UR1 is a commitment to regeneration in rundown areas, deprived communities and key centres, with the purpose of building successful and sustainable communities through developments that promote sustainable urban living, enhance the public realm, improve accessibility, and address social deprivation.
- CE1, CE2, and CE3 deal with centres and employment matters, promoting employment generating developments through the regeneration and

intensification of previously developed land and through the allocation of land necessary to support employment growth at sustainable locations. Policy CE1a sets out the centres and employment classification hierarchy which includes the Town Centre at the top of the hierarchy extending down to Edge of Centre Locations, District Centres, and Local Centres.

CE3 - The application site is an edge of centre location that is allocated as a Strategic Employment Zone. Policy CE3 seeks to deliver approximately 45,100sqm (gross) of industry and warehousing floor space, primarily within the North Colchester and Stanway Strategic Employment Zones. Existing office commitments will be supported, but further office development will be primarily directed towards the Town Centre. The policy further states that retail developments will not normally be supported in Employment Zones, except for small scale development that provide for the needs of the local workforce or are ancillary to an industrial use.

- TA1 seeks to improve accessibility and change travel behaviour as part of a comprehensive transport strategy for Colchester. A key aspect of this is the improvement of accessibility by enhancing sustainable transport links and encouraging development that reduces the need to travel. Developments that are car-dependent or promote unsustainable travel behaviour will not be supported.
- DP5 sets out appropriate employment uses within designated Employment Zones, such as B Class uses and similar type sui generis uses. In terms of alternative uses, the policy does provide criteria where these could be considered acceptable. In these circumstances, there is a requirement for planning contributions towards alternative employment, regeneration and training schemes if alternative employment land cannot be provided.
- SA STA3 covers employment and retail uses in the Stanway Growth Area and provides specific requirements for the types of uses that would be considered to be appropriate (e.g. research and development, light industrial, vehicle repair, indoor sport and conferencing centres, and business incubation space), making clear that new town centre uses will not be permitted within the Stanway Growth Area.

15.3 The Focused Review of the 2008 Core Strategy and 2010 Development Policies, the Inspector's report in connection with that review, and subsequent planning appeal decisions, provides the basis for assigning weight to policies in the adopted Local Plan. In particular, the Stane Park Phase 1 Inspector's decision (paragraph 46) provides guidance by relating weight to consistency with the NPPF. Plan policies that are consistent with the NPPF accordingly should be given full weight. Other policies can be given weight commensurate with their compatibility with the NPPF. In terms of the relevant policies in this case, this approach translates into the following interpretations:

- SD1 and TA1 full weight to be applied;
- CE1, CE2, CE3, UR1, STA3, and DP5 out-of-date and consequently limited weight should be afforded.

- 15.4 In accordance with section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004, applications for planning permission must be determined in accordance with the development plan, unless there are material considerations that indicate otherwise. The fact that certain policies have been deemed to be out-of-date with the NPPF is a material planning consideration that needs to be taken into account in the weight to be applied to certain policies in decision making.
- 15.5 This interpretation of adopted planning policy means that consideration of sustainable development and accessibility needs to follow the provisions of Core Strategy Policies SD1 and TA1. Given the limited weight of the policies relating to centres and employment, the provisions of the NPPF will be relevant.

Sustainable Development:

- 15.6 The site is located in Stanway, which (along with Colchester Town) is at the top of the settlement hierarchy of policy SD1. Development in this location is therefore supported in broad sustainability terms. The requirements of TA1 are such that development needs to be focussed on highly accessible locations to reduce the need to travel. The nature of the proposal providing bulky goods retail and supermarket uses, as well as the level of car parking proposed (739 spaces), suggests (as was noted by the Inspector in the decision on Stane Park Phase 1) that there would be a heavy reliance on the private car. There is scope within the scheme, however, to promote sustainable modes of transport. The current proposals show additional pedestrian crossings to the site, including signal controlled crossings on the Western Approach Road, which increase the opportunity for employees and visitors to walk to the site. There are also negotiations with the Highway Authority in terms of their requirements for providing bus stops in close proximity to the site and the provision of a cycleway/footway link from the residential area to the east. Indeed these measures are included in the Highway Authority recommendation and can be conditioned or secured via S106 legal agreement as appropriate. The inclusion of works that would offer the choice of different modes of transport is seen as a positive of the scheme and in accordance with the requirements of policy TA1 and paragraph 108 of the NPPF.

Employment Land Issues:

- 15.7 Paragraph 81 of the NPPF requires that local authorities should set criteria, or identify strategic sites, for local and inward investment to match the strategy and to meet anticipated needs over the plan period. The Council accordingly has a mandate to ensure a sufficient supply of employment sites through the Local Plan site allocation process.
- 15.8 The application site forms part of a larger Strategic Employment Zone in Stanway. The site is therefore safeguarded for employment purposes (of a type set out in policies CE3 and SA STA3). In considering the availability of employment land, it is noted that the employment land allocations for Stanway continue to be reduced by alternative proposals for town centre and residential uses, including the Phase 1 element of Stane Park development. The 34.42ha allocation for the Stanway Strategic Employment Zone contained in the 2010

Site Allocations included capacity for 36,500 Class B1 offices and 45,100 Class B industrial and warehouse use. The reduced allocation for new employment allocations for Stanway in the 2017 Employment Land Supply Trajectory and reflected in the emerging Local Plan is 13,554sqm Class B1 offices and 13,554sqm Class B industrial and warehouse use. This allocation reflects the deletion of some less accessible sites and inclusion of Stane Park as the highest rated site in the analysis of site attractiveness. The reduction reflects recommendations in the Council's 2015 Employment Land Needs Assessment for a selective approach to Stanway allocations:

In light of the identified surplus of employment (and specially office) land available to meet future economic growth needs in Colchester over the plan period, it would be difficult to justify retaining the full extent of undeveloped employment allocations at Stanway from both a quantitative and qualitative market perspective. In this respect, it is recommended that the Council adopts a selective approach to safeguarding these undeveloped allocations for future development by retaining those sites with the best intrinsic qualities and greatest prospect of coming forward for employment development in future. (ELNA para 8.48)

- 15.9 The Stanway allocations are accordingly considered to achieve the desired selective approach to Stanway sites which would retain appropriate sites to best meet potential market demand.
- 15.10 The delivery of the Stane Park allocation in the short-medium term is, however, limited by viability issues. The Council's consultants Cushman and Wakefield agree that in the current market, office or industrial uses are not viable on their own. Indeed, office developments are discouraged by adopted policy with a preference for these to be sited in the Town Centre. A scheme involving cross-subsidy of either offices or industrial with a higher value retail use might conceivably be viable, but the applicants have resisted consideration of alternative schemes on the basis that the Council must consider the scheme in front of it. The prospect of a cross-subsidised scheme could only be pursued if the Council carried out further work, to include designing the mixed-use scheme and testing the viability and marketability of a hybrid scheme. In any case, the Council does have a duty to determine the application as submitted and, if the scheme is considered to be acceptable, should be approved.
- 15.11 Paragraph 81 of the NPPF states that planning policies should be flexible enough to enable a rapid response to changes in economic circumstances, with paragraph 120 requiring planning policies and decisions to reflect changes in the demand for land. Given the evidenced lack of viability for developing the land for employment uses (i.e. office or industrial development), it is considered that a refusal of planning permission on the basis of loss of employment land would be contrary to the provisions of the NPPF. This conclusion also takes into account further mitigation for the loss of employment land put forward by the Applicant, being a monetary contribution towards future Council economic development initiatives to improve the commercial attractiveness of Colchester (in accordance with the requirements of Appendix 3 of the Development Policies DPD), together with the establishment of employment initiatives to ensure that occupier's seek employees through local agencies.

