

## Proposed Tollgate Village Development, Stanway (Application Ref. 160868)

9 November 2016

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### *Context*

The purpose of this note is to advise Colchester Borough Council on the retail planning issues relating to the 'duplicate' second application (ref. 160868) for the proposed Tollgate Village development, in the light of the emerging findings of the new retail evidence base currently being prepared by Cushman & Wakefield. Whilst currently not finalised, it is at a sufficiently advanced stage to outline some important considerations in view of the second application being considered by the Council's Planning Committee on 24 November 2016.

We are familiar with the Reasons for Refusal relating to the first application (ref. 150239). However it is important, we consider, to highlight some issues concerning the impact of the proposal on town centre vitality and viability, in addition to the sequential test.

### *Impact test*

Reason for Refusal 2 relating to the first application cites harm to the Borough's retail hierarchy and Urban District Centre (UDC) policies; and harm to planned investment in Colchester Town Centre, which concerns the first impact test set out under paragraph 26 of the National Planning Policy Framework (NPPF). We agree with this position, which is only strengthened by the new retail evidence base.

We further consider, based on the emerging findings of the new retail evidence base, that the proposed Tollgate Village development gives rise to serious concerns as regards the second impact test set out under paragraph 26 of the NPPF, specifically *'the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre.'* The principal reasons for our concerns can be summarised as follows:

1. The new retail evidence base provides a detailed 'healthcheck' assessment of Colchester Town Centre. It is found to be relatively healthy; however, our research and analysis has identified some weaknesses and potential threats. These threats are significant in the light of market conditions and the polarisation (and downsizing) of retailers to a smaller number of 'prime' locations. Pertinent is the relative decline of the Town Centre's status and performance in recent years, according to two sets of national retail rankings<sup>1</sup>, because there

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<sup>1</sup> CACI Retail Footprint report a decline from 51 to 59 in the rankings (2012-2015) and PMA report a decline from 35 to 48 (2005-2016).

are correlations between a centre's position in the retail rankings and its attractiveness to (and ability to retain) retailers and thus shoppers.

2. A new and extensive household interview survey of shopping patterns in Colchester's catchment area has been commissioned for the purpose of the new retail evidence base. The results confirm that Tollgate is already a sub-regional shopping destination, attracting substantial market shares of comparison goods expenditure from across the catchment area; and it competes with Colchester Town Centre for such catchment area expenditure. The proposed Tollgate Village development is likely to significantly further enhance the attractiveness of Tollgate to shoppers and ensure it becomes an even greater competitor to the Town Centre. The fact that the proposal is speculative, with no end occupiers identified by the applicant, is highly relevant in this respect and provides little certainty as to the retail characteristics of the proposal and how it is likely to trade. To this end, we consider that Barton Willmore's (BW) retail impact assessment, as set out in their Retail & Leisure Assessment dated February 2015 submitted in support of the application, substantially under-estimates – at £74.6m – the likely comparison goods sales of the proposed development; and in turn under-estimates the likely retail impacts on Colchester Town Centre in particular.
3. It is our view that both BW and Nathaniel Lichfield & Partners (NLP), in their advice to the Council dated 29 October 2015, have significantly over-estimated 'baseline' comparison goods sales in Colchester Town Centre (£605.5m and £627.4m respectively in 2015)<sup>2</sup>, where the principal retail impacts are likely to fall. Emerging findings from the new retail evidence base indicate that Colchester Town Centre is achieving comparison goods sales of £395.8m in 2016 (the sales in 2015 would be slightly lower taking into account negative 'growth' in population and expenditure). In effect, their respective analysis over-estimates – by more than 50% – comparison goods sales in the Town Centre and therefore seriously under-estimates the likely retail impacts of the proposal on it.
4. Notwithstanding this, we would highlight that NLP's advice to the Council suggests that the trade diversion arising from the proposed Tollgate Village development would potentially cause Colchester Town Centre to '*stagnate and leave it vulnerable to further trade loss*' and this, in our judgement, is sufficient to conclude that the proposal is likely to prevent sustainable economic growth in the Town Centre and have a significant adverse impact on its vitality and viability.

On this basis, we would advise the Council that the proposed Tollgate Village development fails the second impact test set out under paragraph 26 of the NPPF.

### *Sequential test*

It is necessary to note that Tollgate UDC is recognised by the development plan – and the new retail evidence base – as a 'town centre' in NPPF terms and, on this basis, the proposal is considered part in-centre, part edge-of-centre for the purposes of applying the sequential test.

