

Planning Committee Meeting

**Council Chamber, Town Hall, High Street,
Colchester, CO1 1PJ**

Thursday, 17 September 2015 at 18:00

The Planning Committee deals with planning applications, planning enforcement, public rights of way and certain highway matters.

If you wish to come to the meeting please arrive in good time. Attendance between 5.30pm and 5.45pm will greatly assist in noting the names of persons intending to speak to enable the meeting to start promptly.

Information for Members of the Public

Access to information and meetings

You have the right to attend all meetings of the Council, its Committees and Cabinet. You also have the right to see the agenda, which is usually published five working days before the meeting, and minutes once they are published. Dates of the meetings are available at www.colchester.gov.uk or from Democratic Services. Occasionally meetings will need to discuss issues in private. This can only happen on a limited range of issues, which are set by law. When a committee does so, you will be asked to leave the meeting.

Have Your Say!

The Council values contributions from members of the public. Under the Council's Have Your Say! policy you can ask questions or express a view to most public meetings. If you wish to speak at a meeting or wish to find out more, please refer to Your Council> Councillors and Meetings>Have Your Say at www.colchester.gov.uk

Audio Recording, Mobile phones and other devices

The Council audio records all its public meetings and makes the recordings available on the Council's website. Audio recording, photography and filming of meetings by members of the public is also permitted. The discreet use of phones, tablets, laptops, cameras and other such devices is permitted at all meetings of the Council. It is not permitted to use voice or camera flash functionality and devices must be kept on silent mode. Councillors are permitted to use devices to receive messages and to access papers and information via the internet and viewing or participation in social media is at the discretion of the Chairman / Mayor presiding at the meeting who may choose to require all devices to be switched off at any time.

Access

There is wheelchair access to the Town Hall from St Runwald Street. There is an induction loop in all the meeting rooms. If you need help with reading or understanding this document please take it to the Library and Community Hub, Colchester Central Library, 21 Trinity Square, Colchester or telephone (01206) 282222 or textphone 18001 followed by the full number that you wish to call and we will try to provide a reading service, translation or other formats you may need.

Facilities

Toilets with lift access, if required, are located on each floor of the Town Hall. A water dispenser is available on the first floor and a vending machine selling hot and cold drinks is located on the ground floor.

Evacuation Procedures

Evacuate the building using the nearest available exit. Make your way to the assembly area in the car park in St Runwald Street behind the Town Hall. Do not re-enter the building until the Town Hall staff advise you that it is safe to do so.

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Colchester, CO1 1JB

telephone (01206) 282222 or textphone 18001 followed by the full number you wish to call
e-mail: democratic.services@colchester.gov.uk

www.colchester.gov.uk

Material Planning Considerations

The National Planning Policy Framework highlights that the planning system is plan-led and reiterates The Town and Country Planning Act 1990 and The Planning and Compulsory Purchase Act 2004, which require (in law) that planning applications “must be determined in accordance with the development plan, unless material considerations indicate otherwise”.

Where our Development Plan is absent, silent or the relevant policies are out of date, paragraph 14 of the National Planning Policy Framework requires the application to be determined in accordance with the presumption in favour of sustainable development unless otherwise specified.

The following approach should be taken in all planning decisions:

- Identify the provisions of the Development Plan which are relevant to the decision and interpret them carefully, looking at their aims and objectives
- Identify and consider relevant material considerations for and against the proposal
- Consider whether or not the proposal accords with the Development Plan and, if not, whether material considerations warrant a departure from the Development Plan.

A material planning consideration is one which is relevant to making the planning decision in question (e.g. whether to grant or refuse an application for planning permission). The scope of what can constitute a material consideration is very wide and so the courts often do not indicate what cannot be a material consideration. However, in general they have taken the view that planning is concerned with land use in the public interest, so that the protection of purely private interests such as the impact of a development on the value of a neighbouring property or loss of private rights to light could not be material considerations.

When applying material considerations the Committee should execute their decision making function accounting for all material matters fairly, reasonably and without bias. In court decisions (such as *R v Westminster CC ex-parte Monahan* 1989) it has been confirmed that material considerations must relate to the development and use of land, be considered against public interest, and be fairly and reasonably related to the application concerned.

Some common material planning considerations which the Planning Committee can (and must) take into consideration in reaching a decision include:-

- Planning policies, including the NPPF and our own Development Plan
- Government guidance, case law, appeal decisions, planning history
- Design, scale, bulk, mass, visual appearance and layout
- Protection of residential amenities (light, privacy, outlook, noise or fumes)
- Highway safety and traffic issues, including parking provisions
- Heritage considerations; archaeology, listed buildings and conservation areas
- Environmental issues; impacts on biodiversity, trees and landscape, flooding
- Economic issues such as regeneration, job creation, tourism and viability
- Social issues; affordable housing, accessibility, inclusion, education, recreation

The above list is not exhaustive

The following are among the most common issues that are **not** relevant planning issues and cannot be taken into account in reaching a decision:-

- land ownership issues; private property rights, boundary disputes and covenants
- effects on property values
- loss of a private view
- identity of the applicant, their character, previous history, or possible motives
- moral objections to a development, such as may include gambling or drinking etc
- competition between commercial uses

- matters specifically controlled through other legislation

Strong opposition to large developments is a common feature of the planning process but whether or not a development is popular or unpopular will not matter in the absence of substantial evidence of harm (or support from the policies within the Development Plan). It is the quality of content, not the volume that should be considered.

The law also makes a clear distinction between the question of whether something is a material consideration, and the weight which it is to be given. Whether a particular consideration is material will depend on the circumstances of the case but provided it has given regard to all material considerations, it is for the Council to decide what weight is to be given to these matters. Subject to the test of “reasonableness”, the courts (or the Local Government Office) will not get involved in the question of weight. Weight may be tested at appeal.

Planning Obligations

Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the tests that they are:

1. necessary to make the development acceptable in planning terms
2. directly related to the development, and
3. fairly and reasonably related in scale and kind.

These legal tests are set out as statutory tests in the Community Infrastructure Levy Regulations and as policy tests in the National Planning Policy Framework.

Human Rights, Community Safety and Equality and Diversity Implications

All applications are considered against the background and implications of the:

- Human Rights Act 1998
- Crime and Disorder Act 1998 (and in particular Section 17)
- Equality Act 2010
- Colchester Borough Council Equality Impact Assessment (EIA) Framework

In order that we provide a flexible service that recognises people's diverse needs and provides for them in a reasonable and proportional way without discrimination.

Using Planning Conditions or Refusing Planning Applications

The Planning System is designed to manage development, facilitating (not obstructing) sustainable development of a satisfactory standard. The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (PPG) reinforce this, stating that “Planning should operate to encourage and not act as an impediment to sustainable growth”. Therefore, development should be considered with a positive approach. Where a condition could be used to avoid refusing permission this should be the approach taken.

The PPG sets out advice from the Government regarding the appropriate use of conditions, and when decision makers may make themselves vulnerable to costs being awarded against them at appeal due to “unreasonable” behaviour. Interpretation of court judgments over the years is also an important material consideration. Reasons why a Planning Authority may be found to have acted unreasonably at appeal include lack of co-operation with applicants, introducing fresh evidence at a later stage, introducing a new reason for refusal, withdrawal of any reason for refusal or providing information that is shown to be manifestly inaccurate or untrue.

In terms of the Planning Committee, Members are not bound to accept the recommendations of their officers. However, if officers’ professional or technical advice is not followed, authorities will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects. If they fail to do so, costs may be awarded against the authority.

Whenever appropriate, the Council will be expected to show that they have considered the possibility of imposing relevant planning conditions to allow development to proceed. Therefore, before refusing any application the Planning Committee should consider whether it is possible to resolve any concerns by use of conditions before refusing permission. Failure to do so on a planning ground capable of being dealt with by conditions risks an award of costs where it is concluded on appeal that suitable conditions would enable the proposed development to go ahead.

Any planning condition imposed on a development must pass 6 legal tests to be:

- | | |
|--|-------------------------|
| 1. Necessary | 2. Relevant to planning |
| 3. Relevant to the development permitted | 4. Reasonable |
| 5. Precise | 6. Enforceable |

Unless conditions fulfil these criteria they are challengeable at appeal as ultra vires (i.e. their imposition is beyond the powers of local authorities).

If no suitable condition exists that can satisfy these tests a refusal of planning permission may then be warranted. In considering the reasons for that refusal, the Council must rely only on reasons for refusal which stand up to scrutiny and do not add to development costs through avoidable delay or refusal without good reason. In all matters relating to an application it is critically important for decision makers to be aware that the courts will extend the common law principle of natural justice to any decision upon which they are called to adjudicate. The general effect of this is to seek to ensure that the Council acts fairly and reasonably in executing our decision making functions, and that it is evident to all that we have done so.



Colchester Borough Council Development Management

Highway Safety Issues

When considering planning applications, Colchester Borough Council consults Essex County Council Highways Authority on all highway safety issues. They are a statutory consultee, and a recognised expert body. This means that they must be consulted on planning applications, by law, where the proposed development will involve a new access to the highway network, create “material” changes in traffic movement, or where new roads are to be laid out. Where developments affect the trunk road network Highways England become a statutory consultee.

When the Highway Authority is consulted they are under a duty to provide advice on the proposal in question as the experts in highway matters. Their opinion carries significant weight upon which the Local Planning Authority usually relies. Whilst this Council could form an opinion different to the Highway Authority, it would need to provide counter-evidence to justify an argument that the expert body was incorrect. That evidence would need to withstand challenge in appeal or through the courts. Failure to do so would result in a costs award against the Council for acting unreasonably (see other notes pages within this Agenda). Similarly, if the Highway Authority were unable to support their own conclusions they may face costs being awarded against them as the statutory consultee.

Officers of Essex County Council Highway Authority conduct their own site visits to each site in order to take account of all highway safety matters. They also consult their own records and databases, traffic flow information and any other relevant material that may be available, including any submitted documents within planning applications.

Parking Standards

Although the Highway Authority has some remit over parking in so far as it relates to highways safety issues, parking itself is a matter for the Local Planning Authority to determine against national policy and our own adopted standards. Like the other Essex Authorities, Colchester Borough Council has adopted the Essex Planning Officer's Association Parking Standards. These standards set out that:

- A parking space should measure 2.9 metres by 5.5 metres. A smaller size of 2.5 metres by 5 metres is acceptable in special circumstances.

For residential schemes:

- The residential parking standard for two bedroom flats and houses is two spaces per unit.
- The residential parking standard for one bedroom units is one space per unit.
- A garage should have an internal space of 7 metres by 3 metres. Smaller garages do not count towards the parking allocation.
- One visitor space must be provided for every four units.

Residential parking standards can be relaxed in areas suitable for higher density development and where there is good walkable access to shops, service and public transport, such as town centres.



Colchester Borough Council Environmental Control

Advisory Notes for the Control of Pollution during Construction and Demolition Works

The following information is intended as guidance for applicants/developers and construction firms. In order to minimise potential nuisance to nearby existing residents caused by construction and demolition works, Environmental Control recommends that the following guidelines are followed. Adherence to this advisory note will significantly reduce the likelihood of public complaint and potential enforcement action by Environmental Control.

Best Practice for Construction Sites

Although the following notes are set out in the style of planning conditions, they are designed to represent the best practice techniques for the site. Therefore, failure to follow them may result in enforcement action under nuisance legislation (Environmental Protection Act 1990), or the imposition of controls on working hours (Control of Pollution Act 1974)

Noise Control

1. No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holiday days.
2. The selection and use of machinery to operate on site, and working practices to be adopted will, as a minimum requirement, be compliant with the standards laid out in British Standard 5228:1984.
3. Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).
4. Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.

Emission Control

1. All waste arising from the ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.
2. No fires to be lit on site at any time.
3. On large scale construction sites, a wheel-wash facility shall be provided for the duration of the works to ensure levels of soil on roadways near the site are minimised.
4. All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

Best Practice for Demolition Sites

Prior to the commencement of any demolition works, the applicant (or their contractors) shall submit a full method statement to, and receive written approval from, the Planning & Protection Department. In addition to the guidance on working hours, plant specification, and emission controls given above, the following additional notes should be considered when drafting this document: -

Noise Control

If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Planning & Protection prior to the commencement of works.

The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.

Emission Control

All waste arising from the demolition process to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.

The Town and Country Planning (Use Classes) Order 1987 (as amended)

Class A1. Shops

Use for all or any of the following purposes—

- (a) for the retail sale of goods other than hot food,
- (b) as a post office,
- (c) for the sale of tickets or as a travel agency,
- (d) for the sale of sandwiches or other cold food for consumption off the premises,
- (e) for hairdressing,
- (f) for the direction of funerals,
- (g) for the display of goods for sale,
- (h) for the hiring out of domestic or personal goods or articles,
- (i) for the washing or cleaning of clothes or fabrics on the premises,
- (j) for the reception of goods to be washed, cleaned or repaired,
- (k) as an internet café; where the primary purpose of the premises is to provide facilities for enabling members of the public to access the internet where the sale, display or service is to visiting members of the public.

Class A2. Financial and professional services

Use for the provision of —

- (a) financial services, or
 - (b) professional services (other than health or medical services), or
 - (c) any other services (including use as a betting office)
- which it is appropriate to provide in a shopping area, where the services are provided principally to visiting members of the public.

Class A3. Restaurants and cafes

Use for the sale of food and drink for consumption on the premises.

Class A4. Drinking establishments

Use as a public house, wine-bar or other drinking establishment

Class A5. Hot food takeaways

Use for the sale of hot food for consumption off the premises.

Class B1. Business

Use for all or any of the following purposes—

- (a) as an office other than a use within class A2 (financial and professional services),
 - (b) for research and development of products or processes, or
 - (c) for any industrial process,
- being a use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

Class B2. General industrial

Use for the carrying on of an industrial process other than one falling within class B1 above

Class B8. Storage or distribution

Use for storage or as a distribution centre.

Class C1. Hotels

Use as a hotel or as a boarding or guest house where, in each case, no significant element of care is provided.

Class C2. Residential institutions

Use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwelling houses)).

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

Class C2A. Secure residential institutions

Use for the provision of secure residential accommodation, including use as a prison, young offenders institution, detention centre, secure training centre, custody centre, short-term holding centre, secure hospital, secure local authority accommodation or use as military barracks.

Class C3. Dwellinghouses

Use as a dwellinghouse (whether or not as a sole or main residence) by—

(a) a single person or by people to be regarded as forming a single household;

(b) not more than six residents living together as a single household where care is provided for residents; or

(c) not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4).

Class C4. Houses in multiple occupation

Use of a dwellinghouse by not more than six residents as a “house in multiple occupation”.

Class D1. Non-residential institutions

Any use not including a residential use —

(a) for the provision of any medical or health services except the use of premises attached to the residence of the consultant or practitioner,

(b) as a crèche, day nursery or day centre,

(c) for the provision of education,

(d) for the display of works of art (otherwise than for sale or hire),

(e) as a museum,

(f) as a public library or public reading room,

(g) as a public hall or exhibition hall,

(h) for, or in connection with, public worship or religious instruction, (i) as a law court.

Class D2. Assembly and leisure

Use as —

(a) a cinema,

(b) a concert hall, (c) a bingo hall or casino,

(d) a dance hall,

(e) a swimming bath, skating rink, gymnasium or area for other indoor or outdoor sports or recreations, not involving motorised vehicles or firearms.

Sui Generis Uses

Examples of sui generis uses include (but are not exclusive to):

theatres, amusement arcades or centres, funfairs, launderettes sale of fuel for motor vehicles, sale or display for sale of motor vehicles, taxi businesses or a business for the hire of motor vehicles, a scrapyard or the breaking of motor vehicles, hostels, retail warehouse clubs (where goods are sold, or displayed for sale, only to persons who are members of that club), night-clubs, or casinos.

Interpretation of Class C3

For the purposes of Class C3(a) “single household” shall be construed in accordance with section 258 of the Housing Act 2004.

Interpretation of Class C4

For the purposes of Class C4 a “house in multiple occupation” does not include a converted block of flats to which section 257 of the Housing Act 2004 applies but otherwise has the same meaning as in section 254 of the Housing Act 2004

Deferral and Recommendation Overturn Procedure (DROP) Flowchart

If Councillors require more information, or minor amendments to be explored, then the item should be deferred.

If no more information or amendment is desired Councillors will proceed to propose a motion.



COLCHESTER BOROUGH COUNCIL
Planning Committee
Thursday, 17 September 2015 at 18:00

Member:

Councillor Jon Manning
Councillor Jessica Scott-Boutell
Councillor Peter Chillingworth
Councillor Helen Chuah
Councillor Jo Hayes
Councillor Pauline Hazell
Councillor Brian Jarvis
Councillor Mike Lilley
Councillor Jackie Maclean
Councillor Patricia Moore
Councillor Rosalind Scott
Councillor Laura Sykes

Chairman
Deputy Chairman

Substitutes:

All members of the Council who are not members of this committee and who have undertaken the required planning skills workshop:-

Councillors Christopher Arnold, Lyn Barton, Tina Bourne, Roger Buston, Kevin Bentley, Nigel Chapman, Barrie Cook, Robert Davidson, Beverly Davies, Andrew Ellis, Annie Feltham, Bill Frame, Ray Gamble, Dominic Graham, Annesley Hardy, Marcus Harrington, Dave Harris, Julia Havis, Peter Higgins, Theresa Higgins, Cyril Liddy, Sue Lissimore, Fiona Maclean, Kim Naish, Nigel Offen, Gerard Oxford, Philip Oxford, Will Quince, Peter Sheane, Paul Smith, Dennis Willetts, Julie Young and Tim Young.