- 15.12 Town Centre Uses in an Out-of-Centre/Edge-of-Centre Location:
The proposal is for retail development on a site that is not located within a defined centre. There are two aspects to consider in respect of this:
1. Does the proposal pass the sequential test in terms of establishing whether there are any sites within a defined centre that can accommodate the proposal (paragraph 86 of the NPPF); and
 2. Would the proposal have a significant adverse retail impact on the town centre (paragraph 89 off the NPPF);
- 15.13 In terms of the first point, the Sequential Test, Paragraph 86 of the NPPF directs Local Planning Authorities to apply a sequential test to 'planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan'. The wording might be considered to create confusion on how sites should be handled in the absence of an up-to-date Local Plan, but in practice all applications for town centre uses in Stanway, including Tollgate Village, Stane Park Phase 1 and the current application, have applied the sequential test as a matter of course.
- 15.14 The primary issue of contention between the Applicant and the Council is the status of Tollgate, with the Council considering that it is an Urban District Centre, and Martin Robeson on behalf of the Applicant considering that it is not a centre as the relevant Centres and Employment policies are out of date. The Council maintains its view that Tollgate is a centre, however, taking into account Inspector decisions on its status:
- Tollgate Village decision, paragraph 12.1.2: *In NPPF terms the site is part in centre and part edge-of-centre with DZ1 an island within the defined district centre. Para 12.2.10 is also relevant: In any event, Tollgate district centre and Colchester town centre are both town centres in NPPF terms and so one should not be prevented from competing with each other; and*
 - Stane Park Phase 1 decision, paragraph 27 where Tollgate is described as a defined Urban District Centre.
- 15.15 The Inspectors in both cases considered the Centres and Employment policies to be out of date, but clearly considered that this point did not stop Tollgate serving the function of a centre in terms of the NPPF sequential test.
- 15.16 In principle, the Council considers that sites within the Tollgate Urban District Centre are sequentially preferable to Stane Park being within centre. The Tollgate Partnership has written to confirm that they consider that the Tollgate Village site is both suitable and available for the uses proposed and therefore represents a sequentially preferable location. Further information has, however, been submitted establishing that one of the units at the site has a lease that extends to 2022 which means that the Tollgate Village site is accordingly not 'available' for the proposed development (i.e. the proposed development could not be accommodated at the Tollgate Village site until at least 2022 when it is fully vacated). In line with the decision reached in the *Aldergate* Judgment (Case No: CO/6256/2015), the Tollgate Village site cannot be considered to be a sequentially preferable location as it is not available.

Retail Impact:

- 15.17 Cushman and Wakefield identified shortcomings in the Applicant's Retail Impact Assessment, but their overall conclusion was that the impact on Town Centre was not significant, particularly in context of the Tollgate Village appeal decision, where it was concluded that even the 'worst case' 14.0% impact would not cause a significant adverse impact on the Town Centre. In this case, the Retail Assessment submitted concludes a 9% cumulative impact with the proposed Tollgate Village development, significantly less than the 14% quoted in the Tollgate Village appeal decision.
- 15.18 The only likely impact from the proposed development is on the adjacent Tollgate Centre, with any disbenefits from loss/diversion of trade likely to be outweighed by the benefits of linked trips. The impact is not, therefore, considered to be significantly adverse.
- 15.19 A further point to consider is that Units A1-A6 and Unit B would be subject to a bulky goods condition, thereby limiting the impact on open Class A1 (retail) uses in other centres.
- 15.20 Taking these matters into account, the proposal is not considered to have a significantly adverse retail impact on centres.

Points of clarification:

- 15.21 Core Strategy Policies SD1 and CE1-CE3 set out a hierarchical approach to sustainable development. The varying status of policies within the adopted plan has, however, given rise to debate over the extent to which the approach to Colchester's spatial and centres hierarchy can be accepted. It is important to note that, whilst policy SD1 and Table SD1 consider the overall settlement hierarchy, the retail hierarchy is only mentioned specifically in the Centres and Employment policies (CE1-CE3) which cannot be given full weight as they are out-of-date with the NPPF. There is reference to the important role of the Town Centre in both SD1 and the Spatial Strategy, but no specific references to the role of district centres.
- 15.22 Both the Applicant and the Council have sought independent legal opinion in respect of whether a failure to satisfy the sequential test, as set out in the NPPF, would result in a straightforward or automatic refusal. Whilst the legal opinions are useful in interpretation of the sequential test, in this case the application is considered to pass the sequential test having taking into account evidence (submitted post-Cushman and Wakefield reports to the Council) to demonstrate that the sequentially preferable site of Tollgate Village is not 'available'.

Conclusion:

- 15.23 In consideration of the above, the proposal is considered to satisfy both the sequential test and the retail impact test and does not trigger the requirement to refuse an application set out in paragraph 90 of the NPPF.