Whilst there is no scale (or need) test in the NPPF, the scale of development proposed at Tollgate Village is a very relevant consideration having regard for '*a network and hierarchy of centres*' (as

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<sup>2</sup> The similarity between the BW and NLP estimates is not entirely surprising given that BW derive their 'baseline' turnovers from the Retail and Town Centre Uses Study (2013) prepared by NLP.

required under paragraph 23 of the NPPF) and the degree of impact on existing centres. To this end, Policy CE1 of the adopted Core Strategy seeks to direct larger scale retail proposals to Colchester Town Centre at the apex of the Borough's retail hierarchy. We consider that the proposed Tollgate Village development clearly falls within this bracket, while Policy CE2b does not support new retail proposals in UDCs unless they meet identified local needs and do not compete with the Town Centre (rather, it encourages the diversification of non-retail uses). The emerging conclusions from the new retail evidence base would support this spatial strategy in the light of Tollgate's established scale and attractiveness, and its potential to become an even greater competitor to the Town Centre if substantial new retail development is achieved there.

The same applies to substantial new leisure development, in our view, and in this context we have had regard for the proposals at Northern Gateway. It is our understanding that a full application (ref. 160825) is due to be considered by the Council's Planning Committee on 1 December 2016. The full application proposes:

*Erection of use class A3/A5 restaurant/hot food takeaway units (in the alternative), erection a use class C1 hotel, erection of use class D2 multiplex cinema, erection of use class D2 leisure units, erection of a use class A3/D2 restaurant/leisure uses (in the alternative), provision of a landscaped piazza that shall include associated landscaped.*

The plain application of the sequential test would determine that Tollgate is a sequentially preferable location for such uses compared with Northern Gateway, which is out-of-centre in NPPF terms. However, the objective for a network and hierarchy of centres is an important consideration given the scale of development proposed at Northern Gateway which, if directed to Tollgate – thereby further increasing its scale and attractiveness – would likely cause significant harm to the Borough's retail hierarchy and Colchester Town Centre in particular. We consider that the cumulative harm caused by directing the proposal to Tollgate would be greater than its delivery at Northern Gateway, where there are no established 'sub-regional' retail attractions.

We would make further observations regarding the sequential test and the proposed Tollgate Village development in particular. The applicant has sought to demonstrate flexibility in scale and format (as required by paragraph 24 of the NPPF) by reducing the scale of the application site by 10% to 10.5 hectares – the equivalent of more than 7 no. Vineyard Gate sites<sup>3</sup>.

At this scale we would accept that the proposed development cannot be accommodated in or on the edge of Colchester Town Centre, or any other existing centres. However we consider that the site parameters (including a site measuring 10.5 hectares) adopted by BW for the purpose of identifying and assessing alternative sites are flawed; they fail to demonstrate any real degree of flexibility on the part of the applicant. For example, if the development proposed were to be directed towards Colchester Town Centre in accordance with the Borough's retail hierarchy, there would be no requirement for up to 1,523 car parking spaces<sup>4</sup>.

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<sup>3</sup> The Council's preferred site and long-standing objective for new prime retail development in Colchester Town Centre.

<sup>4</sup> Given the Town Centre's relative accessibility by a choice of modes of transport and adequate supply of town centre car parks.

Further, BW's Retail & Leisure Assessment promotes the development as '*two constituent parts*' (i.e. Class A retail and Class D2 leisure) while, perhaps more significantly, the Parameter Plans dated March 2015 submitted in support of the application clearly define 3 no. separate Development Zones. On this basis, and bearing in mind that this outline application is speculative with no identified end occupiers, it is our view that there is no commercial requirement for 'the proposal' to be situated on the same site and in the arrangement envisaged by the applicant. It would be entirely reasonable, we consider, for the applicant to explore the scope for accommodating the proposal in a different scale and format on more than one site in and/or on the edge of Colchester Town Centre (including Vineyard Gate). Having failed to do so, we take the view that the applicant has not demonstrated compliance with the sequential test set out in paragraph 24 of the NPPF.

### *Conclusions*

On the basis of the foregoing and the emerging findings of the new retail evidence base in particular, we consider that the Council should be minded to refuse the second application for the proposed Tollgate Village development on the grounds of (additional to Reason for Refusal 2 relating to the first application):

- A significant adverse impact on the vitality and viability of Colchester Town Centre; and
- The failure to satisfy the sequential test.