AGENDA - Part A

(open to the public including the press)

Members of the public may wish to note that Agenda items 1 to 6 are normally brief and agenda items may be considered in a different order if appropriate.

An Amendment Sheet is available on the Council's website by 4:30pm on the day before the meeting (see Planning and Building, Planning Committee, Planning Committee Latest News). Members of the public should check that there are no amendments which affect the application in which they are interested. Members of the public please note that any further information which they wish the Committee to consider must be received by 5pm two days before the meeting in order for it to be included on the Amendment Sheet. With the exception of a petition, no written or photographic material can be presented to the Committee during the meeting.

1 Welcome and Announcements

- a) The Chairman to welcome members of the public and Councillors and to remind all speakers of the requirement for microphones to be used at all times.

(b) At the Chairman's discretion, to announce information on:

- action in the event of an emergency;
- mobile phones switched to silent;
- the audio-recording of meetings;
- location of toilets;
- introduction of members of the meeting.

2 Have Your Say! (Planning)

The Chairman to invite members of the public to indicate if they wish to speak or present a petition on any of the items included on the agenda. You should indicate your wish to speak at this point if your name has not been noted by Council staff.

These speaking provisions do not apply in relation to applications which have been subject to the Deferral and Recommendation Overturn Procedure (DROP).

3 Substitutions

Members may arrange for a substitute councillor to attend a meeting on their behalf, subject to prior notice being given. The attendance of substitute councillors must be recorded.

4 Urgent Items

To announce any items not on the agenda which the Chairman has agreed to consider because they are urgent, to give reasons for the urgency and to indicate where in the order of business the item will be considered.

5 Declarations of Interest

The Chairman to invite Councillors to declare individually any interests they may have in the items on the agenda. Councillors should consult Meetings General Procedure Rule 7 for full guidance on the registration and declaration of interests. However Councillors may wish to note the following:-

- Where a Councillor has a disclosable pecuniary interest, other pecuniary interest or a non-pecuniary interest in any business of the authority and he/she is present at a meeting of the authority at which the business is considered, the Councillor must disclose to that meeting the existence and nature of that interest, whether or not such interest is registered on his/her register of Interests or if he/she has made a pending notification.
- If a Councillor has a disclosable pecuniary interest in a matter being considered at a meeting, he/she must not participate in any discussion or vote on the matter at the meeting. The Councillor must withdraw from the room where the meeting is

being held unless he/she has received a dispensation from the Monitoring Officer.

- Where a Councillor has another pecuniary interest in a matter being considered at a meeting and where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the Councillor's judgement of the public interest, the Councillor must disclose the existence and nature of the interest and withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.
- Failure to comply with the arrangements regarding disclosable pecuniary interests without reasonable excuse is a criminal offence, with a penalty of up to £5,000 and disqualification from office for up to 5 years.

6 Minutes of 30 July 2015 17 - 24

To confirm the minutes of the meeting held on 30 July 2015.

7 Planning Applications

In considering the planning applications listed below, the Committee may choose to take an en bloc decision to agree the recommendations made in respect of all applications for which no member of the Committee or member of the public wishes to address the Committee.

7.1 146486 Land at Stane Park, Stanway 25 - 62

Development of one pub/restaurant (with ancillary residential accommodation) and two restaurant units, with associated car parking, landscaping and 'cart lodge'

7.2 150945 Land at Stane Park, Stanway 63 - 90

Proposed development of one restaurant unit and two drive-thru restaurant/cafe units (which will also facilitate the consumption of food and drink on the premises), with associated car parking, landscaping, access and servicing.

7.3 151540 37-41 Layer Road, Colchester 91 - 98

Change of use to A2 financial and professional services

7.4 151672 Stanway Rectory, Church Lane, Stanway 99 - 106

Demolition of outbuildings and construction of single storey and two storey extensions. (Resubmission of application 150746)

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| 8 | Affordable Housing Contributions | 107 - |
| | See report by the Head of Commercial Services | 110 |
| 9 | Exclusion of the Public (not Scrutiny or Executive) | |
| | In accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972). | |

Part B

(not open to the public including the press)

Planning Committee

Thursday, 30 July 2015

Attendees: Councillor Peter Chillingworth (Group Spokesperson), Councillor Jackie Maclean (Member), Councillor Helen Chuah (Member), Councillor Jon Manning (Chairman), Councillor Laura Sykes (Group Spokesperson), Councillor Pauline Hazell (Member), Councillor Brian Jarvis (Member), Councillor Michael Lilley (Member), Councillor Jessica Scott-Boutell (Deputy Chairman), Councillor Patricia Moore (Member), Councillor Jo Hayes (Member)

Substitutes: Councillor Dave Harris (for Councillor Rosalind Scott)

186 Site Visits

The following members attended the formal site visit: Councillors Chillingworth, Chuah, Hayes, Jarvis, Manning, Moore, Scott-Boutell and Sykes.

187 Minutes of 25 June 2015

The minutes of the meeting held on 25 June 2015 were confirmed as a correct record.

188 151298 Castle Park, High Street, Colchester

The Committee considered an application for the provision of a Winter Wonderland and Ice Rink with Germanic chalets selling traditional Christmas items at Castle Park, High Street, Colchester. The site would open on 26 November 2015 and close on 3 January 2016, opening times to be 10am until 10pm each day apart from Sundays when it would close at 9pm. The application had been referred to the Committee because it had attracted objections. The Committee had before it a report and amendment sheet in which all the information was set out. The Committee made a site visit in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site.

Alistair Day, Principal Planning Officer, presented the report and assisted the Committee in its deliberations. He explained that the report contained a typing error in Condition 9 and he was proposing an additional condition to provide for noise emissions from the site to not exceed 5dB(A) above background noise levels at all the site boundaries

Ben Payne addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that he had worked with various Council officers over the last year to develop a plan that would work

commercially as well as for the benefit of the residents of the town. The design and layout of the proposals had been the subject of detailed discussions to reach a satisfactory proposal for all and he confirmed that he was happy to work within the 5dB(A) threshold now being suggested. He confirmed that access to the site at night would be from the High Street only and a detailed transport and parking plan would be drawn up prior to the operation commencing. In addition there had been detailed negotiations to ensure there would be no damage to the Castle Park grounds. He believed the proposal would bring a feel good factor to the town and it was likely that an increase in trade in the order of 10 -15% would result.

One member of the Committee voiced concern about the increased commercialisation of the Park in a similar way as experienced with the recent installation of a large TV screen and she was concerned about the potential negative impact on residents in the vicinity of the Park. She questioned what mechanisms would be in place to assist residents if problems did occur.

Other members generally welcomed the proposal as an exciting opportunity for residents so long as adequate mitigation could be provided to prevent nuisance for nearby neighbours. Reference was made to the need for diesel spillage from generators to be discounted and the time to be allowed for clearing of the Park at the end of each day.

The Principal Planning Officer acknowledged the need for residents living nearby to be safeguarded and indicated that the additional condition to address noise at the site boundaries would achieve adequate mitigation. He confirmed the possibility of adding a 30 minute period to the hours of operation condition to provide for clearance of the site each day, that the generators being used were all fitted with spillage capacities and that the proposal currently included operation on Christmas Day which could be excluded by condition. He also confirmed that the serving of alcohol on the site would be governed by statutory Licensing restrictions.

Sam Riley, Environmental Protection Officer, attended to assist the Committee in its considerations. She explained that the noise threshold to be imposed would be similar to a low murmuring office environment. The Council's Environmental Protection Team did not provide a 24 hour service to the public but the team would be undertaking ad hoc monitoring and for problem reporting the local residents could contact the Council's night time duty service.

RESOLVED (ELEVEN voted FOR and ONE AGAINST) that the planning application be approved subject to the conditions set out in the report with the deletion of the word 'not' in Condition 13; an additional condition to provide, prior to the opening of the proposal, for noise emissions from any generator on site to not exceed 5dB(A) above background noise levels at all site boundaries and the amendment of Condition 9 to provide for the proposal to not be permitted to operate on Christmas Day and for the site to be vacated and secured by 22:30 hours Monday to Saturday and by 21:30 hours Sundays and Bank Holidays.

Councillor Chillingworth (in respect of his acquaintance with the applicant's father) declared a non-pecuniary interest pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered an application for the erection of a farm based Biogas digester and associated works at Fairfield's Farm, Wormingford. The application had been referred to the Committee because it was a Major application and material objections had been received. The Committee had before it a report and amendment sheet in which all the information was set out. The Committee made a site visit in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site.

Mark Russell, Principal Planning Officer, presented the report and assisted the Committee in its deliberations.

Dr Russell Cowan addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He explained that he was the owner of the property called Rochfords which was located about 500 yards from the application site. He cared about the countryside and was opposed to creeping industrialisation and crawling development. As such, he had been pleased that the urban design team had originally objected to the application, although this view had been subsequently revised to one of approval. He considered there was an unresolved issue in relation to the delivery of crops to the site. Although he considered himself to be a supporter of renewable energy schemes, he was of the view that the scheme proposed would mainly benefit the applicant whilst local residents would be considerably adversely affected by the odour from silage.

Robert Strathern addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that his family had lived and farmed in Wormingford since the 1930s. The current proposal was a farming diversification project which was intended to improve renewable gas and energy consumption. He considered this proposal to be ideally located on a disused airfield which had been designed in order to reduce any visual impact locally. The number of vehicle movements was anticipated to reduce from current levels, additional employment opportunities would result whilst the proposal would also produce fertiliser for use on the farm, thus having the effect of increasing the sustainability of the whole proposal. He considered the proposal complied with the National Planning Policy Framework (NPPF), it had received support from the Parish Council as well as local residents and traffic levels would be reduced. He confirmed that he had visited two similar biogas sites and he was of the view that odour would not be a problem for neighbouring residents.

Councillor Chapman attended and, with the consent of the Chairman, addressed the Committee. He acknowledged the concerns expressed by Dr Cowan but was of the view

that the site was an ideal location for this type of proposal. Although the site overlooked the Stour Valley, he considered that the mitigation proposed would benefit the area in due course. He considered the officer's report was well written but explained the difficulty for the public in following the progress of the application on the Council's website, through various stages of negotiation, although he was not sure how this could be improved upon. He asked for an assurance that the landscape plan would be maintained and for the planting to be tended through to maturity.

The Principal Planning Officer confirmed his view that the mitigation proposals would make the scheme acceptable which was in accordance with the principles of the NPPF that proposals should be approved where they could be made to be acceptable. He also confirmed that most or all crops for the biogas digester would be grown onsite but this could not be insisted upon and no condition should be imposed and the landscape conditions would be the subject of monitoring by the Council's Landscape Officer.

Sam Riley, Environmental Protection Officer, attended to assist the Committee in its considerations. She had visited a biogas digester site in Elmstead Market and confirmed odour was not detectable beyond a few metres away and she had consulted Environmental Protection colleagues at North Norfolk District Council who had confirmed that they had received no complaints in relation to biogas digester sites within their boundaries.

Members of the Committee welcomed renewable energy proposals which helped to combat the burning of fossil fuels. The application accorded with the NPPF as well as local planning policies, whilst the mitigation proposals would ensure that the buildings would be hidden by existing buildings and existing and new planting. The site visit had also confirmed to them that neighbouring Listed Buildings would not be seriously affected by the scheme and the evidence presented by the Environmental Protection Officer had confirmed that odour was not a problem associated with these types of initiative.

In response to specific issues raised, the Principal Planning Officer confirmed that a condition had been proposed for the proper provision of archaeological investigation to take place on the site and he advised the addition of a further condition to provide for the retention and maintenance of the existing hedgerow around the site.

RESOLVED (UNANIMOUSLY) that the planning application be approved subject to the conditions set out in the report and the amendment sheet, together with an additional condition to provide for the retention and maintenance of the existing hedgerow around the development site.

190 150213 Land west of 58 Queens Road, Wivenhoe

Councillor Lilley (in respect of his acquaintance with the applicant's agent) declared a non-pecuniary interest pursuant to the provisions of Meetings General

Procedure Rule 7(5).

The Committee considered an application for the erection of a detached dwelling with associated parking facilities, a resubmission of application 112284 at land west of 58 Queen's Road, Wivenhoe, Colchester. The application had been referred to the Committee at the request of Councillor Scott. The Committee had before it a report and amendment sheet in which all the information was set out. The Committee made a site visit in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site.

Sue Jackson, Principal Planning Officer, presented the report and, together with Simon Cairns, the Planning Project Manager, assisted the Committee in its deliberations.

Chris Singleton addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He explained that he was representing the Queens Road Residents Association. Planning applications had been submitted for the site consistently since 2008 and strong objections had been made each time on the grounds that the site as known to be subject to problems of flooding. The flooding problem tended to improve when the drain and surface drainage was kept clear. The proposal would require the continued application of a maintenance agreement, including transference in the event of the ownership of the property being changed. He also voiced concerns about the ultimate responsibility for the flood risk at the site and the fact that the Environment Agency had indicated its removal of objections on the basis of the Council's satisfaction that the development would be safe for its lifetime. In addition, he referred to the unspecified maintenance regime for the Town Drain, bearing in mind its history of regularly becoming overgrown. Finally he mentioned the sighting of stag beetles in Queens Road and his view that the development was not in keeping with the surrounding area.

Alan Sherwood addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that he was a Wivenhoe resident who ran his own business in the area. He had bought the site 7 years ago, had completed the renovation of the bungalow and had sought advice regarding the potential to develop part of the original garden as an infill plot. A flood assessment of the site had been undertaken at a cost of £15,000, following which an application had been submitted for a bungalow designed as a transition between the old and new properties in Queens Road. He considered he had complied with advice given to him by the Planning officers and asked the Committee to support the proposal.

Councillor Liddy attended and, with the consent of the Chairman, addressed the Committee. He explained that the Committee was a quasi-judicial body which posed a duty on its members to act reasonably. Accordingly, it was not unreasonable for the Committee to contradict officer's recommendations on certain occasions. He observed that applications for the development of this site had been considered on a number of occasions but questions still remained to be resolved. He referred to the views of the

Environment Agency which had removed its objection subject to the Council being satisfied as to the safety of the development for its lifetime. He considered this to imply an area of doubt with any risk associated with the proposal being passed to the Council. He was of the view that the Environment Agency may well be unfamiliar with the flooding solution being proposed and he was not aware that any evidence had been presented to demonstrate that the solution would work and the impact of any failure leading to flooding would fall on neighbouring properties. He concluded that there was a failure on the part of the statutory bodies to take responsibility for the potential flooding issue.

The Principal Planning Officer explained that the river and surface water was not the responsibility of the applicant and that the potential flooding issue would remain whether the development proceeded or not. The proposal would not lead to a reduction in the flood plain, the safety of the occupiers of the proposed dwelling was being protected by means of the raising of the ground floor levels and the maintenance programme for the void beneath ground floor, which would form part of a legal agreement, would require probably no more than a biennial flushing out of the void.

Members of the Committee acknowledged the measures taken by the applicant to provide mitigation for flooding issues along with the contribution of the Environment Agency and the Highway Authority in ensuring the Town Drain and the surface water drainage was adequately maintained. However, the Committee also queried the views expressed by the Environment Agency and sought reassurance in relation to the Council's potential Emergency Planning liability and the safety of future occupiers of the dwelling if approval for the scheme was granted

The Planning Project Manager was of the view that the Council could not be held liable if it could demonstrate that it had acted reasonably in all the circumstances. However, he advised that legal advice could be sought in order to clarify this issue.

RESOLVED (SEVEN voted FOR, FOUR voted AGAINST and ONE ABSTAINED)) that –

- (i) The planning application be deferred for officers to seek a legal opinion regarding any liability arising from a grant of consent, in relation to flooding risk
- (ii) Subject to the legal advice referred to in (i) above confirming no identified risk, and, subject to the signing of a legal agreement under Section 106 of the Town and Country Planning act 1990 within six months from the date of the Committee meeting to secure the submission of a maintenance schedule for the void and trash screens and agreement to the legal responsibility for implementing the maintenance schedule for the life of the property, the Head of Commercial Services be authorised to approve the application subject to the conditions set out in the report.

191 143704 Rowhedge Business Park, Fingringhoe Road, Rowhedge

Councillor Lilley (by reason of his having expressed a prejudicial view on the application) declared an interest pursuant to the provisions of Meetings General

Procedure Rule 9(5) and left the meeting during its consideration and determination.

The Committee considered an application for the change of use of land to a plant hire business at Rowhedge Business Park, Fingringhoe Road, Rowhedge. The application had been referred to the Committee at the request of Councillor Lilley. The Committee had before it a report and amendment sheet in which all the information was set out.

RESOLVED (UNANIMOUSLY) that the planning application be approved subject to the conditions set out in the report and the amendment sheet.

192 150923 31 Marlowe Way, Colchester

The Committee considered an application for a front extension and single storey rear extension at 31 Marlowe Way, Colchester. The application had been referred to the Committee at the request of Councillor Buston. The Committee had before it a report and amendment sheet in which all the information was set out.

Eleanor Moss, Planning Officer, presented the report and assisted the Committee in its deliberations.

Stuart Wilsher addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He explained that he was representing the views of Mr and Mrs Biggs of 29 Marlowe Way who were concerned that the proposed development would cause harm to the locality as it would stand apart from neighbouring properties and be out of character. He was of the view that the proposal was not in accordance with the Council's policies and it would have a negative impact with blank and oppressive views. He also pointed out that a similar scheme had been refused permission earlier in the year

Councillor Buston attended and, with the consent of the Chairman, addressed the Committee. He confirmed that he had called in the application but this was done on behalf of the residents and not because he had formed a view on the application's merits. He referred to the 'stepping forward' of the property some metres beyond the original building line as well as the new front roof area which did not include any barrier protection which he considered to be an anomaly.