Highway and Sustainability Matters

- 15.24 Core Strategy policy TA4 seeks to make the best use of the existing highway network and manage demand for road traffic. The policy makes it clear that new development will need to contribute towards transport infrastructure improvements to support the development itself and to enhance the broader network to mitigate impacts on existing communities. Development Plan policy DP17 requires all development to maintain the right and safe passage of all highways users. Development Plan policy DP19 relates to parking standards in association with the Vehicle Parking Standards SPD (see Section 11 of this report for details of parking requirements).
- 15.25 In assessing highway impact it is necessary to consider both the impact upon the Strategic Road Network (in this case, the A12) and the general highway network.
- 15.26 Highways England is the highway authority in respect of the Strategic Road Network. Considerable discussion and negotiation has taken place between the Applicant's Highway Consultant and Highways England, ultimately leading to Highways England having no objections to the proposed development subject to conditions. These conditions would ensure that the A12 Junction 26, Eight Ash Green Roundabout will continue to fulfil its purpose as part of the Strategic Road Network; both in terms of road safety and to reduce traffic generations in the interests of sustainability. Fundamental to this are a number of highway improvements at the Eight Ash Green Roundabout (essentially road widening, kerb realignment, and traffic control signals); the improvements are shown on a drawing that will need to be conditioned to ensure that the works are carried out. Additional conditions include stipulating the floor area of the development (as this is the basis on which the traffic and highway impact has been assessed) and requiring a Travel Plan.
- 15.27 The Highway Authority are responsible for the local road network. Again, extensive discussion and consultation has taken place in respect of the proposed development. The Highway Authority have confirmed that they do not have any objections to the proposals subject to certain requirements in order to mitigate the traffic impacts of the proposal, as well as address sustainability objectives. The requirements include highway improvements (e.g. road widening); the provision of pedestrian crossings and a toucan crossing; the provisions of a footpath/cycleway from the toucan crossing into the site; the provision of a footway/cycleway between Essex Yeomanry Way and an existing footway/cycleway north of the Sainsburys building; the provision of two bus stops in close proximity to the entrance to the site; an approved Travel Plan; and a monetary contribution towards improvements

at the Stanway Western Bypass/London Road roundabout. The necessary mitigation measures will need to be conditioned or included in a S106 legal agreement as appropriate. Provided these measures are secured, the proposal is considered to be acceptable in terms of its impact on the local road network.

15.28 In terms of parking provision, the fact that the development is for bulky-goods retail in the main would suggest that an ample amount of car parking is necessary (i.e. customers are more likely to require their car to purchase and take home bulkier shopping items). The level of parking is, however, less than half of the maximum amount that would be allowed under planning policy. The car parking layout as proposed is essentially informed by the Applicant's commercial expertise and calculations of car park capacity in relation to visitor rates; this includes the number of standard car parking spaces and disabled car parking spaces, the provision of van spaces and parent and child spaces, as well as cycle parking. The proposal is deficient in the number of disabled car parking spaces being provided, as well as the number of cycle parking spaces and motorcycle spaces. Given that car parking is being provided in accordance with data assimilated as part of the Transport Assessment (a parking accumulation survey) it is not considered appropriate to refuse the application on the grounds of lack of certain elements of the parking provision.

15.29 The standard car parking spaces proposed do not meet the preferred bay size as set out in the Vehicle Parking Standards SPD; being 5.0m x 2.5m instead of 5.5m x 2.9m. They do, however, meet the minimum bay size which can be used in exceptional circumstances. The Vehicle Parking Standards SPD does not set out what such exceptional circumstances may be, but the application site is not considered to be particularly constrained in any way that might lead to the developable area being at a premium. The Applicant has, however, submitted a car parking justification for the smaller bay sizes. The justification explains that the number of car parking spaces proposed would enable customers to find a space when the car park is operating at its peak, with the understanding that customers will typically park their car closest to the various store entrances, leaving areas of the car park (further away from entrances) being relatively underused; the point being that a driver of a larger car could park in the underused area of the car park if they have concerns about being parked in close proximity to other cars. Given that the larger car parking size is a 'preferred' option rather than a mandatory one, and the Applicant has reasoned that there would be sufficient capacity within the car park for customers to park in more open space (i.e. spaces away from other cars) should they so choose, the car parking bay sizes proposed are considered to be acceptable.

Landscape Impact

- 15.30 The site is currently an open grassed field that forms part of the gateway to the wider Tollgate area of Stanway, especially on the approach from the A12. There are a number of trees along the northern and eastern boundaries of the site, as well as a hedgerow and trees along the western boundary with Wyvern Farm.
- 15.31 The application has been supported by a Landscape and Visual Impact Assessment (updated April 2018) that concludes that there are few landscape and visual constraints to the development of the site, being an 'urban fringe location with few distinctive features', but that it 'has important potential roles as a gateway to the Tollgate Retail Park and as a functional landscape setting for the adjacent Wyvern Farm residential community'. A landscape masterplan has been submitted that seeks to mitigate the landscape and visual impacts of the proposed development; resulting in negligible to medium visual impact at completion of the development with the exception of one viewpoint at the south-west corner of the site adjoining Wyvern Farm, which would experience a high visual impact. The impact cannot be fully mitigated given views into the site from the entrance road. The visual impact would reduce, however, to a medium-high impact after 15 years when landscaping has matured. The assessment goes on to state that this should be seen in the context of the wider Tollgate Retail Park environment.
- 15.32 The Council's Landscape Adviser has considered the details submitted as part of the planning application, concluding that the submissions are satisfactory and that there are no objections to the proposal on landscape grounds. Conditions to secure a detailed landscape scheme and landscape management plan would be required in order to ensure appropriate development from a landscape perspective.
- 15.33 In terms of the impact on trees, the Council's Arboricultural Officer has confirmed that the submitted Tree Survey is acceptable and agrees with the submitted Arboricultural Impact Assessment in that the impact of the proposal upon the vegetation on the boundaries of the site is minimal. This is with the exception of the boundary with Wyvern Farm which is marked by a hedgerow (an historic field boundary) where trees are proposed for removal in order to facilitate the service access to the majority of the proposed units. The retention of the historic hedgerow and the need to strengthen/reinforce its planting is considered to be important and has been addressed in the Landscape and Visual Impact Assessment, as well as the landscape proposals which is encouraging. Although a condition can secure proposals in relation to the hedgerow, the Arboricultural Officer is concerned that the loss of trees to facilitate the access road would have a visual impact on and off the site and that if the trees are removed, compensatory tree planting should take place before construction so that the screening function the trees would have performed is already in place when the development is completed. This can be addressed via a suitably worded condition.

- 15.34 Subject to conditions, the wider landscape impact of the proposal is therefore considered to be acceptable.

Design and Layout

- 15.35 In considering the design and layout of the proposal, Core Strategy policy UR2 and Development Plan policy DP1 are relevant. These policies seek to secure high quality and inclusive design in all developments, respecting and enhancing the characteristics of the site, its context and surroundings.
- 15.36 The proposal is essentially a group of retail units set out along the peripheries of the site and facing a central car park. The entrance to the development is located to the south-west corner of the site and would be flanked by the two supermarket units (units C and D). The largest unit (unit D) would be sited to the eastern side of the site, with the retail terrace (units A1-A6) being located along the northern boundary of the site. Areas of landscaping are shown along the southern edge of the site, with tree planting shown within the car park. The planted area to the eastern and northern boundary is highway land (Highways England to the north and the Highway Authority to the east). The design of the units are as one may expect of modern retail buildings; simple flat roofed or mono-pitched roofed buildings, with coloured cladding.
- 15.37 The Council's Urban Design Officer has objected to the scheme on the following grounds:
- Provision of retail uses in an out-of-town location and loss of employment land;
 - Inefficient use of the land;
 - Poor relationship with Lemur Lane (part of the Wyvern Farm development to the west) and gateway entrance point to the site; and
 - Car-reliant format that would contribute to increased congestion, road infrastructure, and pollution.
- 15.38 The first point has been assessed at length in this report under 'Principle of Development'. Whilst the Urban Design Officer's comments are perfectly valid, recent case law and planning policy considerations have led to the conclusion that the proposal should not be refused on the grounds of being an out-of-town location contrary to employment land policies.
- 15.39 The second point relates to the layout of the scheme, which the Urban Design Officer describes as 'sprawling', lacking mixed use qualities, car dominated, and lacking 'place-making' qualities. The layout of the scheme is not considered to be sprawling (in terms of the definition 'spread out over a large area in an untidy or irregular way') in that it is confined quite tightly within the confines of the site with the retail terrace (units A1-A6) forming a corner with Unit B. The two supermarket units (units C and D) are more detached from the remainder of the development, but it is not felt that the separation of two units represents an 'untidy' scheme. It is considered that it is how these two units relate to the entrance of the site is of more pressing importance.

- 15.40 In terms of car parking, the scheme does include a large car parking area, although it should be noted that the number of spaces proposed is approximately 50% of the maximum allowed under planning policy for a development of this size. The visual impact of the car parking is not considered to be significant in terms of public views from outside the site (i.e. on the approach or departure on the A12, Essex Yeomanry Way, or Western Approach Road) given the site being at a lower level to the road on the eastern side and with intervening built development of the proposed units, as well as landscaping. This view is supported by the Landscape Adviser comments that found the submitted Landscape Visual Impact Assessment to be satisfactory with visual impact being low-medium in the main.
- 15.41 The ‘place-making’ concept is generally taken to mean creating public spaces that promote health, happiness, and well-being. The proposed scheme is clearly functional; it is a retail development that provides functional units, with car parking, and pedestrian walkways through the car park to each unit. The scheme includes some restaurant/café kiosks in the middle of the site which provide a public focal point of sorts that also helps to break up the car park. Tree planting is also proposed to add some visual relief to the large car park areas. Each named retail unit (i.e. the B&Q, Marks and Spencers, and Aldi) are essentially set pieces, designed with the end user in mind and to their particular requirements; they are not, therefore designed as part of a collective in terms of ‘place-making’. It is likely, however, that any commercial development of the site (be it the current proposal or a policy compliant business/employment development) would have commercial requirements that would dictate the design and layout of the scheme to a certain extent. This does not excuse poor design, but does lead to a conclusion that a refusal of planning permission on these grounds would be unreasonable.
- 15.42 In terms of the third point, suggested amendments were put forward to the Applicant which involved omitting the car parking immediately south of unit D (Aldi) and re-orientating unit C (Marks and Spencers) so that it had a dual frontage towards the entrance to the site and the car park, as well as some general design amendments to the external appearances of the units. Whilst some amendments have been made to the external appearance of the units and unit C has been re-sited to allow for additional landscaping to the southern edge of the site, the proposed amendments to the site entrance (omitting the car park area and re-orientating unit C) have not been taken forward by the Applicant, primarily due to commercial requirements.
- 15.43 The Urban Design Officer’s final point regarding the proposal being a car-reliant scheme, with impacts such as pollution and congestion, is noted. The impacts, and potential harm, of the proposal in terms of pollution, traffic generation, and congestion are not considered to be significant subject to mitigation. These matters have been assessed elsewhere in this report under ‘Highway and Sustainability Matters’, ‘Impact on Amenity’, and ‘Air Quality’.

- 15.44 The concerns raised by the Urban Design Officer will need to be carefully considered as part of the overall planning balance.

Impact on amenity

- 15.45 Development Plan policy DP1 requires all development to be designed to a high standard that protects existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, and daylight and sunlight.
- 15.46 Given the separation between the proposed development and existing residential properties (namely the Wyvern Farm development) there are not considered to be any concerns regarding loss of privacy or daylight and sunlight. Particular concerns of the Council's Environmental Protection team in terms of residential amenity relate to noise from the operation of the site and deliveries, and light disturbance.
- 15.47 The acoustic assessment submitted with the application has provided information in respect of potential noise impacts from the development. The noise impacts from construction can be mitigated by condition limiting the hours of work. Similarly, noise impacts from mechanical plant, vehicle noise (both customers and deliveries), and operation of the service yards can be mitigated by conditions to limit noise levels and hours of operation and delivery. There has been considerable debate between the Applicant and Case Officer with regards to recommended conditions to restrict delivery times. In particular, these concerned negotiations concerning the service road and service yards on the western boundary of the site adjacent residential properties (part of the Wyvern Farm development). Ultimately, a boundary fence has been proposed along the western boundary, with additional planting between the fence and the retained boundary hedge, in order to mitigate the noise impacts from delivery vehicles and allow for slightly extended hours of opening and delivery times. Provided the fence is provided, Environmental Protection have agreed that the hours of operation and delivery can be extended as requested by the Applicant. The provision of a fence along the western boundary has also been discussed with the Council's Landscape Adviser who has confirmed that they do not have any objection, subject to appropriate planting. Noise impacts are therefore considered to be adequately addressed subject to conditions.
- 15.48 In terms of lighting, lighting levels along the periphery of the site would be controlled as part of the mitigation of impacts on bat foraging corridors. This, in part, ensures that lighting levels would not be overly obtrusive. There is, however, a need to ensure that lighting levels would not have a negative impact on residential amenity. As there is insufficient information submitted with the application with which to assess this with any certainty, a condition is recommended that lighting levels are in accordance with the Colchester Borough Council External Artificial Lighting Planning Guidance Note for low district brightness areas (Zone EZ2).
- 15.49 Subject to conditions, therefore, the proposal is not considered to have a detrimental impact on residential amenity.

Heritage Matters

- 15.50 Both Core Strategy Policy ENV1 and Development Plan Policy DP14 seek to conserve and enhance Colchester's historic Environment. Development Plan Policy DP14 makes it clear that development will not be permitted that will adversely affect a listed building, conservation area, historic park or garden, or important archaeological remains. In this case, the site is not in a conservation area, is not part of, or part of the setting of, a historic park or garden or listed building. The site is, however, located in an area of high archaeological interest, with archaeological remains being recorded as cropmarks captured by aerial photography (Colchester HER No. MCC7716). Archaeological remains were also encountered during development of the Stane Park Phase 1 development, less than 100m south of the application site. There is, therefore, high potential for encountering below-ground archaeological remains at this location. The NPPF, in its chapter Conserving and Enhancing the Historic Environment requires developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation in these circumstances.
- 15.51 An Archaeological Desk-Based Assessment was submitted as part of the planning application and the Council's Archaeological Adviser has confirmed that an adequate pre-determination (3%) trial-trenched evaluation has been undertaken by the applicant, with the archaeological implications of the development having now been established. The Trial Trench Evaluation identified post-medieval field system and the remains of a field boundary/enclosure relating to agricultural activity. Based on the findings of the evaluation, there are no grounds to consider refusal of permission in order to achieve preservation *in situ* of any important heritage assets. In accordance with paragraph 199 of the NPPF, it is considered necessary to impose a planning condition to require a further (2%) trial-trenched archaeological evaluation in order to record and advance the understanding of the archaeological significance of the site before it has been development.
- 15.52 Subject to the aforementioned condition, the proposed development is considered to be acceptable in terms of its impact on heritage.