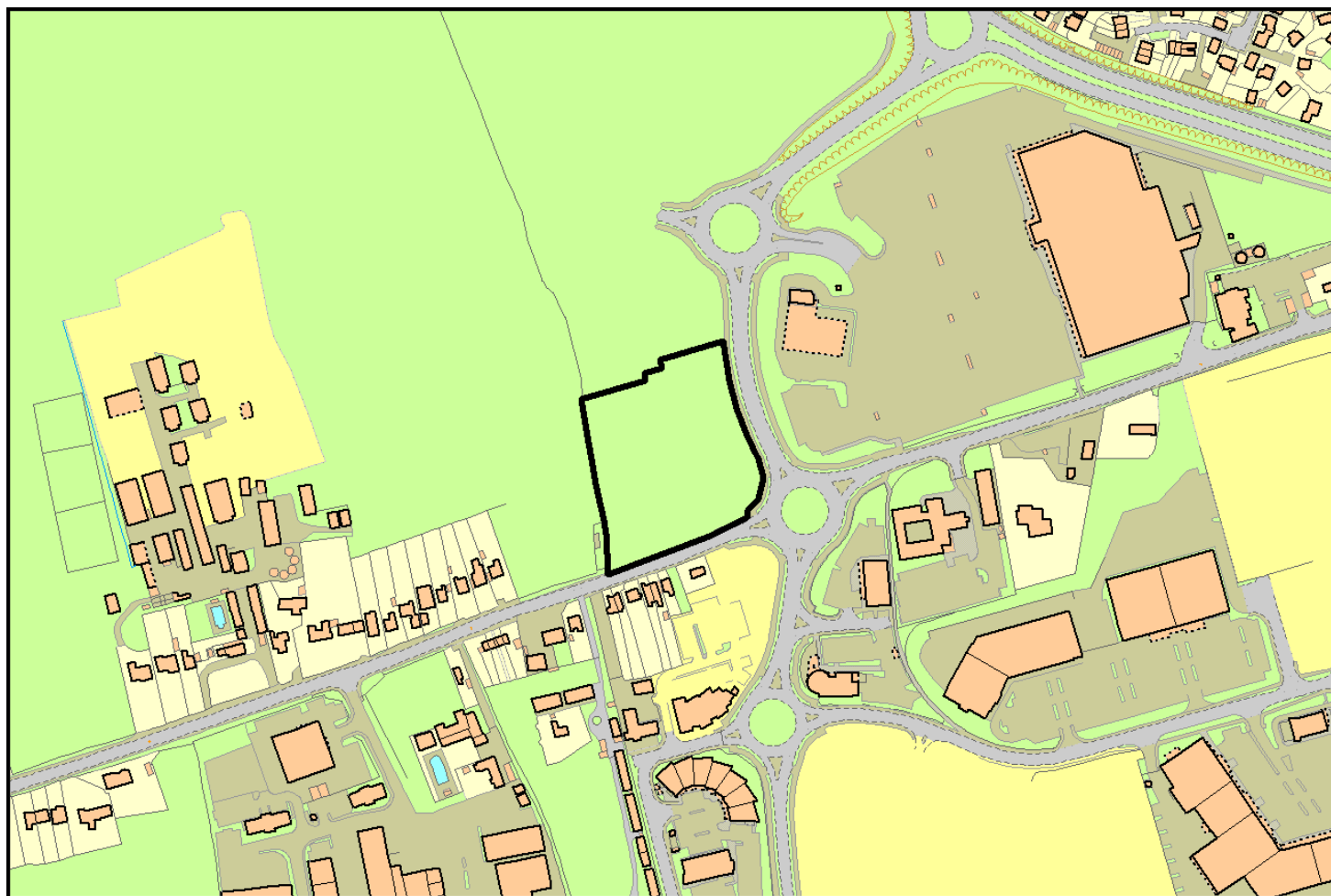
The Planning Officer explained that the flat roof element of the development would include balustrading to the door, the recognised Design Guidance tests for overlooking had not been infringed and the proposal did not extend development beyond the building line.

RESOLVED (ELEVEN vote FOR and ONE voted AGAINST) that the planning application be approved subject to the conditions set out in the report.

193 150605 129 High Road, Layer de la Haye

The Committee considered an application for a first floor extension to an existing bungalow at 129 High Road, Layer de la Haye, Colchester. The application had been referred to the Committee because the agent for the applicant worked as a consultant for Colchester Borough Council. The Committee had before it a report in which all the information was set out.

RESOLVED (UNANIMOUSLY) that the planning application be approved subject to the conditions set out in the report.



Application No: 146486

Location: Land at Stane Park, Colchester, Essex, CO3 0NU

Scale (approx): 1:2500

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Committee Report

Agenda item

7

To the meeting of **Planning Committee**
on: **17 September 2015**
Report of: **Head of Professional/Commercial Services**
Title: **Planning Applications**

7.1 Case Officer: Vincent Pearce

MAJOR

Site: Land at Stane Park, Stanway Colchester, Essex, CO3 0NU
Application No: 146486
Date Received: 19 December 2014
Agent: Mr Edmond Barrett, MRPP
Applicant: The Churchmanor Estates Company Plc
Development: Development of one pub/restaurant (with ancillary residential accommodation) and two restaurant units, with associated car parking, landscaping and 'cart lodge'.
Ward: Stanway

Summary of Recommendation: Refusal

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it is a Major application and is considered controversial by reason of conflict with the adopted policy framework and representations received. The proposal represents a departure from the adopted local plan.

2.0 Synopsis

2.1 The main, but not the only, planning issues raised by this application are:-

- Planning policy implications for the Council's employment strategy posed by the loss of designated strategic employment zone land to uses that are not supported within such designated sites and the adverse impact on the vitality of the town centre.
- The relationship of the proposed development to the Council's retail policies. (note the application sits outside of the Tollgate UDC) and whether any harm arises as a result.
- Highway capacity and highway safety implications resulting from the likely traffic generated by the proposal.
- Design quality and the impact of the development on the character of the area and the setting of the listed cottage 'Foakes' on the south side of London Road
- The nature and extent to which the proposed uses are likely to impact the amenity of existing and planned adjoining residential properties.

3.0 Site Description and Context

3.1 This broadly square site sits at the southern end of the wider site known as 'Stane Park' immediately west of the northern leg of the Stanway Western By-pass. Its southern edge fronts London Road and its western extent abuts the Wyvern Farm site. It is largely flat with a hedge line on its western boundary.

4.0 Description of the Proposal

4.1 This development represents the proposed first phase (described here as Phase 1A) of a much larger site known locally as Stane Park.

4.2 The development comprises the construction of three new buildings to provide the following mix of uses:-

- pub/restaurant: 672sq.m. with ancillary residential accommodation
- 2x restaurants: 650sq.m. (total)
- associated car park
- landscaping
- altered vehicular access

4.3 The applicant has offered to implement a programme of highway improvements to London Road and parts of the By-Pass/London Road roundabout to mitigate congestion. This has arisen since the opening of the Stanway Western By-Pass, and is adversely impacting on the amenity enjoyed by local residents. This unsolicited offer is made by the applicant on the basis that this and the concurrent Phase 1b application (ref: 150945-also on this agenda) are approved.

- 4.4 The applicant's agent has stated that the proposed development/s in themselves do not generate a need to undertake the wider highway improvement works being offered to make the proposed development acceptable. The 'wider highway works offer' is therefore being freely made to respond to local objections based on the problems associated with existing traffic congestion.
- 4.5 Members are therefore advised that in considering the merits of the proposal before them 'the wider highway works offer' does not and cannot constitute a material planning consideration in the determination of this application. This is largely due to the fact that the applicant has stated that the proposed development does not relate to the proposal at hand and therefore the Council should ignore the offer on the basis that such a contribution fails the crucial CIL regulation tests insofar as it does not mitigate the impact of the development now proposed.
- 4.6 Members are reminded of the relevant key wording in the Regulations:-

Community Infrastructure Levy Regulations 2010 (as amended) - The C.I.L. tests for S106 Agreements.

PART 11, Regulation. 122.

(1) This regulation applies where a relevant determination is made which results in planning permission being granted for development.

(2) A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is -

(a) necessary to make the development acceptable in planning terms;

[Officer comment: The wider highway works are not required to make the development acceptable in planning terms because Essex County Council as local highway authority has not objected to the development on highway impact grounds but has welcomed the offer to resolve historic highway issues created by the opening of the western by-pass]

(b) directly related to the development; and

[Officer comment: by the same token and as stated by the applicant's agent the wider highway works offer is not directly related to the development because they are confident that the proposed access arrangements onto/from London Road with the potential for future access management from the planned access from the north are appropriate to safely handle all traffic generated by the proposed development.]

(c) fairly and reasonably related in scale and kind to the development

[Officer comment: as the applicant's agent has rejected that there is a direct link between the wider highway works offer and the proposed development it is considered that anything over the necessary alterations to the London Road access to the site anything more cannot be said to fairly and reasonably relate in scale and kind to the proposed development.]

- 4.7 Therefore as with any planning application Members must, having regard to all material planning considerations, including the professional advice offered within this report, determine whether the recommendation offered reflects the weighting that Members give to all of the relevant considerations. In doing this it is reiterated that Members cannot have regard to the 'wider highway works offer'.
- 4.8 Officers do not feel the recommendation offered at the end of this report is 'on balance' as the policy objection is so strong as there is a clear conflict with the adopted local plan. Planning law (section 38(6) of the Planning & Compulsory Purchase Act 2004) requires that applications for planning permission must be determined in accordance with the development plan (adopted local plan) unless material considerations indicate otherwise.
- 4.9 The full text of all of the supporting material received is available to view on the Council's website.
- 4.10 The applicant has submitted supporting letter in which he describes the state of the economy and business market sector in Colchester based on his experience of developing employment uses in the Town. He makes a case for allowing this development as a departure. That letter is reproduced in the appendix.
- 4.11 The application is supported by a range of documents including design brief; archaeological assessment; planning statement; lighting strategy, health impact assessment; heritage statement; sustainability statement; employment land assessment, ecological assessment, and transport assessment.

5.0 Land Use Allocation

5.1 Strategic Employment Zone

5.2 Employment Zone

5.3 Stanway Growth Area

- 5.4 This development does not affect a designated Public Right/s of Way (PROW). The closest designated public footpath to the site is FP4 which runs southwards from the south side of London Road opposite Wiseman's.

- 5.5 This site sits within a wider area identified by Nathaniel Lichfield & Partners in a report entitled "Colchester Employment Land Needs Assessment| January 2015" commissioned by the Council, as the second most important strategic employment land in the Borough behind North Colchester. Out of a possible maximum score of 30 Stane Park achieved a rating of 23. Ahead was North Colchester with scores of 26 [Cuckoo Farm]; Colchester Business Park [24] and Severalls Industrial Park [24]. Members will know that Severalls Industrial Park is an older existing development whereas Colchester Business Park is a more recent largely established development with some remaining plots and Cuckoo Farm is largely undeveloped, forming as it does a central component of the Northern Gateway Framework Area.

- 5.6 Members may also know that the applicant for this development, 'Churchmanor' is the same developer as built out and continues to develop the Colchester Business Park and has a long record of development in Colchester.

6.0 Relevant Planning History

- 6.1 This and the wider Stane Park site was the subject of a major outline planning application for employment zone uses (and hotel) in 2006 which received a resolution to grant permission subject to a s106 agreement. As the S106 agreement was never completed by the then applicant no permission was issued and the proposal fell away. The application and associated S106 were specifically to address a need for incubator and grow on space for employment.

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 also be taken into account in planning decisions and sets out how the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

- 7.2 Of particular relevance are the following Sections of the NPPF:-

1. Building a strong, competitive economy
2. Ensuring the vitality of town centres
3. Supporting a prosperous rural economy [relevance -beyond urban Stanway]
4. Promoting sustainable transport
5. Requiring good design

- 7.3 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations

[Officer comment: this identifies part of Stanway as Stanway Growth Area (SGA). The application site is within the SGA.

Within SD1 the Councils stated strategy for sustainable development within SGA's is:

"Throughout the Borough, growth will be located at the most accessible and sustainable locations in accordance with the Settlement Hierarchy below and Key Diagrams... When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning policy Framework. It will always work pro-actively with applicants jointly to find solutions which mean that applications can be approved wherever possible and to secure development that improves the economic, social and environmental conditions in the area. Planning applications that accord with the policies in this Local Plan (and, where relevant, with policies in neighbourhood plans) will be approved without delay unless material considerations indicate otherwise.

Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise – taking into account whether

- Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the national Planning Policy framework taken as a whole: or
- Specific policies in that Framework indicate that development should be restricted.”

[Officer comment: There are policies relevant to this application within the Adopted Local Plan and the Adopted Local Plan is considered up to date although the applicant’s agent disputes this.]

In exploring the issues raised by this application the report will refer to the Local Plan Inspectors Report (8 May 2014) which examined the Focussed Review Draft Local Plan. Reference will also be made to a number of relevant appeal decisions.

SD2 - Delivering Facilities and Infrastructure

“...New development will be required to provide the necessary community facilities, open space, transport infrastructure and other requirements to meet the community needs arising from that proposal.....The Council will seek to ensure that new development makes a reasonable contribution to the provision of related facilities and infrastructure....”

This is relevant in that the applicant argues that the development will provide leisure facilities for local people and will complement activity within the nearby but not adjacent Urban District Centre. This report will explore the extent to which that may be true. In terms of the facilities and infrastructure delivered by this proposal there is little within the examples cited within SD2 that apply. (SD2 does however make it clear that the examples are not exclusive).

- Affordable housing [officer comment: not relevant as proposal does not relate to housing]
- Transport infrastructure and services [officer comment: relevant in terms of travel packs and bus stop works and requirements of ECC highways as related directly to the development] [the offered wider highway works are not a material consideration]
- Open space, sport and recreation [officer comment: limited relevance as the scheme does include some private open space for public enjoyment but this is largely related to the adjacent commercial uses]
- Community facilities [officer comment: not relevant as no community facility is offered within the development and nor is a requirement generated by this type of use]
- Primary and secondary schools [officer comment : not relevant as the proposal does not include residential development - the driver for school places]
- Public realm improvements [officer comment: only relevant in the sense that the scheme includes new public realm and public art where none currently exists]

rather than the proposal including improvements to existing poor quality public realm]

- Renewable energy and sustainable construction [officer comment: relevant in the sense of contributing to the sustainability of the development where and if sustainable building techniques or generation measures are being employed]
- Flood mitigation measures [officer comment: not relevant as the development is not within flood zone 2 or 3 and the proposal itself is unlikely to pose a flood risk because suitable drainage arrangements will be made.
- Employment and training schemes [officer comment: relevant in that the proposal will generate new jobs and the applicants have indicated a willingness to work with the Council in participating in initiatives to improve the employability of local unemployed people with a view to opening job opportunities within the development if approved.].

CE1 - Centres and Employment Classification and Hierarchy

This identifies the site and wider area as Strategic Employment Zone and Local Employment Zone . The explanation for this policy and accompanying table CE1a centres classification and hierarchy states that

“Employment Zones are located at the fringe of urban areas and are supported by strategic road infrastructure. Employment Zones will accommodate business developments that are less compatible with mixed use areas, such as warehousing and industry.”

It is the same policy that identifies part of Tollgate (but not the application site or the wider Stane Park site) as an Urban District Centre.

CE2a - Town Centre [officer comment : relevant in terms of assessing the impact of the proposed Development on the vitality and viability of the town centre

CE2b - District Centre – [officer comment : relevant in terms of understanding the role and function of an Urban District Centre (part of Tollgate) and assessing whether the proposed development of pub and restaurants within Stane Park can reasonably be justified in terms of policy CE2b.

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 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):

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
DP25 Renewable Energy

- 7.4 Further to the above, particular regard should be given to the Adopted Site Allocations (2010) policies set out below:

SA STA1 Appropriate Uses within the 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 Guidance/Documents:

- Stanway Joint Design Statement and Village Plan (March 2011)
- Vehicle Parking Standards (September 2009)
- Sustainable Construction (June 2011)
- Cycling Delivery Strategy (January 2012)

and the following Guidance Notes:-

Tollgate Vision Statement (July 2013)

8.0 Consultations

- 8.1 The Council's Planning Policy team objects and their detailed response is quoted in full further below as it explores the complex policy issues that sit at the heart of the consideration of the planning merits of the proposal.

- 8.2 In summary it is considered that the loss of this allocated strategically important employment zone land to the proposed policy non-compliant uses will undermine the Council's long-term employment strategy ultimately to the detriment of the economic sustainability of the town. The full comments are reproduced below.

“Policy designation

1. The application site is identified on the Local Plan Proposals Map as employment land within the Stanway Strategic Employment Zone (SEZ).

Policy context

2. At the heart of the National Planning Policy Framework (NPPF) is a presumption in favour of sustainable development; the NPPF makes clear that where development is in accordance with the development plan, it should be approved without delay (paragraph 14). The NPPF is also clear that proposed development which conflicts with the Local Plan should be refused unless other material considerations indicate otherwise (paragraph 12). The second part of NPPF paragraph 14 defines the approach to be taken in decision making in cases where the development plan is absent, silent or relevant policies are out-of-date. The Local Plan for Colchester is neither absent, silent, nor out-of-date.
3. It is important to note that the Inspector for an appeal at Tollgate, Stanway (May 2014, ref. APP/A1530/A/14/2212689) assessed the proposed development against the Local Plan centres and employment policies, and did not highlight any inconsistencies with the NPPF. The Local Plan Focused Review Inspector's post-hearing note, which the applicant refers to in their Employment Land Assessment document (paragraphs 2.31-2.33), was published in January 2015, prior to the issue of this appeal decision. The principal of the proposed development has, therefore, been assessed against the local policies set out within Colchester Borough's Local Plan and national policy set out in the NPPF.