Flood Risk and Drainage

- 15.53 Core Strategy Policy SD1 and Development Plan Policy DP20 require proposals to promote sustainability by minimising and/or mitigating pressure on (inter alia) areas at risk of flooding. Policy DP20 also requires all development proposals to incorporate measures for the conservation and sustainable use of water, including the appropriate use of SUDs for managing surface water runoff.
- 15.54 The site is located within Flood Zone 1 which means that there is low probability of flooding (less than 0.1%). The development itself is, therefore, unlikely to be susceptible to flooding. It is still important, however, to assess whether/how the development could affect flood risk elsewhere.

- 15.55 Environment Agency records ('Long term flood risk information') indicate that there are some areas in the eastern part of the site that have a low-high flood risk from surface water. A Flood Risk Assessment and Surface Water Drainage Scheme have been submitted as part of the planning application and Essex County Council SUDs team have been consulted as Lead Local Flood Authority. Essex County Council have confirmed that they have no objection to the proposals subject to conditions requiring a detailed surface water drainage scheme; scheme to minimise the risk of offsite flooding during construction works; and a surface water drainage maintenance and management plan.
- 15.56 Given the low flood risk at the site, and appropriately conditioned measures to mitigate any risks of surface water flooding, the proposal is considered to be acceptable in terms of flood risk.
- 15.57 In terms of drainage, Anglian Water have confirmed that there is capacity for the foul drainage from the development, although they do require the submission of a foul water strategy via condition. Subject to the inclusion of the condition recommended by Anglian Water, foul drainage is considered to be acceptable.

Ecology

- 15.58 Section 40 of the Natural Environment and rural Communities Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity and a core principle of the NPPF is that planning should contribute to conserving and enhancing the natural environment. Development Plan policy DP21 seeks to conserve or enhance biodiversity and geodiversity in the Borough. New developments are required to be supported by ecological surveys where appropriate, minimise the fragmentation of habitats, and maximise opportunities for the restoration, enhancement and connection of natural habitats.
- 15.59 An Ecological Impact Assessment has been submitted with the application. The assessment confirms that the site supports foraging/commuting bats, badger, and low populations of slow-worm and common lizard. Given vegetation along the boundaries of the site, there is also suitable habitat for nesting birds. No designated site or important habitats would be affected by the proposed development. Given the presence of protected species on site, the following mitigation is proposed:
- Reptiles to be translocated from land within the construction zone to a suitable on-site receptor (an area of land to the north-western corner of the site which would remain undeveloped);
 - Measures to be put in place to avoid badgers becoming trapped in excavations during construction phase;
 - Site clearance works to be times to avoid the bird nesting season, as well as appropriate checks to be put in places; and

- The lighting scheme for the site will be designed to ensure that dark corridors are maintained at the site periphery for bats and other nocturnal wildlife.
- 15.60 The impact assessment concludes that, subject to the mitigation measures, no residual or cumulative effects on ecology would occur. The assessment also identifies that ecological enhancements could be achieved at the site which would have a beneficial impact.
- 15.61 Essex Ecology Services Ltd (EECOS) and the Essex Wildlife Trust agree that the mitigation measures outlined in the Ecological Impact Assessment are appropriate in scale and nature and should result in the avoidance, or at least minimisation, of the potential impacts from the development. It is important, therefore, that the measures outlined in the assessment are carried out, including the retention of the area of habitat in the north-west corner of the site. The ecological enhancement measures should also be secured as part of an ecological enhancement plan. A detailed mitigation and enhancement plan can be conditioned.
- 15.62 Provided the ecological mitigation and enhancement measures are secured via condition, the proposal is not considered to have an adverse impact on ecology.

Contamination

- 15.63 Development Plan policy DP1 requires new development to undertake appropriate remediation of contaminated land. A Phase 1 Geo-environmental Desk Study has been submitted as part of the application and has been assessed by the Council's Contaminated Land Officer who has found it to be acceptable. The findings of the study are that there is low/very low contamination risks associated with the site and further ground investigation is not required unless any unexpected contamination is encountered during the proposed development works. A condition is required that, should any unexpected contamination be encountered, it must be reported to the Local Planning Authority and any remediation undertaken as necessary.

Air Quality

- 15.64 Whilst the application site is not located in an Air Quality Management Area (AQMA), the development would cause additional traffic movements through AQMA's, such as Lucy Lane North. Core Strategy Policy TA4 states that the demand for car travel will be managed to prevent adverse impact on sustainable transportation, air quality, local amenity and built character and Development Policy DP1 seeks to protect existing public and residential amenity with regard to pollution. The Council's Environmental Protection team have therefore considered the implications of the proposal in terms of air quality.

- 15.65 Environmental Protection assessment is that, whilst it is agreed that the site is not likely to cause the Air Quality Objectives for road traffic related pollutants to be exceeded in or around the site, it is clear that the location will cause additional traffic movement to and from the site that will travel through areas where the levels of NO² are in excess of 75% of the Air Quality Objectives and areas where an AQMA is declared (Such as Lucy Lane north).
- 15.66 It is therefore necessary for the site to provide mitigation to minimise these impacts in line with the guidance from Environmental Protection UK and the Institute of Air Quality Management for the consideration of air quality within the land-use planning and development control processes titled; 'Land-Use Planning & Development Control: Planning for Air Quality'. Mitigation should include electric charging points, as well as improved public transport connection. Whilst a detailed scheme could be conditioned as recommended by Environmental Protection, the revised 'Proposed Site Plan' drawing shows electric charging points being included within the development. It is therefore considered appropriate to condition the installation of the charging points to ensure that they are installed and available to use prior to occupation of the development. Improved public transport is part of the consideration of the Highway Authority and additional bus stops are required as part of the mitigation of highway impacts.

16.0 Planning Balance and Conclusion

- 16.1 The proposal is for a retail development outside any designated centre and on a site allocated for employment. The proposal is, therefore, considered to be contrary to the provisions of the adopted development plan. Although some of the relevant planning policies within the development plan have been found to have inconsistencies with the NPPF they still carry weight (albeit limited weight) and, therefore, the conflict with the development plan remains. Given the limited weight of relevant planning policies, the provisions of the NPPF have been taken into account in respect of safeguarding employment land, the sequential test, and retail impact. The proposal has, as a result of viability evidence, assessment of alternative sites, and conditions to restrict the use of units to bulky goods, been assessed as passing the necessary tests contained within the NPPF. Compliance with the NPPF weighs in favour of the application.
- 16.2 It then turns as to whether there are any benefits that outweigh the conflict with the development plan.
- 16.3 The Inspector in the Stane Park Phase 1 appeal decision stated that the proposal would bring a vacant site into beneficial use and the same can be said for the Phase 2 proposals. Whilst there have been proposals to develop the site for employment purposes (between 1999 and 2006) these were withdrawn and the site has remained vacant. The Inspector in the Stane Park Phase 1 appeal considered that development of the Phase 1 site would enhance the appearance of the area; in this case, the landscaping of the site is considered to be of some visual benefit. In addition, development of

the site would provide employment in the area in the near future both in terms of construction and later operation of the site. These matters weigh in favour of the application.

- 16.4 The proposal would include highway improvements that would mitigate the impacts of the development, but would also offer improved accessibility to the site and its surroundings, as well as providing a choice of mode of transport for local residents (i.e. cycling and/or walking via a cycleway/footway link, and bus travel with bus stops being located in close proximity to the site entrance). This has a benefit in terms of accessibility and sustainability which are core principles of the adopted development plan. Whilst using private car is likely to be the more common form of transport to and from the site given the nature of the development, alternative modes of transport would be available. Increasing the availability of more sustainable modes of transport weighs in favour of the proposal.
- 16.5 The scheme would incorporate ecological enhancements that would otherwise be absent; indeed, if the site remained vacant it is likely that it would be unmanaged from an ecology perspective which would be detrimental to biodiversity. The ecological mitigate and enhancements incorporated into the scheme weigh in favour of the application.
- 16.6 There are concerns regarding elements of the design and layout of the proposal, particularly the arrangement of built form at the entrance to the site. The Applicant has made some amendments to improve the gateway entrance and, whilst it is not considered to fully meet policy standards and principles, this element of the proposal is considered to be outweighed by the benefits of the scheme when taken as a whole.
- 16.7 Public representations have been taken into account as part of the assessment of the proposal and, as set out in the preceding parts of the report, the impacts of the proposal can be suitably mitigated.
- 16.8 Having taken all matters into account, it is concluded that the proposal satisfies the requirements of the NPPF and that this, along with additional benefits of the scheme outweigh the conflict with the development plan.

Procedural Matter

- 16.9 Should the Planning Committee resolve to approve the application there are some procedural matters that need to be undertaken. The Town and Country Planning (Consultation) (England) Direction 2009 sets out the procedure for when the Local Planning Authority is required to consult the Secretary of State in order to ascertain whether they wish to exercise their call-in powers under section 77 of the Town and Country Planning Act 1990. In this case, the application constitutes development that would fall within category 5 of the Direction relating to 'development outside town centres' given the nature of the development as retail, not being in accordance with the development plan (i.e. Local Plan), the out-of-centre location, and floorspace above 5,000sqm. In recommending approval of the application contrary to the provisions of the Local Plan it is necessary to consult the

Secretary of State as per the requirements of the Direction. Planning permission cannot be granted until the expiry of 21 days beginning with the date which the Secretary of State notifies the Local Planning Authority that the consultation has been received and they have all the information necessary to consider the matter. Alternatively, the Secretary of State may exercise their powers to 'call-in' the application for determination by them.

17.0 Recommendation to the Council

- 17.1 The Officer recommendation to the Committee is to resolve to
- Approve the application subject to the recommended conditions and Section 106;
 - To delegate authority to the Planning and Housing Manager to consult the Secretary of State in order to ascertain whether they wish to exercise their call-in powers under section 77 of the Town and Country Planning Act 1990;
 - To delegate authority to the Planning and Housing Manager to determine the application either upon receipt of confirmation from the Secretary of State that they do not wish to 'call-in' the application or following the expiry of 21 days from receipt of the consultation;
 - To delegate authority to the Planning and Housing Manager to negotiate the obligations and clauses of the Section 106 and approve planning permission subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990, within 6 months from the date of the Committee meeting. In the event that the legal agreement is not signed within 6 months, to delegate authority to the Head of Service to refuse the application, or otherwise to be authorised to complete the agreement.

17.2 The permission will also be subject to the following conditions:

1. ZAA - Time Limit for Full Permissions

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

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

2. ZAM - Development to Accord with Approved Plans

With the exception of any provisions within the following conditions, the development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers

16384_0201_P-00	Site Location Plan
16384_2000_P-18	Proposed Site Plan
16384_2020_P-01	Unit A1 to A6 GA Ground Floor Plan
16384_2021_P-01	Unit A1 to A6 GA Roof Plan
16384_2022_P-02	Unit A1 to A6 GA Elevations
16384_2010_P-02	Unit B GA Plan Ground and Mezzanine Floor
16384_2011_P-04	Unit B GA Plan Roof Plan
16384_2012_P-05	Unit B GA Elevations
16384_2040_P-05	Unit C GA Plan Ground Floor Plan

16384_2041_P-05	Unit C GA Plan Roof Plan
16384_2042_P-05	Unit C GA Elevations
16384_2031_P-03	Unit D GA Plan Ground Floor Plan
16384_2032_P-02	Unit D GA Plan Roof Plan
16384_2033_P-02	Unit D GA Elevations
16384_2046_P-02	Kiosk GA Plan and Elevations
398-PA-05 O	Landscape Plan
16384_1001_P-01	Site Sections Sheet 01
16384_1002_P-01	Site Sections Sheet 02
16384_1003_P-01	Site Sections Sheet 03
16384_1004_P-01	Site Sections Sheet 04

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

3. Non Standard Condition - Floor Area

The total floor area of the development shall not exceed:

A1 retail 24,016 Square metres

A3 Restaurant/café 326.8 Square metres

Reason: For the avoidance of doubt as to the scope of the permission and because the impacts of the proposal, along with necessary forms and levels of mitigation, have been assessed on this basis.

4. Non Standard Condition - Restriction on Mezzanine Floor Space

Notwithstanding the definition of 'development', the creation of any mezzanine level or intermediate floorspace within any building or part of a building within the development hereby approved, with the exception of the 4,274sqm of mezzanine space to serve Units A1-A6, is not permitted without the further grant of planning permission for the expansion of floorspace from the Local Planning Authority.

Reason: For the avoidance of doubt as to the scope of the permission and because the impacts of the proposal, along with necessary forms and levels of mitigation, have been assessed on this basis.