Assessment

Achieving sustainable development

4. Policy SD1 of the Local Plan (as amended 2014) states that “*Throughout the borough, growth will be located at the most accessible and sustainable locations in accordance with the Settlement Hierarchy... Development proposals will be expected to make efficient use of land and take a sequential approach that gives priority to accessible locations and previously developed land (PDL).*” The issues raised here are discussed in more detail in the sections below, but it is clear that the proposed development of town centre uses on this site does not constitute the most accessible and sustainable location for such uses, and does not satisfy the requirement for a sequential approach that gives priority to accessible locations and previously developed land. The proposal thus conflicts with Policy SD1 – *Sustainable Development Locations* of the Local Plan, and would result in unsustainable development.

5. Paragraph 6 of the NPPF states that *“the purpose of the planning system is to contribute to the achievement of sustainable development”*. Paragraph 7 sets out that *“the planning system should contribute to building a strong responsive and competitive economy by ensuring that sufficient land of the right type is available at the right time to support growth and innovation”*. Paragraph 19 goes on to state that the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. It states: *“significant weight should be placed on the need to support economic growth through the planning system”*. Paragraph 20 states that in order to help achieve economic growth, *“local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century”*.
6. Land is allocated for employment use in order to contribute to the fulfilment of the NPPF objectives set out above. The allocation of Stane Park for employment use, a substantial greenfield site in its gateway location adjoining junction 26 of the A12, provides an ideal opportunity to serve the business needs and support the medium and long term sustainable economic growth of the Borough. Its allocation for B use employment purposes and its protection as such, helps to ensure the development of a diverse and resilient economy, in line with the NPPF. The allocation and protection of this site for employment uses will help to safeguard the ongoing overall sustainable growth and development of the Borough, providing the business and employment opportunities necessary to support housing growth. The loss of the site for alternative uses would be detrimental to this and would result in unsustainable development.

Safeguarding Employment Land

7. Policies CE1 and CE3 of the Local Plan set out the Borough's Employment Hierarchy and the expectations for these areas; the application site falls within a Strategic Employment Zone which sits at the top of the Employment Hierarchy. Policy SA STA3 of the Local Plan allocates the proposed development site for employment use and sets out the uses considered to be appropriate on that land. Policy DP5 also sets out appropriate uses and aims to safeguard employment land for these purposes. The application for restaurant uses does not fall within the appropriate uses set out within the Local Plan policies. The protection of the land for employment use is tested below; for the avoidance of doubt, this has been carried out in accordance with NPPF policies.
8. Paragraph 22 of the NPPF states: *“planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits...”*

9. In 2014, Colchester Borough Council commissioned consultants, Nathaniel Litchfield & Partners, to undertake and produce an Employment Land Needs Assessment (ELNA). The final report was published in January 2015, meaning that the evidence available to support the assessment of this site, against the relevant policies, is up-to-date. The report forms a key part of the evidence base for the production of the new Local Plan and an important consideration in the assessment of this application.
10. Paragraph 8.23 of the ELNA states that *“it will be important to safeguard the Borough’s best employment sites, particularly in light of aspirations amongst some landowners for higher value non B class land uses”*. The factors that make the land attractive for employment use – a relatively large site, green field land and excellent access to the road network – are likely to be equally attractive to other uses that do not fit the Council’s longer term strategy, and so it is important that this employment land is protected from such losses to alternative uses. Stane Park is identified in the ELNA as a high quality employment development opportunity and for this reason it is vital that the planning system fulfils its role in taking an overarching, medium-long term approach, in order to ensure the overall and long-term sustainability of the Borough’s growth and development. It is essential that this site is protected for its designated employment use in order to support the development of the economy (both in size and diversity) and provide the jobs necessary to support housing growth.
11. Paragraph 8.48 of the ELNA recommends that the Council *“adopts a selective approach”* to safeguarding 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”*. Paragraph 8.49 goes on to state that *“such an approach could also support a pro-active strategy for attracting inward investment to the Borough, by retaining a portfolio of good quality development opportunities that are most likely to prove attractive to prospective firms. This most notably includes Stane Park, a 12.2ha site which benefits from a gateway location on the northern fringes on the Stanway SEZ, adjoining Junction 26 of the A12, providing scope for the site to create its own identity and profile as a business location”*. It is clear that the large, greenfield, and locational attributes of this site make it a prime employment location that will be well poised to serve future business and economic needs of the Borough. The site’s size means that it can serve a diverse range of employment requirements and this in itself is an important factor in its retention for such purposes.
12. Paragraph 8.22 of the ELNA states that *“future development of employment space in the Borough must build upon and take advantage of infrastructure improvements associated with the A12, and the additional economic opportunities that this enhanced connectivity will bring to Colchester not only by making the Borough’s locations more attractive (including to higher value occupiers and markets) but also by improving access to the workforce”*. Stane Park is in a locationally premium position in terms of connectivity and access, which is a

significant factor in the importance of retaining this valuable employment site for its allocated use.

13. The proposed A3/A4 uses are not locationally dependent on access to the principal road network in the way that “B” uses are, and especially in this case where the applicant argues that the proposed development will serve only the Urban District Centre and the Stanway area. Also, as individual businesses, the units do not require a large site. The loss of the application site, and potentially additional land at Stane Park, would materially diminish the availability of the best land for employment uses. It would also erode the future potential for the creation of a critical mass of employment development which is identified by the ELNA as an important issue for employment areas.
14. While it is noted that the ELNA identifies a likely over supply of employment land in the Stanway area, paragraph 7.29 of the report states that within the Stanway SEZ, *“those sites with the greatest prospect of coming forward for employment development in future – most notably Stane Park which benefits from an excellent location adjoining the A12 (jct 26) and greenfield status – should provide the focus for continued allocation”*. This highlights the hugely important consideration of the quality of available employment land, in addition to the issue of quantity, which, on its own, provides only a partial and simplistic view of the Borough’s employment land portfolio. It is clear from a simple review of the characteristics of the Stane Park site that it forms a highly valuable component of the Borough’s supply of strategic employment land.
15. Continuing with the point that quantity of supply is just one consideration in relation to employment land supply, paragraph 8.16 of the ELNA states - *“to ensure a flexible and responsive policy framework, it will be necessary not just to focus on meeting forecast quantitative requirements (which will fluctuate over time), but to think about the opportunities and risks that flow from particular policy approaches. This might concern... how scope can be created for meeting as yet undefined inward investment opportunities...”* Paragraph 8.17 goes on to state *“this requires choices in the Local Plan about which sites to protect or allocate for employment development... That judgement must ultimately take account of:*
 1. *The local benefits of B-class sectors and the need to maintain a diversified and resilient economy that is open to growth and new economic opportunities as they arise (as envisaged by the NPPF);*
 2. *The economic and other outcomes (e.g. labour market) if some sectors become displaced or are otherwise constrained from expanding within the Borough;*
 3. *The need to encourage the growth of high quality jobs within the Borough to address the disparity between resident employee earnings (higher) and workplace earnings (lower);*
 4. *The trade-off between seeking more intensive use of sites and thereby yielding higher net job creation over time, and identified business needs (as specified in the NPPF) which may for some*

activities or sectors imply a less efficient use of land in order to function effectively; and

5. *Maintaining a delivery trajectory for employment space with short, medium and longer-term opportunities over the life of the Plan.”*
16. The retention of the Stane Park site, a high quality employment site, for B use employment purposes, is critical to the considerations outlined in the ELNA, as set out above. The availability of this prime piece of employment land helps to ensure that the Borough has the ability to meet, as yet, undefined inward investment opportunities and to provide flexibility to meet economic development requirements in future years. Paragraph 4.28 of the ELNA refers to the mismatch between the current industrial property market and the returns that would be necessary to make new industrial development economically viable. It indicates that those locations and sites benefitting from excellent access to the A12 are most likely to provide viable development opportunities. It is not the case that because there may be viability issues with employment development at the current time, the situation will continue in perpetuity; given the highly favourable attributes of the Stane Park site, this is certainly not a basis on which its future should be determined. And, indeed, it is of note that the adjacent Tollgate West Business Park has seen a marked uplift over the past year. At the time the appeal decision (ref. APP/A1530/A/14/2212689), referred to above, was submitted, just one of the units had been let. One year on and 11 of the 12 units have been leased, demonstrating a significant improvement in the local commercial market.
17. The applicant puts forward the argument that the proposed development would result in the creation of jobs and, in so doing, would contribute to the Borough’s economy. It is clear that while it is the case that the proposal would create jobs, there are no unique requirements which result in the need for them to be specifically developed on a prime piece of land within one of the Borough’s Strategic Employment Zones.
18. The ELNA (paragraph 2.10) highlighted the fact that workforce job growth has historically lagged behind working-age population growth in Colchester and identifies that significant levels of residential development is the cause of this, having outstripped employment growth. Paragraph 2.11 goes on to explain that this may, in part, explain the Borough’s continued role as a net exporter of labour, with residents increasingly required to look outside of the local employment in order to gain suitable employment roles. While providing land in itself does not create jobs, it is logical that in preserving land for employment purposes, it provides the opportunity for employment development. In contrast, the loss of a key piece of employment land would serve to nullify any such opportunity; thus perpetuating the trend whereby residents are increasingly required to look outside of the Borough for suitable employment.
19. The ELNA highlights (paragraph 2.12) that a significant proportion of employee growth in Colchester in recent years has been in part-time job roles (98.4% between 2001-2012) and suggests that this is another trend which helps to explain the growing imbalance between working age population and employment growth in Colchester. The ELNA

(paragraphs 2.31 and 2.43) also identifies that the types of jobs available locally are less well paid than elsewhere in the sub-region and beyond, and that many residents are commuting to higher paid jobs outside of the Borough. The proposed development would serve to perpetuate these trends and would diminish the opportunity to help reverse the trend through the loss of land on which the provision of alternative employment opportunities, offering a higher proportion of full time employment roles, could be accommodated. While this may not be possible in the short-term, it does not follow that it will not be possible in future years, and it would be imprudent to sterilise that possibility based on short-term indicators and current market conditions. The site's allocation for employment use provides an opportunity to make an important contribution to the overall composition and growth of the Borough's economy and to support its growing population.

20. Overall, in protecting this land at Stane Park for its allocated employment use, the Council is seeking to achieve delivery of sustainable development and sustainable economic growth over the lifetime of the plan, consistent with local and national planning policy.

Sequential Test

21. The second important consideration in relation to the principle of development of this site for the proposed uses is the issue of its location outside of an existing centre. Local Plan Policy CE1 sets out the Council's Centres hierarchy and Policy CE2b sets out the role of the Borough's Urban District Centres. The application site lies outside of an existing centre defined within the Local Plan Centres hierarchy. The proposed development has, therefore, been considered under the sequential test in the paragraphs below; for the avoidance of doubt this has been carried out in accordance with policies within the NPPF.
22. Paragraph 24 of the NPPF states that "*local planning authorities should 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. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered.*" It goes on to state that "*when considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre.*" Paragraph 27 states that "*where an application fails to satisfy the sequential test...it should be refused*".
23. The applicants have carried out and submitted a sequential test as part of the application. This suggests that the proposed uses are intended to serve the Stanway area and the Urban District Centre, and that, on this basis, it would not be appropriate to test sites in and around Colchester town centre as part of the assessment for this application. The National Planning Practice Guidance (PPG) states "*use of the sequential test should recognise that certain main town centre uses have particular market and locational requirements which mean that they may only be*

accommodated in specific locations. Robust justification must be provided where this is the case, and land ownership does not provide such a justification". Officers do not accept that the proposed development will serve only a local need and the needs of visitors to the Urban District Centre; the applicant's arguments to the contrary are unconvincing and hence not robust. The Stanway area does not form the relevant catchment; it is clear that the whole town, if not Borough, falls within the catchment of the proposed development.

24. The Stanway area already has a number of restaurants, coffee shops and pubs, including McDonalds, Costa Coffee, Sainsbury's café, two pubs, a Chinese restaurant, Chiquito, Frankie and Benny's, and the development of a drive-thru Costa Coffee is underway. It is not considered that Stanway requires the provision of three additional restaurants to serve the needs of the local community, or of those visiting the Urban District Centre. It is clear that this scale of restaurant development is not consistent with the role of an Urban District Centre in Colchester, as defined by the adopted Local Plan, but, rather, is of a scale appropriate for the main town centre.
25. The applicant's sequential assessment refers to Officer Reports relating to previous planning applications in the Stanway area. One of the quotes pulled out relates to the application for the Frankie and Benny's restaurant; the applicant quotes "*A restaurant in this area will complement the Retail Park...*". The key word in this quote is "*a*"; at no point has the Council considered it to be the case that the development of a series of restaurants would be complementary to the Urban District Centre; development of this scale would be stand-alone, rather than complimentary or supplementary to the Urban District Centre.
26. It is considered that the proposed development will result in the creation of a restaurant destination, attracting people from across the Borough and beyond. The proposed development of a further four restaurant units (as part of an imminent planning application which the applicants have notified the Council of), on the next phase of the Stane Park site, adds further support to the view that the development of the intended uses will lead to the establishment of a restaurant destination outside of an existing centre and on a key piece of strategic employment land. On the basis that the proposed development will serve a much wider catchment than the Stanway area, it is considered that the sequential test submitted as part of the planning application should have looked at Colchester town centre, not only sites around Tollgate Urban District Centre.
27. The application's sequential assessment concludes that of the three sites considered in the Tollgate area, Stane Park is the most sequentially preferable edge of centre site. However, this view is not shared by NLP (in the work they carried out in relation to an earlier draft of the sequential assessment), who noted the sequentially preferable characteristics of the former Sainsbury's site. The former Sainsbury's site is located directly opposite the core of Tollgate Urban District Centre, where the majority of the retail units are located; its immediate proximity meaning that the site is easily accessible by foot by visitors to the Urban District Centre. Work

undertaken by NLP notes that the former Sainsbury's site "*appears to have the best prospects for connecting with Tollgate Urban District Centre, i.e. retail parks fronting on Tollgate West...*" In contrast, the application site is some distance away from the core part of the Urban District Centre, detached from the majority of other facilities within the Urban District Centre. It is also separated by London Road, a busy B road linking to the A12 and the A120.

28. Paragraph 36 of the applicant's assessment states "*the London Road and Tollgate sites are configured such that the loss of such land would eat into their defined broadly square shapes. In both cases the effectiveness for development options of the balance of the sites would become sub-optimal.*" This, however, is not accepted to be the case.
29. The Sequential Assessment quotes the scoring of employment sites in the Council's 2007 employment land study, which identified Stane Park to be a lower quality employment location than the other sites included within the assessment, as a basis for suggesting that the alternative sites are less sequentially preferable than the application site. However, that document is outdated and circumstances on which the scoring was based have changed dramatically since that time, most notably the opening of the Western Bypass. The document has been superseded by the Council's 2015 Employment Land Needs Assessment, which identifies Stane Park as the premium employment site within the Stanway Strategic Employment Zone. In so doing, this negates the value and ranking attributed to the sites, or relied upon, in the applicant's sequential assessment.
30. There are a number of areas where it is apparent that the scores that the 2007 Study attributed to the Stane Park site, as compared with the Tollgate site, were based on circumstances which have either changed or which weigh against development of the site per se, rather than specifically for employment purposes. One such example is the score given for the site's unallocated greenfield status, which resulted in Tollgate scoring more highly against the assessment criteria, due to what was deemed to be its partial brownfield status. Another area which the Tollgate site was attributed a higher score was bus provision. As with the greenfield status, this is something that supported the development of the Tollgate site over and above the Stane Park site for development in general (including restaurant uses), not just for employment purposes. It is, however, likely to be the case that when development at Wyvern Farm takes place, Stane Park will be served with a bus service, meaning if reassessed against the same criteria, it would receive a higher score for this criterion.
31. Additionally, Stane Park was given a lower score than Tollgate due to the fact that it was not allocated for employment purposes at that time and would, therefore, be available in the medium term, rather than the short term, unlike Tollgate which was already allocated. Again, if reassessed against the same criteria, Stane Park would be scored equally with Tollgate. These points undermine the applicant's use of this 2007 scoring in support of their application.

32. A further point that is worth noting is that the *Colchester Employment Land Study for Stane Park Planning Application* report (October 2006) stated that “*the site’s location and accessibility are all conducive to a high quality business park location.*” Again, this undermines the applicant’s argument that the site is a less valuable employment site in justifying that Stane Park is a sequentially preferable site.
33. The Sequential Assessment submitted, fails to assess the relative accessibility of the sites and their connections to the Urban District Centre, with associated reasoning – a key component of the requirements of sequential assessment, set out in the PPG. As set out in preceding paragraphs, it is evident that sequentially preferable sites exist, even when looking only at the Stanway area and so, on this basis, the application fails the sequential test (this is in addition to the fundamental failure of the assessment to look at Colchester town centre sites).
34. Inherent in the arguments relating to the town centre first approach is the issue of travel and accessibility, and overall sustainability. In developing a restaurant hub in this location, away from Colchester town centre, it is inevitable that customers would travel by car. The proposed development in this location, far removed from Colchester town centre, is considered to be in conflict with paragraph 34 of the NPPF which states that “*decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised*”. The proposed development is also in conflict with Local Plan Policy SD1 which states that development proposals will be expected to make efficient use of land and take a sequential approach that gives priority to accessible locations. On this basis, and irrespective of whether or not the application site meets the sequential test, it is evident that the proposed development would amount to unsustainable development.