5. Non Standard Condition - Bulky Goods Restriction

No goods shall be sold from Units A1-A6 or Unit B (as shown on drawing number 16384_2000_P-18) other than: DIY goods, materials for maintaining and repairing the dwelling; furniture and furnishings; tiles, carpets and other floor coverings; household textiles; electrical goods and other domestic appliances; construction tools and associated equipment; garden equipment, plants, flowers and sundries; audio visual, photographic and information processing equipment, accessories and sundries; cycles, motor vehicle and cycle goods; spares and parts (including the repair of cycles); pets, pet food and pet related products and services (with any pet care and treatment services being ancillary only); goods for outdoor pursuits (including for camping and caravanning); together with ancillary café facilities (Class A3) strictly where these are operated by the tenant. The aforementioned units shall be used for no other purpose, including any other use in Class A1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended or re-enacted) as well as any use as part of the Town and Country Planning (General Permitted Development) Order 2015 (as amended or re-enacted).

Reason: In the interests of mitigating the impact on retail premises in designated centres from an out-of-centre location.

6. Non Standard Condition - Exclusion of Comparison Goods

Notwithstanding the provisions of the Class A1 Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended or re-enacted) and the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or in any amending Order, Units C and D shall be used for A1 convenience goods floorspace only, other than for no more than 20% of Unit C floorspace and no more than 30% of Unit D floorspace that shall be used for the sale of comparison goods, and shall not be used for any other purpose.

Reason: For the avoidance of doubt as to the scope of the permission as this is the basis on which the application has been considered and any other use would need to be given further consideration at such a time as it were to be proposed.

7. Non Standard Condition - Hours of Operation

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

Weekdays: 07:00 to 23:00

Saturdays, Sundays and Public Holidays: 07:00 to 23:00

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise including from people entering or leaving the site, as there is insufficient information within the submitted application, and for the avoidance of doubt as to the scope of this permission

8. Non Standard Condition - Delivery Times

No deliveries shall be received at, or despatched from, Units A1-A6, B, or D outside of the following times:

Weekdays: 06:00 to 22:00

Saturdays, Sundays and Public Holidays: 06:00 to 22:00

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise including from delivery vehicles entering or leaving the site, as there is insufficient information within the submitted application, and for the avoidance of doubt as to the scope of this permission.

9. Hours of Demolition or Construction Work

No demolition or construction work, other than internal fit out works following shell completion, shall take place outside of the following times;

Weekdays: 08:00 to 18:00

Saturdays: 08:00 to 13:00

Sundays and Bank Holidays: NONE

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

10. Non Standard Condition - Construction Method Statement

No works shall take place, including any demolition, until a Construction Method Statement has been submitted to and approved, in writing, by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period and shall provide details for:

- The parking of vehicles of site operatives and visitors;
- Hours of deliveries and hours of work;

- Loading and unloading of plant and materials;
- Storage of plant and materials used in constructing the development;
- The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- Wheel washing facilities;
- Measures to control the emission of dust and dirt during construction; and
- A scheme for recycling/disposing of waste resulting from construction works.

Reason: In order to ensure that the construction takes place in a suitable manner and to ensure that amenities of existing residents are protected as far as reasonable.

11. Non Standard Condition - Programme of Archaeological Works

No works shall take place until the implementation of a programme of archaeological work, for an additional 2% trial trenching, has been secured, in accordance with a Written Scheme of Investigation that has been submitted to and approved, in writing, by the Local Planning Authority. The Scheme shall include an assessment of significance and research questions; and:

- a. The programme and methodology of site investigation and recording.
- b. The programme for post investigation assessment.
- c. Provision to be made for analysis of the site investigation and recording.
- d. Provision to be made for publication and dissemination of the analysis and records of the site investigation.
- e. Provision to be made for archive deposition of the analysis and records of the site investigation.

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

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

12. Non Standard Condition - Ecological Mitigation and Enhancement Plan

No development shall commence until a detailed Ecological Mitigation and Enhancement Plan, following the principles of the hereby agreed MLM Group Ecological Impact Assessment (ref: AC/774816), has been submitted to and agreed, in writing, by the Local Planning Authority. The approved plan shall then be implemented as approved.

Reason: In order to safeguard protected wildlife species and their habitats and in the interests of ecological enhancement.

13. Non Standard Condition - Highway Improvements A12 Junction 26

No development shall commence until detailed designs of the required improvements to the A12 junction 26 have been submitted to and approved, in writing, by the Local Planning Authority. The scheme shall generally conform to the arrangements shown in outline on Cannon Consultants drawing number F171/109 rev C and shall include the following:

- i. How the improvement interfaces with the existing highway alignment and carriageway markings including lane destinations,
- ii. Full construction details relating to the highway improvement. This should include any modification to existing structures or proposed structures, with supporting analysis,
- iii. Full signing and lighting details where applicable,
- iv. Confirmation of full compliance with Departmental Standards (DMRB) and Policies (or approved relaxations/departures from standards),
- v. An independent stage 2 Road Safety Audit (taking account of any stage 1 Road Safety Audit recommendations) carried out in accordance with Departmental Standards (DMRB) and Advice Notes.

The highway improvements shall be implemented as approved and completed to the satisfaction of the Local Planning Authority (in consultation with the Highways Authorities) and no occupation shall take place unless and until the junction improvements shown in outline on Cannon Consultants drawing number F171/109 rev C have been delivered and are fully operational.

Reason: To ensure that the A12 Junction 26, Eight Ash Green Roundabout, will continue to fulfil its purpose as part of the Strategic Road Network in accordance with the Highways Act 1980, Circular 02/13 'Planning and the Strategic Road Network', to satisfy the reasonable requirements for road safety. And to reduce traffic generations in the interests of sustainability.

14. Non Standard Condition - Highway Improvements Local Road Network

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

- a) Dualling of the Stanway Western Bypass between the A1124 Essex Yeomanry Way 'Teardrop' junction and Sainsbury's roundabout as shown in principle on the approved drawings
- b) Dualling of the proposal site access road between the Sainsbury's roundabout and the roundabout which serves Stane Park phase 1a and 1b and the proposal site as shown in principle on the approved drawings
- c) Widening of the Stanway Western Bypass southern arm at the Sainsbury's roundabout as shown in principle on the approved drawings
- d) Widening of the Stanway Western Bypass northern arm at the London Road roundabout as shown in principle on the approved drawings

- e) A toucan crossing on the Stanway Western Bypass north of the Sainsbury's roundabout
- f) A footway/cycleway between the toucan crossing mentioned above and the proposal site as well as on all sides of the roundabout which serves Stane Park phase 1a and 1b and the proposal site
- g) Two bus stops to current Essex County Council specification on the proposal site access road between the Sainsbury's roundabout and the roundabout which serves Stane Park phase 1a and 1b and the proposal site (specification shall be agreed with the Local Planning Authority prior to commencement of the development)