Conclusion

35. In assessing the principle of the proposed development in light of the information and evidence available, and in line with national and local policy, it is considered to be fundamentally important that the application site be retained for B use employment purposes, in accordance with its allocated use. It is also clear that the application conflicts with national and local town centre policies. And, importantly, it is evident that this is an unsustainable location for the proposed uses.
36. It is considered that the proposed development would result in harm, including: the detrimental impact that the loss of this valuable piece of employment land would have on the Borough’s economy in the medium and long term; the impact of reducing the supply of high quality employment land to provide appropriate employment opportunities to support housing growth; and the increase in car trips and associated sustainability impacts which would result from the location of town centre uses on this particular site, outside of an existing centre.

37. Overall, it is concluded that the proposed development would amount to unsustainable development that contravenes national policy contained within the National Planning Policy Framework and local policy contained within Colchester Borough's Local Plan. The harm that would result from the proposed development would outweigh any associated benefits. On this basis, and for the reasons set out above, there is a planning policy objection to this application."

.....end of policy response

- 8.2 The Council's **Archaeological Officer** confirms that the site has now been subject to a desk based assessment and by trial trenched evaluation. No further pre-determination evaluation is considered necessary. He recommends the addition of a condition requiring recording and advance the understanding of the significance of any heritage asset before it is damaged or destroyed.
- 8.3 The Council's **Licensing, Food and Safety Manager** makes the following general observation:
- "Looking at the planned layout the Licensing Team have concerns around the proximity in relation to the current housing and future housing and the issuing of Premises Licenses. The hours and what entertainment that can be provided would have to be assessed around the Prevention of Crime and Disorder and the control of Public Nuisance. WE would have regards to other premises in proximity to this
- 8.4 The Council's **Contaminated Land Officer**, having had regard to the submitted GeoEnvironmental Study, notes that the likely risk of contamination on the site is low and that the site could be made suitable for the proposed purpose. She recommends the addition of standard remediation conditions in the event that planning permission is granted.
- 8.5 The Council's **Landscape Officer** has objected to the proposed landscaping and has provided a detailed critique of the landscaping.
- [Officer comment: the proposed landscaping could be amended to provide a more suitable character to that being established within new development in this part of Stanway with the submission of amended drawings]
- 8.6 Essex County Council, as **Local Highway Authority**, states that the impact of the proposal is acceptable to the Highway Authority subject to conditions requiring suitable wheel cleaning facilities during construction, provision of shared footway/cycleway facilities to a width of 3m on the site's southern frontage and improvements on the sites by-pass frontage, site access improvements, upgrades to bus stops and a travel plan.
- 8.7 **Highways England** formally offers no objection.

9.0 Parish Council Response

9.1 Stanway Parish Council objects as follows:-

“After discussion it was RESOLVED that Stanway Parish Council **OBJECTS** to this proposal purely on the access to the London Road and the consequential increase in traffic. Stanway Parish Council believe a suitable alternative would be via a spur off of the Sainsbury’s roundabout”

10.0 Representations

10.1 Seven objections have been received from local residents on the following grounds (figure in brackets represents frequency with which concern was expressed)

- (5) adding to existing congestion
- (3) London Road access unacceptable when access can be achieved from the north
- (2) exacerbate flooding issues
- (1) clash of architectural styles

10.2 Three letters of support have been received. Two are non-specific and the third welcomes the increase in leisure facilities in Stanway.

10.3 Colchester Cycling campaign objects stating:-

“This application will further increase car dependence (and the associated problems of lack of accessibility, poor health and pollution) in the Colchester area. We recognise that this will provide employment and "choice" but this is likely to be at the expense of current facilities, not substantial economic growth. This "leisure hub" could have a substantial adverse effect on Colchester town centre as well as other local facilities in the area for which access does not require the use of a car.

Although cycle routes are provided within the site, there is poor accessibility. The cycle routes are shared-use when the ideal is that cycle paths are separate to pedestrian provision. The current cycle paths fail to protect cyclists (or provide subjective safety) where they most need it: at the entrances to roundabouts (see recommendation for realignment).

The greater part of this development site has exceptionally poor cycle links to neighbouring homes. When Sainsbury was developed, we asked for a tunnel from either Tollgate Drive, Meadow Grass Close, Marram Close or Woodrush End, but this request was ignored. This tunnel would have provided good pedestrian/cycle access from homes in Lucy Lane/Peace Road, as well as Eight Ash Green via the tunnel beneath the A12 and (eventually) Iron Latch Lane.

Before further consideration is given to this scheme, we request:

- a scheme for a bus hub and bus station to serve the entire retail/leisure site north of London Road

- a review of all pedestrian/bike links covering a two-mile radius of the site, including to the north and west (the A12 forms a barrier at present)

If you are minded to approve this scheme, we request:

- A contribution to future cycle provision in the area. including a tunnel beneath Essex Yeomanry Way

- The cycle route should continue along the southern edge of the site - preferably segregated from pedestrians - and a crossing provided across the development entrance road, aligned as at (Bracknell Forest) http://www.ciltuk.org.uk/Portals/0/Documents/The%20Hub/Design%20Toolkit/B02_Design_portfolio_road_crossings_side_roads.pdf (the cart lodge may need to be modified to increase visibility)

- : the geometry of the roundabout to the southeast of the site should be altered to slow traffic and allow safer crossings by foot/bike; the crossing should be realigned on both sides of the road so that there is no sharp turn on the approach to the junction, as at link above.

- The covered cycle parking should be positioned between the pub and unit one so that cyclists don't have to ride through the car park; if there is an intention to extend this site northwards, thought should be given to how cyclists will pass through the site without conflict with cars and pedestrians as they will - because of human nature - seek the shortest route."

10.4 Persimmon Homes has objected on the grounds of: loss of employment land (CE1 & CE3); inappropriate employment uses (DP5); non-conformity to Stanway specific policies.

10.5 M&G owners of Culver Square object on the grounds that

- The loss of employment land, contrary to Core Strategy Policies CE1, CE3 and Development Policy DP5;
- Failure to adequately undertake the sequential assessment to account for available and suitable sites within Colchester town centre, contrary to Core Strategy Policies CE1 and CE2a and the National Planning Policy Framework; and
- The cumulative impact of the proposed development, along with the planned development at Tollgate Retail Park on planned investment in Colchester town centre contrary to the National Planning Policy Framework (NPPF).

11.0 Parking Provision

11.1 The amended layout includes 159 car parking spaces (including 10 disabled spaces)

11.2 The Council's Adopted parking standards for A3 (restaurant), A4 (drinking establishment) and A5 (takeaway) uses set maximums but no minimum. The Council's standards in terms of maximum spaces are A3 & A4 uses - 1 space per 5sq.m. and A5 uses – 1 space per 20 sq.m.

- 11.3 Using the above formula the maximum number of spaces permitted by adopted policy is:-

$$650 \text{ sq.m.} \div 5 = 130$$

$$672 \text{ sq.m.} \div 5 = 134$$

$$\text{TOTAL} = 264$$

11.4 The proposal therefore conforms to adopted Council car parking policy

- 11.5 The Council's Adopted cycle parking standard requires a minimum of 1 bike space per 100sq.m for staff plus 1 space per 100 sq.m. for customers. (ie 2 spaces per 100 sq.m.) This results in a minimum requirement for 1322sq.m. $\div 100 = 13.2 \times 2 = 26$ spaces.

- 11.6 The proposed layout indicates 6 racks which equates to 12 bikes. **On this basis the proposal is deficient in cycle parking by 14 spaces.**

- 11.7 The number of motorbike spaces required to meet the Council's Adopted parking standards is a minimum of 9. Thirteen are proposed. **The proposal is therefore standard compliant in this particular regard.**

- 11.8 The number of disabled spaces required by the Council's Adopted parking standards for this development is 10. **The proposal provides ten spaces and is therefore standard compliant.**

12.0 Open Space Provisions

- 12.1 Whilst a development of this nature (non-residential use) does not trigger a policy requirement for open space the scheme does include new public realm associated with the commercial uses – in the form of hard surfaced pedestrian areas and patio garden areas.

13.0 Air Quality

- 13.1 The site is outside of any Air Quality Management Area and will not generate significant impacts upon the zones. (the closest is Lucy Lane north).

14.0 Development Team and Planning Obligations

- 14.1 Essex County Council as local highway authority sought and secured (if permission granted) a contribution of £25,000 towards local highway improvements.
- 14.2 Essex County Council as local education authority sought £58,000 towards early year's provision. This was rejected by DT. As unreasonable within the test prescribed by the CIL Regulations.

15.0 Report

Land Use – the principle

- 15.1 The applicant makes a strong case that if approved this development will generate jobs quickly as occupiers for the three units are already reportedly lined up to take up the floorspace. The occupiers being Bella Italia, Nando's & McMullens (pub/restaurant) . They estimate that 140 new jobs will be created by this first phase (1a) of development. That is 70 full-time and 70 part-time.
- 15.2 In assessing the merits of any commercial proposal the creation of new jobs is an important consideration particularly where Council's such as CBC are looking to create balanced, sustainable communities. It is here that careful regard must be given to the Council's Employment Zone Strategy
- 15.3 In particular the Council needs to consider what type of employment development the Council is looking to attract through its employment zone policies in areas such as the application site which are designated as strategically important.
- 15.4 The view from the Council's Planning Policy team is unequivocal. As the site and its wider Stane Park setting is identified as strategically important employment zone land the approval of non-business uses (which may generate higher land values and create jobs in the short-term) will make it increasingly difficult to maintain a coherent and meaningful medium to long-term employment strategy designed to bring higher quality and higher paid jobs to the town. The site's (and Stane Park generally) excellent accessibility to the A12 means that it will potentially be attractive as a high quality business park going forward despite current market fragility. Indications from elsewhere in Stanway suggest that take up rates are improving for business park uses.
- 15.5 It is true to say that the Council's Strategic Employment Zone policy cannot guarantee that high quality business (B use) jobs will be attracted to Colchester but having strategic allocations available in excellent strategic locations make this more likely so long as land values reflect uses for such purposes and have not been inflated by the invasion of higher value land uses.
- 15.6 It is also true to say that within an employment zone Council policy embraces a wide range of B business type) uses. From office through to light industry and research and development (B1) to warehousing and distribution (B8). High tech related business uses (B1) are likely to generate higher paid, skilled, permanent jobs of a type preferred by the Council but warehouse / distribution uses would be equally appropriate albeit with the consequent much lower levels of job numbers.
- 15.7 In considering this issue it should be noted that whilst distribution uses may have relatively low employment densities they also provide a crucial role in servicing the wider economy and supporting vast numbers of jobs in other sectors.

- 15.8 Members in determining this application will therefore inevitably have to consider the economic and social benefits of jobs 'on offer' today versus protecting the medium / longer term strategy of safeguarding sites that have strategic locational advantages for future development. The Local Plan allows the Council to plan for sustainable development over a period of 15 years. Employment land will be required over the life time of the Plan to support the new homes that are expected to be built each year.
- 15.9 The loss of this site would materially impact upon the Council's Employment Strategy in the opinion of officers. The applicant argues this is not the case. With so much land available in North Colchester (the most important strategic location as identified by the Council's own consultants – NLP) they argue that North Colchester can accommodate future demand. Indeed the applicant already owns and controls some of that land and is providing business park development.
- 15.10 It is here that we need to consider very carefully the question of sustainable development and what the Council means when it says it is seeking to create sustainable communities. Stanway has in the last 30 years expanded significantly and rapidly, driven largely but not exclusively by residential growth. Going forward more new housing is planned at Lakelands and Fiveways Fruit Farm. The Wyvern Farm development has just commenced. The population of Stanway continues to expand. Retail development within the Urban District Centre has created service sector jobs and some modest B use development has been created within Tollgate. Whilst the North of Colchester may score a point or two higher in terms of strategic importance, the Council is looking to ensure strategic employment zones are located around the borough in order to give resident communities easy access to better paid skilled jobs, as well as offering choice to potential investors.
- 15.11 Members are reminded this application is but one of two that collectively if approved would result in the creation of FIVE restaurants and ONE pub restaurant covering **some** 2.6 Ha of land. Whilst every planning application is judged on its own merits and whilst one decision doesn't set a precedent for others it is difficult to see why if this proposal was deemed to be acceptable in land use terms the second one wouldn't be if consistency of policy application is to be applied. Therefore it is appropriate to take a look at the overall disposition of possible development across the Stane Park site. (please see figure 1 below):-

site	Area (ha)	%age of total
ENTIRE STANE PARK	12.2	100
PHASE 1a	0.97	7.9
PHASE 1b	1.63	13.4
REMAINDER	9.6	78.7

} 21.3%

FIGURE 1: Relative impact on employment zone land capacity at Stane Park

- 15.12 This and the concurrent application (phases 1a & 1b) account for one fifth of the overall site area within Stane Park – a not inconsequential proportion. It may be argued that because this phase and phase 1b both lie below the planned access road from the Stanway Western By-Pass (as already marked and provided for by the stub arm on the west side of the Sainsbury's roundabout) the remainder of the Stane Park land forms a coherent freestanding parcel that remains suitable for strategic 'B use' development. That may be true in theory but in practice the land owner has already indicated that other non-B use developments will be pursued going forward. Clearly the Council is able to determine such applications as come forward in the light of appropriate policy at that time but it is the planning policy team's contention that allowing non-B uses and non-policy compliant uses on phase 1a (and phase 1b land) will effectively raise the hoped for land values of the remainder. If the Council has conceded its policy position of phases 1a and 1b what happens if it is confronted not with a single application for the remainder land but is faced with multiples of smaller proposals in the shape of a phase 2 a, phase 2 b phase 2c and so on. This will be a process of attrition where it may be difficult to argue the relative harm of another small increase in non B use having conceded the principle of the importance of strategic significance.
- 15.13 On this basis it would be short-sighted to make an appraisal over the relative merits of short-term employment opportunities that does not factor in the wider underlying rationale for having a strategic employment policy. Undoubtedly for someone without a job who may get one of the potential new jobs the short-term requirement is the overriding consideration. The role of planning and an adopted local plan is however to make provision for the medium and longer term and decisions made for short-term expediency can undermine the longer term economic prosperity and sustainability of a town.
- 15.14 In considering the implications of this development in great detail the planning policy team having weighed up all these factors have strongly objected to the proposal on the basis that it undermines the Strategic employment policy to the detriment of the medium to long term economic prospects of the town must, in a plan-led planning system, be the overriding and decisive consideration.
- 15.15 In terms of land use, the applicants have tended to argue that their phase 1a proposal supports local demand and/or represents the delivery of local facilities for local people and or is complementary to the role of the Tollgate Urban District Centre. They do however accept that customers from further afield will also be attracted by its proximity to the A12.
- 15.16 The Council strongly disputes that this proposal and that of Phase 1b constitutes development complementary to the role and function of the Tollgate Urban District Centre. The Council's retail hierarchy in designating part of Tollgate as an Urban District Centre makes it clear that its function is a local one. Indeed policy CE2b of the Core Strategy makes this explicit:-
- “ Urban District Centres should provide improved public realm, urban character and a more diverse mix of uses. New retail proposals (including change of use) will not be supported, unless they meet identified local needs and do not compete with the town centre. Expansion of Urban District centres will not be supported.....”

15.17 Phase 1a (nor any part of Stane Park) sit within the designated Urban District Centre and so any expansion of the uses of the type proposed cannot be justified in policy terms relating to UDC's. Indeed if such uses were proposed within the UDC the Council would have to reject them if they did not meet identified local need. The possible creation of 2 new restaurants and a pub restaurant and or 5 restaurants and a pub/restaurant in this location is effectively creating an out of town restaurant/pub destination that will rely on the majority of custom from beyond the local area. Indeed whilst some of the planned operators will have multiple presence in the town (including the town centre) the question arises as to the likely impact that such a destination will have on the vitality and vibrancy of such sectors within the Town Centre – particularly when the Urban District Centre is supported by its own A3-A5 uses.

Highway matters

15.18 Locally, on London Road, there has been significant objection to the proposal on the grounds of perceived adverse highway impact in the sense additional traffic adding to existing congestion.

15.19 In response and whilst not required to do so by Essex County Council as local highway authority, the applicants have now proposed an access arrangement from London Road that will in time mean that only the proposed pub/restaurant traffic will be able to get in and out from London Road. The remainder of development south of the Sainsbury's roundabout access arm would be able to access the site from London Road but would have to leave via the access to the north once this had been delivered with development. The applicant has indicated a willingness to provide that link along with phase 1a and 1b.

15.20 The highway authority had indicated that it had no objection on highway safety and capacity grounds prior to this revision being made. Local residents have voiced very strong concern about the levels of congestion now being experienced on London Road since the opening of the Stanway Western Bypass. This is an issue that has been acknowledged by Essex County Council but the phase 1a proposal is not considered to materially add to that although a modest financial contribution has been secured by Essex County Council (in the event of permission being granted) towards the future implementation of remedial works by the County Council.

15.21 On this basis there is no sustainable ground for objection from a highway safety or capacity point of view on the local network.

15.22 In terms of the implications of the proposal on the strategic highway network (A12) Highways England has raised no objection.

It is therefore not recommended that the proposal is refused on the grounds of adverse impacts on highway safety and/or capacity as the Council will not be able to rely on support from either of the highway authorities.

Design. Layout scale and mass

15.23 The design and layout has evolved through extensive negotiation between the Major Development Service (including the Council's previous urban designer) and the applicant.

15.24 The proposed scheme combines a mix of traditional forms and contemporary buildings. The pub restaurant facing London Road has a traditional appearance with nice detailing (to include candy twist brick chimneys, a crinkle-crankle* boundary wall and a cartlodge) whilst the restaurants facing Essex Yeomanry Way are crisp and modern.

[*definition: a crinkle crankle wall is a traditional form that is constructed as a uniform series of waves avoiding the need for the piers and buttresses associated with long straight walls



Figure 2: crinkle crankle wall form]

15.25 Frontage to Essex Yeomanry Way is enlivened by the incorporation of a brick detail that reads as an articulated wall but also as part of the front façade of the building punctuated by recesses in the building and openings. Visual interest is enhanced by the use of material above the brick work that changes colour and hue depending on the viewing angle.

15.26 Whilst the Council's landscape officer has indicated the proposed landscaping requires further amendment and recommends refusal it is considered that such deficiencies could easily be resolved through negotiation and that in itself this is sufficient reason to justify a refusal of planning permission.

15.27 The scheme makes good provision for accessibility and permeability, including connections to the Wyvern Farm development and will facilitate the connection of highway between Wyvern farm and Stane Park for the planned bus route. (not for general traffic).

Heritage considerations.

15.28 The Council's archaeological officer is satisfied that the applicant has undertaken sufficient archaeological investigation to enable development if approved to proceed with little risk to archaeological importance. Members may know that Stane Park sits close to the Roman road (Stane Road) to Colchester from St Albans and the area has in the past yielded important finds.

15.29 The proposed development has evolved having had careful regard to the listed cottage known as Foakes on the other side of London Road. The form, appearance and position of the proposed pub/restaurant and its boundary treatment have been designed not to dominate but harmonise with the modest cottage or to harm its setting.

Amenity

- 15.30 The proposed uses all potentially carry with them some theoretical risk of nuisance and disturbance within a residential environment. This primarily arises from odour from the cooking process and noise from late night activity. (human voices associated with external dining and drinking as well as people leaving the building in high spirits, vehicle engines/doors and lighting (car park lights and vehicle lights).
- 15.31 The proposed hours of business have been described in the application as:-
11.00 to 23.00 every day.
- 15.32 This will inevitably mean late night activity. The obvious question that arises as a result might therefore seem "Can any potential nuisance be appropriately mitigated?" Whilst that may be so some regard also has to be had to the likely impact that policy compliant uses might have were this to be B use development.
- 15.33 The definition of a B1 (business) use is one that can occur within a residential area without undue nuisance and so in theory significant nuisance would according to the Use Class Order not be expected. However some caution needs to be expressed as distribution uses (B8) and some B1 uses might operate into the evening (if not 24 hours). That said it might normally be exceptional for such uses to occur continuously every day until 23.00hrs (with the added delay as people leave the premises when drinks can no longer be consumed).
- 15.24 The proposed car park area is located along the sites boundary with the residential development under construction at Wyvern Farm.
- 15.25 Concern of residents in respect of late night disturbance is shared in that whilst odour nuisance (from the cooking process and extraction) can generally be controlled through the specification of the highest quality equipment (so long as it is properly maintained) nuisance from the noise of customers outside the buildings is more difficult to control. Once a development of this nature has been approved (planning permission-wise) it becomes a management issue for the operator or one for environmental control or licencing. However the planning system is tasked quite legitimately with safeguarding amenity. In this case whilst the residents in London Road and those on the east and south side of the Wyvern farm development will experience existing road noise it is difficult to see how the proposed uses will not introduce new noise nuisance into the late night environment. Such nuisance is less likely to be associated with employment zone uses including associated car parking. This is considered sufficient grounds to refuse the application.

Floodrisk

- 15.26 Local members will be aware of the existing localised flooding issues on London Road in the vicinity of the application site on the highways south side when it rains heavily. Flash storms result in highway run off pouring into the driveway of houses on the south side where these slope down from the footpath which is marginally above the level of the adjacent road. Essex County Council as local highway authority has accepted that the works associated with the completion of the Western By-pass and the remodelling of the London Road /By-Pass roundabout and inadequacies of highway drainage have prompted this new problem.

15.27 This application makes adequate provision to deal with its own surface water / run-off flows without utilising the inadequate highway drainage. It will therefore not add to the existing problem and it is not reasonable for the applicant to remedy the existing problem as it does not relate to the development under consideration.

16.0 Conclusion

16.1 The proposal is considered unacceptable and warrants refusal on:-

Land use policy grounds as it will result in the loss of strategically important employment land and as such will undermine the Council medium to long-term employment strategy for the town to the overall detriment of the long term local economy.

Town Centre and Urban District Centre policy grounds in that the creation of this out of centre A3/A4 destination attraction is likely to adversely harm the vitality and viability of the town centre as well as representing incompatible development with role and function of the Urban District centre.

The proposal is likely to result in inappropriate disturbance and nuisance by way of late night noise to existing and planned nearby residential properties.

17.0 Recommendation

17.1 **REFUSE** planning permission for the reasons set out below.

1 - Non-Standard Refusal Reason

Conflict with site allocation as a Strategic Employment Zone

The application site is allocated in the Adopted Local Plan as a Strategic Employment Zone (policies CE1, CE3, SA STA3 and DP5). The proposed restaurant uses are not in conformity with the provisions of the local plan and the loss of this Adopted strategically important employment zone site is considered prejudicial to the Council's overall employment strategy to the detriment of the medium to long-term economic benefit of the town. Notwithstanding that the proposed development will generate new jobs in the hospitality sector the proposal would erode the integrity and future attractiveness of Stane Park for business park development that inter-alia requires excellent access to the Nation's strategic trunk road system. This concern is further compounded by the fact that Stanway is expanding rapidly in terms of housing delivery and the Strategic Employment site offers potentially sustainable employment opportunities for residents who are otherwise forced to travel in search of job opportunities.

This site and its wider hinterland is allocated in the Council's Adopted Core Strategy - Policy SD1 as the Stanway Growth Area (SGA) where development is expected to be focused and where proposals that accord with other policies in the Local Plan will be approved without delay. In defining the Stanway Strategic Employment Zone, within which the application site lies, the Council identified the type of development that would be appropriate to achieve its medium to long-term economic objectives within Table CE1b (as supports employment classification and hierarchy policy CE1 and the strategic designation provided by table CE1a). These appropriate uses are defined as B1b research and development, studios,

laboratories, hi-tech; B1c light industry; B2 general industry; and B8 storage and distribution. Secondary land uses are described as B1a offices; C1 hotels, D2 assembly and leisure and sui generis. The proposed land uses comprising A3 or A4 uses do not comply with that policy. The proposed development on this strategically important Employment Zone would seriously undermine the Council's ability to plan for the medium to long term expansion of the Town's economy to create sustainable high value jobs in locations that complement areas experiencing rapid and significant housing growth and with excellent access to the strategic highway network. (in this case the A12).

2 - Non-Standard Refusal Reason

Urban District Centre and Town Centre retail policy

The Council is of the opinion that the growth and concentration of the proposed A3 uses and A4 use in this out of centre "destination" are harmful to the vitality and viability of the Town Centre on the grounds that the location is not in a sustainable location promoting trips and car borne traffic with more sequentially preferable locations for such growth in town centre uses being available.. The Council's Adopted Local Plan Policy CE2a defines that the Town centre will be promoted as the sequentially preferable location for growth as a prestigious regional centre where a mix of uses will be encouraged. This Core Strategy objective is further expanded by Development Policy DP6.

Adopted Local Plan policies CE1 & CE2 define that the proposed uses are appropriate in Mixed Use Centres. Policy DP5 defines the range of uses that are acceptable within designated employment zones and the proposals do not fall within these uses. The designated Stanway Growth Area is not a mixed use area and the application site is not within the designated Urban District Centre. The proposal therefore seeks to effectively expand the Stanway Urban District Centre into an area designated for strategic employment purposes. Policy CE2 b clearly states that the expansion of Urban Districts Centres will not be supported and the proposals are in direct conflict with the strategic aims of the adopted local plan which seek to promote sustainable employment growth and to promote growth in sequentially preferable and accessible locations whilst protecting the vitality of the town centre.

3 - Non-Standard Refusal Reason

Impact on amenity

The Council is of the opinion that the creation of a significant A3 /A4 destination attraction that is open for business from 11.00hrs to 23.00hrs every day of the week and on bank holidays so close to existing and planned residential development is likely to cause unacceptable late night noise and disturbance to residents. It is unlikely that boundary planting will sufficiently buffer noise from customers enjoying meals and drinks outdoors and/or leaving the premises to get to cars in the associated car park along with subsequent vehicle related noise to avoid unacceptable disruption and disturbance to residents. The Council takes the view that risk of such nuisance is inherently increased by uses such as those proposed compared to uses permitted within an employment zone. (other than perhaps B2 uses which could be controlled by condition in terms of operating hours). The proposals are therefore contrary to Development Plan policy DP1 of the Adopted Local Plan that seek to protect the amenities of local residents.

20.0 Positivity Statement

- 21.1 The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.



11th February 2015

By post and email

**FAO Vincent Pearce
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CO3 3WG**

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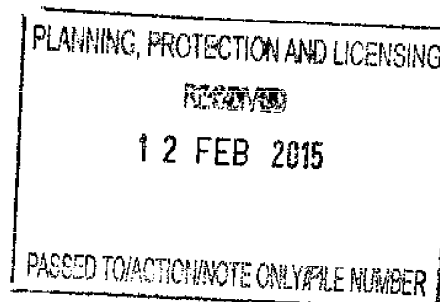
Dear Mr Pearce

**Proposed Leisure Development – CBC reference number 146486, Land at
Stane Park, Phase 1a, Colchester CO3 0NU**

Further to our various meetings you have asked me to provide comments on the Nathaniel Lichfield and Partners Colchester Employment Land Needs Assessment dated January 2015 and I am pleased to provide commentary below.

Before doing so I thought I would provide some background with regards to the Churchmanor Estates Company plc.

- i. The Churchmanor Estates Company was founded in 1985 and has been developing commercial property across the East of England over the last 30 years. It is the leading privately owned development company across the region and has to date built some 2.5million sq ft of commercial accommodation. The commercial developments include Peterhouse Technology Park, Cambridge (12 acres) Colchester Business Park (35acres) Chelmsford Business Park (45 acres) and Chesterford Research Park, Cambridge (250 acres). Over this time we have constructed over 50 pre-let developments and are well versed in responding to the market for commercial development.



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REGISTERED IN ENGLAND No. 1505179
REGISTERED OFFICE IPSWICH



- ii. We have a constructed new build accommodation for national and international companies including both office and research and development buildings. In Colchester as well as developing Colchester Business Park we have in addition built and refurbished some 200,000 sq ft of office and warehouse accommodation on Severalls Industrial Estate over the last 20 years.
- iii. As you are aware we were selected by Colchester Borough Council to develop in partnership Colchester Business Park in 1989. This development is principally for office use and remains the principle location where out of town centre offices are located.
- iv. We developed the 175,000 sq ft Flakt Woods industrial building and opened up the Cuckoo Farm employment area. This remains one of the largest developments of its type in the area although the relocation costs were heavily subsidised by planning consent for a housing development on their existing site.

After 26 years of developing commercial accommodation in Colchester involving some 600,000 sq ft of accommodation we feel well qualified to comment on the Employment Land Needs of Colchester and it is somewhat surprising that we were not afforded an input into the Nathaniel Lichfield Report; the Report states that it has consulted the other two major land owners considered by the Report namely Colchester Borough Council and Tollgate Partnership.

We highlight the following observations focusing on the viability of office development in Colchester.

- i. Over the last 40 years the Northern Colchester Strategic Employment Zone has been the principle address for businesses in the town. The area had expanded steadily up until 1989 when we commenced Colchester Business Park some 26 years ago. Despite the fact that access to the A12 was sometimes problematic the area has grown steadily with its popularity coming from the established group of businesses that exist in this location and the range of facilities that the area provides those businesses. Such benefits are highlighted in the Report and are contributing factors to the areas growth¹

¹ Refer, for example, to paragraph 4.13 of the report, which highlights the area's market attractiveness due to its "established business community". Conversely, the lack of 'critical mass' as an office location is cited in paragraph 4.16 as one of the reasons for Stanway's low level of market interest.



- ii. As the Report highlights Colchester has never been perceived as an office location² and confirms that there is 320,000 sq ft of office accommodation available within the Borough³. The majority of the developments that have occurred over this time have been speculatively financed, many in the abnormal boom conditions of 2005/2007. The current market for new office accommodation is weak and will be for the foreseeable future since the real problem for office development in Colchester is one of viability. This is highlighted in the Report, but not examined in any depth⁴.
- iii. The rental level required for new build offices to be financially viable is between £18-£20 per sq ft.⁵ although this is one of a range of parameters affecting viability. For developers to build tenants also need to be prepared to enter into leases of at least 15 years to enable development finance to be released. The combination of rent and lease commitment is dissuading potential tenants from entering into commitments for new buildings.

There are also additional hidden costs for tenants beyond the headline rent. Firstly the cost of fitting out a new building can be prohibitively expensive. Secondly tenants have to be aware that the relatively high market rental value will lead to a consequentially high business rate charge.

- iv. If occupiers had no other option new offices may become viable but there is a plentiful supply existing office and industrial buildings in the market place and this is where occupier demand really lies in Colchester. The existing office stock offers occupiers much lower rents and shorter leases of typically 5 years.

Generally existing accommodation has been previously fitted out and again this is a considerable saving over the cost of new build accommodation for

² Paragraph 4.11: *"It has never been perceived as a major office location and instead its office market largely depends on SME activity"*. Paragraph 8.30 reiterates this point, stating that it reflects, in part, *"its geographical location and proximity to larger, more established centres"* and that office market in Colchester *"tends to be characterised by smaller requirements and existing occupier churn"*

³ See paragraph 4.12

⁴ Viability considerations for the office market are addressed briefly in paragraphs 4.16 to 4.18 of the report. In addition, paragraph 4.14 outlines the very low levels of new office development that have taken place in Colchester in recent years, and notes the abandonment of the 36,500 sq. m. scheme that had been proposed for Stane Park. Strangely, it does not consider the reasons for this scheme's abandonment. We note however, that 'Potential Development Costs' are cited as a 'Barrier to Delivery' for the development of B class employment use at Stane Park in the Site Assessment table included as Appendix 4.

⁵ As data from Bidwells indicates, headline office rents in Colchester range from £10 – £16 per sq. ft. (Refer to Table 4.1).



occupiers. Additional advantages of the lower rent are that the business rates are much reduced.

- v. The Report also highlights the change in the way that occupiers use their property assets and Colchester is not immune from market changes⁶. Over the last few years there has been a very perceptible change in working patterns and this has lead, especially in the office sector, to hot desking and remote working and there are tenants who operate on a virtual office basis and as a result have a limited need for physical office space⁷. The changes to office demand⁸ have come due to technology and communication improvements and the coffee shop has become the limit of some peoples office requirements.
- vi. The Report states that the Northern Colchester Strategic Employment Zone is, along with the town centre, the preferred location of business occupiers⁹. If office development is going to become economically viable then it will occur in these areas as it will provide a lower risk profile for the developer, the tenant and investor.

By comparison, the Report states Stanway is characterised by a limited level of demand compared with the Northern Gateway Growth Area and Colchester Town Centre¹⁰. It also states that the Stanway area lacks critical mass as an office location and quotes Bidwells research that office rents in Colchester are between £10-£16 per sq ft¹¹.

- vii. The Council will be aware of a previous application for offices at Stane Park which occurred before our ownership. As the Nathaniel Lichfield Report states this application was abandoned¹² and, whilst we have not been consulted, we

⁶ Refer to paragraphs 3.22 to 3.31, which consider some of the factors influencing changed requirements for employment space.

⁷ As paragraph 3.27 of the report notes, *"The traditional desk can be situated almost anywhere, whether inside a building, in a café, on the move, or in a public open space"*.

⁸ The long term trends referred to have, as the report acknowledges, led to a reduced density ratio of sq. m. per employee (Refer to paragraph 3.24). This was reflected in the updated HCA/OffPAT 'Employment Densities Guide' published in 2010 (on which the report's employment density assumptions are based), although the trends have almost certainly continued to accelerate since then.

⁹ Refer, for example, to paragraph 7.37. In addition, the Site Assessment scores contained in Appendix 6 underline the North Colchester SEZ's status as the preferred location for new employment development.

¹⁰ Refer, for example, to paragraph 7.29 and 8.46

¹¹ See Table 4.1

¹² See paragraph 4.14.



note that the Report highlights potential development costs as a "Barrier to Delivery" at Stane Park¹³.

The previous application was subject to a proposed Section 106 requirement from the Highway Authority to widen the approach to Junction 26 and to construct an additional lane to the slip road travelling south. The Council are aware that this was costed by quantity surveyors in the sum of £5million and it was discussed as part of the development of the Vision for Tollgate document 2012. The requirement for such a major infrastructure enhancement remains should the site come forward for B Class uses.

Our comments above are based on the market conditions that we face as developers of employment land in Colchester.

We thought, however, it might also be helpful for us to comment on three specific areas of the Report which we believe add weight to our concern that viability has not been fully addressed.

1. The Report highlights that there is a continued rate of job decline in B class jobs¹⁴ in Colchester.
2. We note in the Report that Nathaniel Lichfield and Partners have 'added back' 50% of the brown field employment land that has been lost in recent years (mainly to residential development)¹⁵. To our knowledge the vast majority of these brown field sites have become redundant because the business on the site has ceased to exist. One major exception to this was our Flakt Woods development, details of which we have supplied earlier.

The Nathaniel Lichfield Report contains detailed analysis of the Colcehster market and therefore it seems strange to arbitrarily decide to add back this lost "supply" into the calculation of future land requirements without any evidence in support. These jobs have in the main been lost, which was the reason for the Council accepting that the site in question was no longer economically viable.