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

15. Non Standard Conditionh - Travel Plan

No development shall commence until a Framework Travel Plan for the site/scheme as a whole has been submitted to and approved in writing by the Local Planning Authority. No individual unit shall then be brought into use until a Tenant Travel Plan, to be in line with the general parameters set out in the approved Framework Travel Plan, has been submitted to and approved in writing by the Local Planning Authority. The approved Tenant Travel Plans shall be implemented upon first occupation of each part of the development and shall be in line with prevailing policy and best practice and shall include as a minimum:

- The appointment of a Travel Plan Co-ordinator
- The identification of targets for trip reduction and modal shift
- The methods to be employed to meet these targets
- The mechanisms for monitoring and review
- The mechanisms for reporting
- The penalties to be applied in the event that targets are not met
- The mechanisms for mitigation
- Implementation of the travel plan to an agreed timescale or timetable and its operation thereafter
- Mechanisms to secure variations to the Travel Plan following monitoring and reviews

Reason: In the interest of highway safety and the efficient operation of the highway network and in order the development promotes public transport, walking and cycling and limits the reliance on the private car.

16. Non Standard Condition - Detailed Landscape Works

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

- Proposed finished levels or contours;
- Means of enclosure;
- Car parking layouts;
- Other vehicle and pedestrian access and circulation areas;
- Hard surfacing materials;

- Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.);
- Proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. Indicating lines, manholes, supports etc.);
- Earthworks (including the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform)
- Planting plans;
- Written specifications (including cultivation and other operations associated with plant and grass establishment);
- Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and
- Implementation timetables and monitoring programs.

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

17. Non Standard Condition - Detailed Surface Water Drainage Scheme – Technical Certification

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

- Run-off from the site restricted to a maximum of 24.5l/s for all events up to the 1 in 100 inclusive of climate change (40%) storm event.
- Infiltration testing across the site area, in accordance with BRE 365, to support the SuDS hierarchy.
- Control of all surface water run-off generated within the development for all events up to and including the 1 in 100 year event inclusive climate change (40%).
- An appropriate amount of treatment in line with the CIRIA SuDS Manual C753.
- Final detailed modelling of the whole drainage network on site.
- A drainage plan highlighting final conveyance and exceedance routes, location and sizing of storage features, discharge/infiltration rates and outfall/s from the site.

Reason: The National Planning Policy Framework paragraph 163 states that local planning authorities should ensure flood risk is not increased elsewhere by development. Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore, the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

18. Non Standard Condition - Scheme to Minimise the Risk of Offsite Flooding During Construction

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

Reason: Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development. Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

19. Non Standard Condition - Surface Water Drainage Maintenance and Management Plan

No development shall take place until a Maintenance and Management Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

Reason: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk. Failure to provide the above required information before commencement of works may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

20. Non Standard Condition - Foul Water Strategy

No development shall commence until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. No unit shall be occupied until the works have been carried out in accordance with the foul water strategy so approved unless otherwise approved in writing by the Local Planning Authority.

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

21. Non Standard Condition - Materials

No external materials (including windows and curtain walling) shall be used in the construction of the development hereby permitted until precise details of the manufacturer, types and colours of these have been submitted to and approved, in writing, by the Local Planning Authority. Such materials as may be approved shall be those used in the development.

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

22. Non Standard Condition - Electric Charging Points

Notwithstanding the submitted details, no works to construct the parking areas shall be commenced until a scheme for the provision of EV charging points (including rapid charge points) for vehicles has been submitted and approved in writing by the Local Planning Authority. The scheme shall include, but not be limited to, the provision of 10 EV charging points for cars as shown on drawing number 16384_2000_P-18. The scheme shall then be implemented as approved and be made available for use prior to the occupation of the development.

Reason: In the interests of sustainability and air quality by encouraging the use of ultra-low emission vehicles.

23. NonStandard Condition - Noise Levels

Prior to the first use or occupation of the development as hereby permitted, a competent person shall have ensured that the noise rating level of noise emitted from the site's plant, equipment and machinery shall not exceed 5dB(A) above the background levels determined at all boundaries of noise-sensitive premises. The assessment shall have been made in accordance with the current version of British Standard 4142 and confirmation of the findings of the assessment shall have been submitted to, and agreed in writing by, the Local Planning Authority and shall be adhered to thereafter.

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

24. Non Standard Condition - Noise attenuation fencing

Prior to the first use or occupation of the development, details of the density and construction of a 2.5m high fence along the 136m length of the western site boundary, as shown on drawing 16384_2000_P-16 attached to MRPP's email of 7 June 2018, together with details of the associated landscaping between the fence and boundary hedge to the west, shall be submitted to and approved, in writing, by the Local Planning Authority. The approved works and associated landscaping shall then be implemented and completed prior to first occupation of units A1-A6, B and D.

Reason: In order to mitigate the noise disturbance from the proposed service road in the interests of residential amenity.

25. Non Standard Condition - Landscape Management Plan

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

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

26. Non Standard Condition - Lighting

Prior to the first OCCUPATION/USE of the development hereby permitted, a validation report undertaken by competent persons that demonstrates that all lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) fully complies with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note for zone EZ2 shall be submitted to, and agreed in writing by, the Local Planning Authority. Any installation shall thereafter be retained and maintained as agreed therein.

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

27. Non Standard Condition - Reporting of Unexpected Contamination

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

Reason: The site lies on or in the vicinity of previously fly tipped land where there is the possibility of contamination.

28. NonStandard Condition - Outside Storage

No outside storage of goods, materials, or waste shall take place in the open except with a designated compound the details of which, including barrier treatment, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of visual amenity.

18.0 Informatives

18.1 The following informatives are also recommended:

1. ZT0 – Advisory Note on Construction & Demolition

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

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

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

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

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

4. Anglian Water Informative

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

5. Archaeology Informative 1

In respect of condition 8 a further (2%) trial-trenched archaeological evaluation is required. Decisions on the need for any further investigation (excavation before groundworks commence and/or monitoring during groundworks) will be made on the basis of the results of the evaluation.

6. Archaeology Informative 2

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

<http://www.colchester.gov.uk>

7. Landscape Informative

Detailed landscape proposals, if/when submitted in order to discharge landscape conditions should first be cross-checked against the Council's Landscape Guidance Note LIS/C @ <http://www.colchester.gov.uk/article/13592/Landscape-Guidance-for-Developers>.

8. Informative on Section 106 Agreements

PLEASE NOTE: This application is the subject of a Section 106 legal agreement and this decision should only be read in conjunction with this agreement.

9. Highways England 'Informative' - S278 agreements

The Highways England informative regarding Section 278 Agreements is appended to this decision and should be taken into account by the Applicant/Developer as necessary.