¹³ Refer to the Site Assessments table at Appendix 4. It is curious that the assessment scoring criteria include 'market attractiveness', yet the scoring does not take any account of 'Barriers to Delivery' impacting on market attractiveness, such as high development costs.

¹⁴ Refer to Appendix 6

¹⁵ See paragraph 6.53. Losses associated with the consolidation of Flakt Woods have been excluded from this adjustment.



3. The report states that there are just under 77 hectares (192 acres) of undeveloped employment allocations in the Borough¹⁶ and it is against this background the Report highlights the limited demand in Stanway and goes on to state that the full quantum of employment land is therefore not required¹⁷.

We trust our comments are helpful to the Council in progressing our Phase 1A planning application

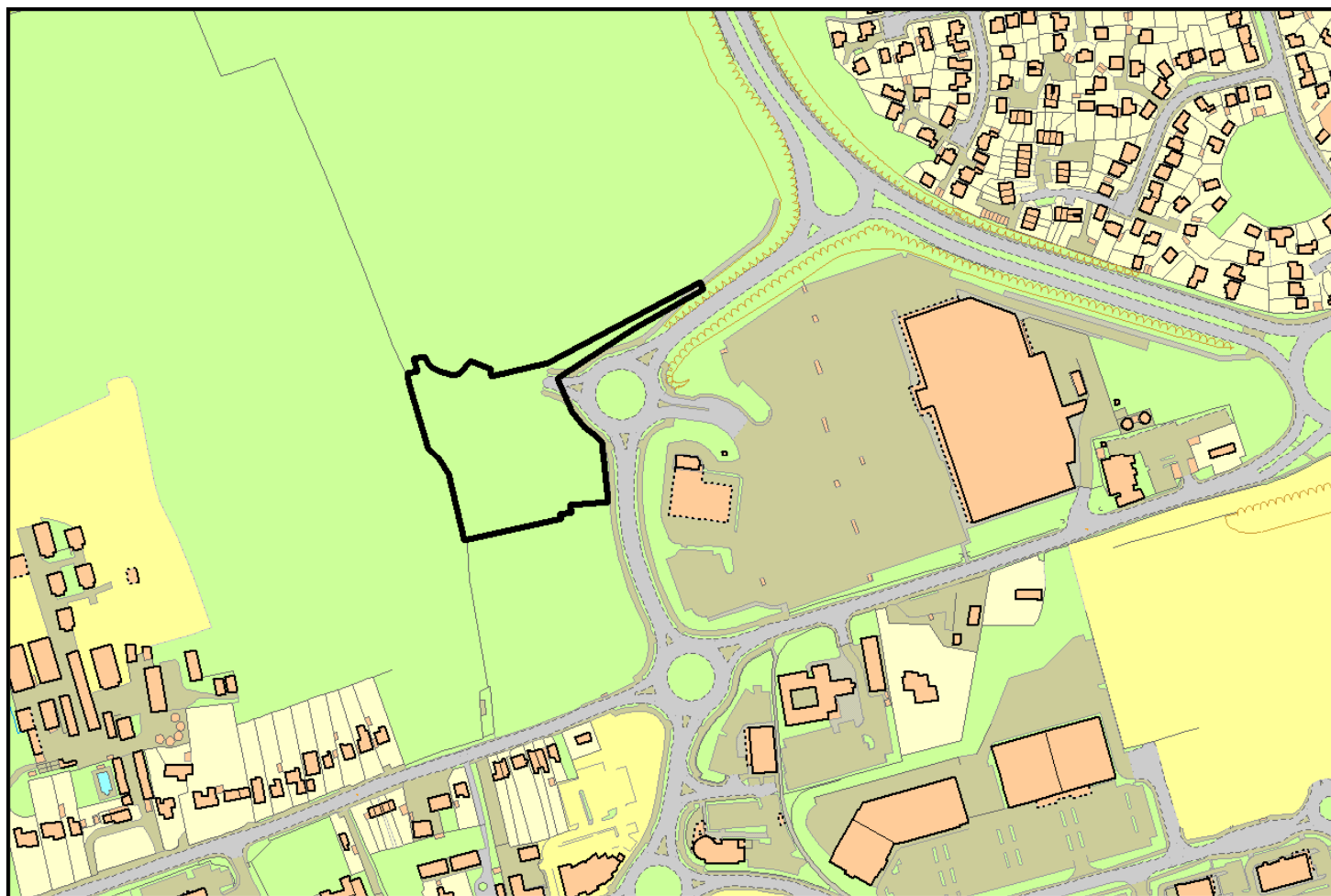
Yours sincerely

Stephen M Clark
The Churchmanor Estates Company plc

CC Sarah Pullin – Colchester Borough Council

¹⁶ Refer to table 3.2

¹⁷ Paragraph 8.48: "It would be difficult to justify retaining the full extent of undeveloped employment allocations at Stanway from both a quantitative and qualitative perspective"



Application No: 150945

Location: Land at Stane Park, Stanway, Colchester, Essex, CO3 0NU

Scale (approx): 1:1250

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7.2 Case Officer: Vincent Pearce**Due Date: 10/08/2015****Site:** Land at Stane Park, Stanway Colchester, Essex, CO3 0NU**Application No:** 150945**Date Received:** 11 May 2015**Agent:** Mr Edmond Barrett, MRPP**Applicant:** The Churchmanor Estates Company Plc**Development:** Proposed development of one restaurant unit and two drive-thru restaurant/cafe units (which will also facilitate the consumption of food and drink on the premises), with associated car parking, landscaping, access and servicing.**Ward:** Stanway**Summary of Recommendation:** Refusal**1.0 Reason for Referral to the Planning Committee**

- 1.1 This application is referred to the Planning Committee because it is a major application that is a Departure from the Adopted Local Plan and has raised local interest.

2.0 Synopsis

- 2.1 The main, but not the only, planning issues raised by this application are:-

- Planning policy implications for the Council's employment strategy posed by the loss of designated Strategic Employment Zone land to uses that are not supported within such designated sites and the adverse impact on the vitality of the town centre.
- The relationship of the proposed development conforms with the Council's retail policies for Urban District Centres. (note the application sits outside of the Tollgate UDC) and whether any harm arises as a result.
- Highway capacity and highway safety implications resulting from the likely traffic generated by the proposal.
- The nature and extent to which the proposed uses are likely to impact the amenity of existing and planned adjoining residential properties.

3.0 Site Description and Context

- 3.1 This site sits immediately north of the site associated with the concurrent application ref 146486 that preceded this report on the agenda.

4.0 Description of the Proposal

- 4.1 This development represents the proposed second phase (described here as Phase 1b) of a much larger site known locally as Stane Park.
- 4.2 The development comprises the construction of three new buildings to provide the following mix of uses:-
- A3 & A5 (974 sq.m.)
 - associated car park
 - landscaping
 - vehicular access
4. The applicant has also offered to implement a wider programme of highway improvements to London Road and parts of the By-Pass/London Road roundabout in response to their understanding of the impact that local congestion issues, that have arisen since the opening of the Stanway Western By-Pass, are having on the amenity experienced by local residents. This unsolicited offer is made by the applicant on the basis that this and the concurrent Phase 1b (ref: 150945-also on this agenda) are successful.
- 4.4 The applicant's agent has stated that the proposed development/s in themselves do not generate a need to undertake the wider highway improvement works being offered to make the proposed development acceptable. The 'wider highway works offer' is therefore being freely made to respond to local objections based on the problems associated with existing traffic congestion.
- 4.5 Members are advised that in considering the merits of the proposal before them 'the wider highway works offer' does not and cannot constitute a material planning consideration in the determination of this application as the works do not seek to mitigate impacts arising from the current proposals.. This is confirmed by the applicant who has stated that the proposed development does not relate to the proposal at hand. The Council should ignore this offer on the basis that such a contribution fails the crucial CIL regulation tests.
- 4.6 Members are reminded of the relevant key wording in the Regulations:-

Community Infrastructure Levy Regulations 2010 (as amended) - The C.I.L. tests for S106 Agreements.

PART 11, Regulation. 122.

(1) This regulation applies where a relevant determination is made which results in planning permission being granted for development.

(2) A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is -

(a) necessary to make the development acceptable in planning terms;

[Officer comment: The wider highway works are not required to make the development acceptable in planning terms because Essex County Council as local highway authority has not objected to the development on highway impact grounds but has welcomed the offer to resolve historic highway issues created by the opening of the western by-pass]

(b) directly related to the development; and

[Officer comment: by the same token and as stated by the applicant's agent the wider highway works offer is not directly related to the development because they are confident that the proposed access arrangements onto/from London Road with the potential for future access management from the planned access from the north are appropriate to safely handle all traffic generated by the proposed development.]

(c) fairly and reasonably related in scale and kind to the development

[Officer comment: as the applicant's agent has rejected that there is a direct link between the wider highway works offer and the proposed development it is considered that anything over the necessary alterations to the London Road access to the site anything more cannot be said to fairly and reasonably relate in scale and kind to the proposed development

- 4.7 In their consideration of the proposals Members are advised to have regard to all relevant material planning considerations, including the professional advice offered within this report. But that weight should not be afforded to the 'wider highway works offer'.
- 4.8 Officers do not feel the recommendation offered at the end of this report is 'on balance' as the policy objection is so strong as there is a clear conflict with the adopted local plan. Planning law (section 38(6) of the Planning & Compulsory Purchase Act 2004) requires that applications for planning permission must be determined in accordance with the development plan (adopted local plan) unless material considerations indicate otherwise.
- 4.9 The full text of all of the supporting material received is available to view on the Council's website.
- 4.10 The applicant has submitted supporting letter in which he describes the state of the economy and business market sector in Colchester based on his experience of developing employment uses in the Town. He makes a case for allowing this development as a departure.
- 4.11 The application is supported by a range of documents as per the earlier item.

5.0 Land Use Allocation

- 5.1 Strategic Employment Zone
- 5.2 Employment Zone
- 5.3 Stanway Growth Area

- 5.4 This development does not affect a designated Public Right/s of Way (PROW). The closest designated public footpath to the site is FP4 which runs southwards from the south side of London Road opposite Wiseman's.
- 5.5 This site sits within a wider area identified by Nathaniel Lichfield & Partners in a report entitled "Colchester Employment Land Needs Assessment| January 2015" commissioned by the Council, as the second most important strategic employment land in the Borough behind North Colchester. Out of a possible maximum score of 30 Stane Park achieved a rating of 23. Ahead was North Colchester with scores of 26 [Cuckoo Farm]; Colchester Business Park [24] and Severalls Industrial Park [24]. Members will know that Severalls Industrial Park is an older existing development whereas Colchester Business Park is a more recent largely established development with some remaining plots and Cuckoo Farm is largely undeveloped, forming as it does a central component of the Northern gateway framework Area.
- 5.6 Members may also know that the applicant for this development, 'Churchmanor' is the same developer as built out and continues to develop the Colchester Business Park and has a long record of development in Colchester.

6.0 Relevant Planning History

- 6.1 This and the wider Stane Park site was the subject of a major outline planning application for employment zone uses (and hotel) in 2006 which received a resolution to grant permission subject to a s106 agreement. As the S106 agreement was never completed by the then applicant no permission was issued and the proposal fell away.

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 also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.
- 7.2 Of particular relevance are the following Sections of the NPPF:-
1. Building a strong, competitive economy
 2. Ensuring the vitality of town centres
 3. Supporting a prosperous rural economy [relevance -beyond urban Stanway]
 4. Promoting sustainable transport
 7. Requiring good design

- 7.3 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations

[Officer comment: this identifies part of Stanway as Stanway Growth Area (SGA). The application site is within the SGA.]

Within SD1 the Councils stated strategy for sustainable development within SGA's is:

"When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning policy Framework. It will always work pro-actively with applicants jointly to find solutions which mean that applications can be approved wherever possible and to secure development that improves the economic, social and environmental conditions in the area. Planning applications that accord with the policies in this Local Plan (and, where relevant, with policies in neighbourhood plans) will be approved without delay unless material considerations indicate otherwise.

Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise – taking into account whether

- Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the national Planning Policy framework taken as a whole: or
- Specific policies in that Framework indicate that development should be restricted

[Officer comment: There are policies relevant to this application within the Adopted Local Plan and the Adopted Local Plan is considered up to date although the applicant's agent disputes this.]

In exploring the issues raised by this application the report will refer to the Local Plan Inspectors Report (8 May 2014) which examined the Focussed Review Draft Local Plan

SD2 - Delivering Facilities and Infrastructure

"...New development will be required to provide the necessary community facilities, open space, transport infrastructure and other requirements to meet the community needs arising from that proposal.....The Council will seek to ensure that new development makes a reasonable contribution to the provision of related facilities and infrastructure...."

This is relevant in that the applicant argues that the development will provide leisure facilities for local people and will complement activity within the nearby but not adjacent Urban District Centre. This report will explore the extent to which that may be true. In terms of the facilities and infrastructure delivered by this proposal there is little within the examples cited within SD2 that apply. (SD2 does however make it clear that the examples are not exclusive).

- Affordable housing [officer comment: not relevant as proposal does not relate to housing]
- Transport infrastructure and services [officer comment: relevant in terms of travel packs and bus stop works and requirements of ECC highways as related directly to the development] [the offered wider highway works are not a material consideration]
- Open space, sport and recreation [officer comment: limited relevance as the scheme does include some private open space for public enjoyment but this is largely related to the adjacent commercial uses]
- Community facilities [officer comment: not relevant as no community facility is offered within the development and nor is a requirement generated by this type of use]
- Primary and secondary schools [officer comment : not relevant as the proposal does not include residential development - the driver for school places]
- Public realm improvements [officer comment: only relevant in the sense that the scheme includes new public realm and public art where none currently exists rather than the proposal including improvements to existing poor quality public realm]
- Renewable energy and sustainable construction [officer comment: relevant in the sense of contributing to the sustainability of the development where and if sustainable building techniques or generation measures are being employed]
- Flood mitigation measures [officer comment: not relevant as the development is not within flood zone 2 or 3 and the proposal itself is unlikely to pose a flood risk because suitable drainage arrangements will be made.
- Employment and training schemes [officer comment: relevant in that the proposal will generate new jobs and the applicants have indicated a willingness to work with the Council in participating in initiatives to improve the employability of local unemployed people with a view to opening job opportunities within the development if approved.].

CE1 - Centres and Employment Classification and Hierarchy

This identifies the site and wider area as Strategic Employment Zone and Local Employment Zone . The explanation for this policy and accompanying table CE1a centres classification and hierarchy states that

“Employment Zones are located at the fringe of urban areas and are supported by strategic road infrastructure. Employment Zones will accommodate business developments that are less compatible with mixed use areas, such as warehousing and industry.”

It is the same policy that identifies part of Tollgate (but not the application site or the wider Stane Park site) as an Urban District Centre.

CE2a - Town Centre [officer comment : relevant in terms of the assessing the impact of the proposed Development on the vitality and viability of the town centre

CE2b - District Centre – [officer comment : relevant in terms of understanding the role and function of an Urban District Centre (part of Tollgate) and assessing whether the proposed development of pub and restaurants within Stane Park can reasonably be justified in terms of policy CE2b.

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 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):

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

DP25 Renewable Energy

- 7.4 Further to the above, particular regard should be given to the Adopted Site Allocations (2010) policies set out below:

SA STA1 Appropriate Uses within the 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 Guidance/Documents:

Stanway Joint Design Statement and Village Plan (March 2011)

Vehicle Parking Standards (September 2009)

Sustainable Construction (June 2011)

Cycling Delivery Strategy (January 2012)

and the following Guidance Notes:-

Tollgate Vision Statement (July 2013)

8.0 Consultations

- 8.1 The Council's Planning Policy team's comments in respect of application ref 146486 are also applied to this application.
- 8.2 In summary it is considered that the loss of this allocated strategically important employment zone land to the proposed policy non-compliant uses will undermine the Council's long-term employment strategy ultimately to the detriment of the economic sustainability of the town. The full comments are reproduced below.

"Policy designation

1. The application site is identified on the Local Plan Proposals Map as employment land within the Stanway Strategic Employment Zone (SEZ).

Policy context

2. At the heart of the National Planning Policy Framework (NPPF) is a presumption in favour of sustainable development; the NPPF makes clear that where development is in accordance with the development plan, it should be approved without delay (paragraph 14). The NPPF is also clear that proposed development which conflicts with the Local Plan should be refused unless other material considerations indicate otherwise (paragraph 12). The second part of NPPF paragraph 14 defines the approach to be taken in decision making in cases where the development plan is absent, silent or relevant policies are out-of-date. The Local Plan for Colchester is neither absent, silent, nor out-of-date.
3. It is important to note that the Inspector for an appeal at Tollgate, Stanway (May 2014, ref. APP/A1530/A/14/2212689) assessed the proposed development against the Local Plan centres and employment policies, and did not highlight any inconsistencies with the NPPF. The Local Plan Focused Review Inspector's post-hearing note, which the applicant refers to in their Employment Land Assessment document (paragraphs 2.31-2.33), was published in January 2015, prior to the issue of this appeal decision. The principal of the proposed development has, therefore, been assessed against the local policies set out within Colchester Borough's Local Plan and national policy set out in the NPPF.

Assessment

Achieving sustainable development

4. Policy SD1 of the Local Plan (as amended 2014) states that "*Throughout the borough, growth will be located at the most accessible and sustainable locations in accordance with the Settlement Hierarchy... Development proposals will be expected to make efficient use of land and take a sequential approach that gives priority to accessible locations and previously developed land (PDL).*" The issues raised here are discussed in more detail in the sections below, but it is clear that the proposed development of town centre uses on this site does not constitute the most accessible and sustainable location for such uses, and does not satisfy the requirement for a sequential approach that gives

priority to accessible locations and previously developed land. The proposal thus conflicts with Policy SD1 – *Sustainable Development Locations* of the Local Plan, and would result in unsustainable development.

5. Paragraph 6 of the NPPF states that *“the purpose of the planning system is to contribute to the achievement of sustainable development”*. Paragraph 7 sets out that *“the planning system should contribute to building a strong responsive and competitive economy by ensuring that sufficient land of the right type is available at the right time to support growth and innovation”*. Paragraph 19 goes on to state that the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. It states: *“significant weight should be placed on the need to support economic growth through the planning system”*. Paragraph 20 states that in order to help achieve economic growth, *“local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century”*.
6. Land is allocated for employment use in order to contribute to the fulfilment of the NPPF objectives set out above. The allocation of Stane Park for employment use, a substantial greenfield site in its gateway location adjoining junction 26 of the A12, provides an ideal opportunity to serve the business needs and support the medium and long term sustainable economic growth of the Borough. Its allocation for B use employment purposes and its protection as such, helps to ensure the development of a diverse and resilient economy, in line with the NPPF. The allocation and protection of this site for employment uses will help to safeguard the ongoing overall sustainable growth and development of the Borough, providing the business and employment opportunities necessary to support housing growth. The loss of the site for alternative uses would be detrimental to this and would result in unsustainable development.

Safeguarding Employment Land

7. Policies CE1 and CE3 of the Local Plan set out the Borough’s Employment Hierarchy and the expectations for these areas; the application site falls within a Strategic Employment Zone which sits at the top of the Employment Hierarchy. Policy SA STA3 of the Local Plan allocates the proposed development site for employment use and sets out the uses considered to be appropriate on that land. Policy DP5 also sets out appropriate uses and aims to safeguard employment land for these purposes. The application for restaurant uses does not fall within the appropriate uses set out within the Local Plan policies. The protection of the land for employment use is tested below; for the avoidance of doubt, this has been carried out in accordance with NPPF policies.
8. Paragraph 22 of the NPPF states: *“planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable*

prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits...

9. In 2014, Colchester Borough Council commissioned consultants, Nathaniel Litchfield & Partners, to undertake and produce an Employment Land Needs Assessment (ELNA). The final report was published in January 2015, meaning that the evidence available to support the assessment of this site, against the relevant policies, is up-to-date. The report forms a key part of the evidence base for the production of the new Local Plan and an important consideration in the assessment of this application.
10. Paragraph 8.23 of the ELNA states that *“it will be important to safeguard the Borough’s best employment sites, particularly in light of aspirations amongst some landowners for higher value non B class land uses”*. The factors that make the land attractive for employment use – a relatively large site, green field land and excellent access to the road network – are likely to be equally attractive to other uses that do not fit the Council’s longer term strategy, and so it is important that this employment land is protected from such losses to alternative uses. Stane Park is identified in the ELNA as a high quality employment development opportunity and for this reason it is vital that the planning system fulfils its role in taking an overarching, medium-long term approach, in order to ensure the overall and long-term sustainability of the Borough’s growth and development. It is essential that this site is protected for its designated employment use in order to support the development of the economy (both in size and diversity) and provide the jobs necessary to support housing growth.
11. Paragraph 8.48 of the ELNA recommends that the Council *“adopts a selective approach”* to safeguarding 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”*. Paragraph 8.49 goes on to state that *“such an approach could also support a pro-active strategy for attracting inward investment to the Borough, by retaining a portfolio of good quality development opportunities that are most likely to prove attractive to prospective firms. This most notably includes Stane Park, a 12.2ha site which benefits from a gateway location on the northern fringes on the Stanway SEZ, adjoining Junction 26 of the A12, providing scope for the site to create its own identity and profile as a business location”*. It is clear that the large, greenfield, and locational attributes of this site make it a prime employment location that will be well poised to serve future business and economic needs of the Borough. The site’s size means that it can serve a diverse range of employment requirements and this in itself is an important factor in its retention for such purposes.
12. Paragraph 8.22 of the ELNA states that *“future development of employment space in the Borough must build upon and take advantage of infrastructure improvements associated with the A12, and the additional economic opportunities that this enhanced connectivity will bring to Colchester not only by making the Borough’s locations more*

attractive (including to higher value occupiers and markets) but also by improving access to the workforce". Stane Park is in a locationally premium position in terms of connectivity and access, which is a significant factor in the importance of retaining this valuable employment site for its allocated use.

13. The proposed A3/A4 uses are not locationally dependent on access to the principal road network in the way that "B" uses are, and especially in this case where the applicant argues that the proposed development will serve only the Urban District Centre and the Stanway area. Also, as individual businesses, the units do not require a large site. The loss of the application site, and potentially additional land at Stane Park, would materially diminish the availability of the best land for employment uses. It would also erode the future potential for the creation of a critical mass of employment development which is identified by the ELNA as an important issue for employment areas.
14. While it is noted that the ELNA identifies a likely over supply of employment land in the Stanway area, paragraph 7.29 of the report states that within the Stanway SEZ, *"those sites with the greatest prospect of coming forward for employment development in future – most notably Stane Park which benefits from an excellent location adjoining the A12 (jct 26) and greenfield status – should provide the focus for continued allocation"*. This highlights the hugely important consideration of the quality of available employment land, in addition to the issue of quantity, which, on its own, provides only a partial and simplistic view of the Borough's employment land portfolio. It is clear from a simple review of the characteristics of the Stane Park site that it forms a highly valuable component of the Borough's supply of strategic employment land.
15. Continuing with the point that quantity of supply is just one consideration in relation to employment land supply, paragraph 8.16 of the ELNA states - *"to ensure a flexible and responsive policy framework, it will be necessary not just to focus on meeting forecast quantitative requirements (which will fluctuate over time), but to think about the opportunities and risks that flow from particular policy approaches. This might concern... how scope can be created for meeting as yet undefined inward investment opportunities..."* Paragraph 8.17 goes on to state *"this requires choices in the Local Plan about which sites to protect or allocate for employment development... That judgement must ultimately take account of:*
 1. *The local benefits of B-class sectors and the need to maintain a diversified and resilient economy that is open to growth and new economic opportunities as they arise (as envisaged by the NPPF);*
 2. *The economic and other outcomes (e.g. labour market) if some sectors become displaced or are otherwise constrained from expanding within the Borough;*
 3. *The need to encourage the growth of high quality jobs within the Borough to address the disparity between resident employee earnings (higher) and workplace earnings (lower);*

4. *The trade-off between seeking more intensive use of sites and thereby yielding higher net job creation over time, and identified business needs (as specified in the NPPF) which may for some activities or sectors imply a less efficient use of land in order to function effectively; and*
 5. *Maintaining a delivery trajectory for employment space with short, medium and longer-term opportunities over the life of the Plan."*
-
16. The retention of the Stane Park site, a high quality employment site, for B use employment purposes, is critical to the considerations outlined in the ELNA, as set out above. The availability of this prime piece of employment land helps to ensure that the Borough has the ability to meet, as yet, undefined inward investment opportunities and to provide flexibility to meet economic development requirements in future years. Paragraph 4.28 of the ELNA refers to the mismatch between the current industrial property market and the returns that would be necessary to make new industrial development economically viable. It indicates that those locations and sites benefitting from excellent access to the A12 are most likely to provide viable development opportunities. It is not the case that because there may be viability issues with employment development at the current time, the situation will continue in perpetuity; given the highly favourable attributes of the Stane Park site, this is certainly not a basis on which its future should be determined. And, indeed, it is of note that the adjacent Tollgate West Business Park has seen a marked uplift over the past year. At the time the appeal decision (ref. APP/A1530/A/14/2212689), referred to above, was submitted, just one of the units had been let. One year on and 11 of the 12 units have been leased, demonstrating a significant improvement in the local commercial market.
 17. The applicant puts forward the argument that the proposed development would result in the creation of jobs and, in so doing, would contribute to the Borough's economy. It is clear that while it is the case that the proposal would create jobs, there are no unique requirements which result in the need for them to be specifically developed on a prime piece of land within one of the Borough's Strategic Employment Zones.
 18. The ELNA (paragraph 2.10) highlighted the fact that workforce job growth has historically lagged behind working-age population growth in Colchester and identifies that significant levels of residential development is the cause of this, having outstripped employment growth. Paragraph 2.11 goes on to explain that this may, in part, explain the Borough's continued role as a net exporter of labour, with residents increasingly required to look outside of the local employment in order to gain suitable employment roles. While providing land in itself does not create jobs, it is logical that in preserving land for employment purposes, it provides the opportunity for employment development. In contrast, the loss of a key piece of employment land would serve to nullify any such opportunity; thus perpetuating the trend whereby residents are increasingly required to look outside of the Borough for suitable employment.

19. The ELNA highlights (paragraph 2.12) that a significant proportion of employee growth in Colchester in recent years has been in part-time job roles (98.4% between 2001-2012) and suggests that this is another trend which helps to explain the growing imbalance between working age population and employment growth in Colchester. The ELNA (paragraphs 2.31 and 2.43) also identifies that the types of jobs available locally are less well paid than elsewhere in the sub-region and beyond, and that many residents are commuting to higher paid jobs outside of the Borough. The proposed development would serve to perpetuate these trends and would diminish the opportunity to help reverse the trend through the loss of land on which the provision of alternative employment opportunities, offering a higher proportion of full time employment roles, could be accommodated. While this may not be possible in the short-term, it does not follow that it will not be possible in future years, and it would be imprudent to sterilise that possibility based on short-term indicators and current market conditions. The site's allocation for employment use provides an opportunity to make an important contribution to the overall composition and growth of the Borough's economy and to support its growing population.
20. Overall, in protecting this land at Stane Park for its allocated employment use, the Council is seeking to achieve delivery of sustainable development and sustainable economic growth over the lifetime of the plan, consistent with local and national planning policy.

Sequential Test

21. The second important consideration in relation to the principle of development of this site for the proposed uses is the issue of its location outside of an existing centre. Local Plan Policy CE1 sets out the Council's Centres hierarchy and Policy CE2b sets out the role of the Borough's Urban District Centres. The application site lies outside of an existing centre defined within the Local Plan Centres hierarchy. The proposed development has, therefore, been considered under the sequential test in the paragraphs below; for the avoidance of doubt this has been carried out in accordance with policies within the NPPF.
22. Paragraph 24 of the NPPF states that "*local planning authorities should 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. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered.*" It goes on to state that "*when considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre.*" Paragraph 27 states that "*where an application fails to satisfy the sequential test...it should be refused*".

23. The applicants have carried out and submitted a sequential test as part of the application. This suggests that the proposed uses are intended to serve the Stanway area and the Urban District Centre, and that, on this basis, it would not be appropriate to test sites in and around Colchester town centre as part of the assessment for this application. The National Planning Practice Guidance (PPG) states *“use of the sequential test should recognise that certain main town centre uses have particular market and locational requirements which mean that they may only be accommodated in specific locations. Robust justification must be provided where this is the case, and land ownership does not provide such a justification”*. Officers do not accept that the proposed development will serve only a local need and the needs of visitors to the Urban District Centre; the applicant’s arguments to the contrary are unconvincing and hence not robust. The Stanway area does not form the relevant catchment; it is clear that the whole town, if not Borough, falls within the catchment of the proposed development.
24. The Stanway area already has a number of restaurants, coffee shops and pubs, including McDonalds, Costa Coffee, Sainsbury’s café, two pubs, a Chinese restaurant, Chiquito, Frankie and Benny’s, and the development of a drive-thru Costa Coffee is underway. It is not considered that Stanway requires the provision of three additional restaurants to serve the needs of the local community, or of those visiting the Urban District Centre. It is clear that this scale of restaurant development is not consistent with the role of an Urban District Centre in Colchester, as defined by the adopted Local Plan, but, rather, is of a scale appropriate for the main town centre.
25. The applicant’s sequential assessment refers to Officer Reports relating to previous planning applications in the Stanway area. One of the quotes pulled out relates to the application for the Frankie and Benny’s restaurant; the applicant quotes *“A restaurant in this area will complement the Retail Park...”*. The key word in this quote is “a”; at no point has the Council considered it to be the case that the development of a series of restaurants would be complementary to the Urban District Centre; development of this scale would be stand-alone, rather than complimentary or supplementary to the Urban District Centre.
26. It is considered that the proposed development will result in the creation of a restaurant destination, attracting people from across the Borough and beyond. The proposed development of a further four restaurant units (as part of an imminent planning application which the applicants have notified the Council of), on the next phase of the Stane Park site, adds further support to the view that the development of the intended uses will lead to the establishment of a restaurant destination outside of an existing centre and on a key piece of strategic employment land. On the basis that the proposed development will serve a much wider catchment than the Stanway area, it is considered that the sequential test submitted as part of the planning application should have looked at Colchester town centre, not only sites around Tollgate Urban District Centre.

27. The application's sequential assessment concludes that of the three sites considered in the Tollgate area, Stane Park is the most sequentially preferable edge of centre site. However, this view is not shared by NLP (in the work they carried out in relation to an earlier draft of the sequential assessment), who noted the sequentially preferable characteristics of the former Sainsbury's site. The former Sainsbury's site is located directly opposite the core of Tollgate Urban District Centre, where the majority of the retail units are located; its immediate proximity meaning that the site is easily accessible by foot by visitors to the Urban District Centre. Work undertaken by NLP notes that the former Sainsbury's site *"appears to have the best prospects for connecting with Tollgate Urban District Centre, i.e. retail parks fronting on Tollgate West..."* In contrast, the application site is some distance away from the core part of the Urban District Centre, detached from the majority of other facilities within the Urban District Centre. It is also separated by London Road, a busy B road linking to the A12 and the A120.
28. Paragraph 36 of the applicant's assessment states *"the London Road and Tollgate sites are configured such that the loss of such land would eat into their defined broadly square shapes. In both cases the effectiveness for development options of the balance of the sites would become sub-optimal."* This, however, is not accepted to be the case.
29. The Sequential Assessment quotes the scoring of employment sites in the Council's 2007 employment land study, which identified Stane Park to be a lower quality employment location than the other sites included within the assessment, as a basis for suggesting that the alternative sites are less sequentially preferable than the application site. However, that document is outdated and circumstances on which the scoring was based have changed dramatically since that time, most notably the opening of the Western Bypass. The document has been superseded by the Council's 2015 Employment Land Needs Assessment, which identifies Stane Park as the premium employment site within the Stanway Strategic Employment Zone. In so doing, this negates the value and ranking attributed to the sites, or relied upon, in the applicant's sequential assessment.
30. There are a number of areas where it is apparent that the scores that the 2007 Study attributed to the Stane Park site, as compared with the Tollgate site, were based on circumstances which have either changed or which weigh against development of the site per se, rather than specifically for employment purposes. One such example is the score given for the site's unallocated greenfield status, which resulted in Tollgate scoring more highly against the assessment criteria, due to what was deemed to be its partial brownfield status. Another area which the Tollgate site was attributed a higher score was bus provision. As with the greenfield status, this is something that supported the development of the Tollgate site over and above the Stane Park site for development in general (including restaurant uses), not just for employment purposes. It is, however, likely to be the case that when development at Wyvern Farm takes place, Stane Park will be served with a bus service, meaning if

reassessed against the same criteria, it would receive a higher score for this criterion.

31. Additionally, Stane Park was given a lower score than Tollgate due to the fact that it was not allocated for employment purposes at that time and would, therefore, be available in the medium term, rather than the short term, unlike Tollgate which was already allocated. Again, if reassessed against the same criteria, Stane Park would be scored equally with Tollgate. These points undermine the applicant's use of this 2007 scoring in support of their application.
32. A further point that is worth noting is that the *Colchester Employment Land Study for Stane Park Planning Application* report (October 2006) stated that "*the site's location and accessibility are all conducive to a high quality business park location.*" Again, this undermines the applicant's argument that the site is a less valuable employment site in justifying that Stane Park is a sequentially preferable site.
33. The Sequential Assessment submitted, fails to assess the relative accessibility of the sites and their connections to the Urban District Centre, with associated reasoning – a key component of the requirements of sequential assessment, set out in the PPG. As set out in preceding paragraphs, it is evident that sequentially preferable sites exist, even when looking only at the Stanway area and so, on this basis, the application fails the sequential test (this is in addition to the fundamental failure of the assessment to look at Colchester town centre sites).
34. Inherent in the arguments relating to the town centre first approach is the issue of travel and accessibility, and overall sustainability. In developing a restaurant hub in this location, away from Colchester town centre, it is inevitable that customers would travel by car. The proposed development in this location, far removed from Colchester town centre, is considered to be in conflict with paragraph 34 of the NPPF which states that "*decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised*". The proposed development is also in conflict with Local Plan Policy SD1 which states that development proposals will be expected to make efficient use of land and take a sequential approach that gives priority to accessible locations. On this basis, and irrespective of whether or not the application site meets the sequential test, it is evident that the proposed development would amount to unsustainable development.

Conclusion

35. In assessing the principle of the proposed development in light of the information and evidence available, and in line with national and local policy, it is considered to be fundamentally important that the application site be retained for B use employment purposes, in accordance with its allocated use. It is also clear that the application conflicts with national

and local town centre policies. And, importantly, it is evident that this is an unsustainable location for the proposed uses.

36. It is considered that the proposed development would result in harm, including: the detrimental impact that the loss of this valuable piece of employment land would have on the Borough's economy in the medium and long term; the impact of reducing the supply of high quality employment land to provide appropriate employment opportunities to support housing growth; and the increase in car trips and associated sustainability impacts which would result from the location of town centre uses on this particular site, outside of an existing centre.
37. Overall, it is concluded that the proposed development would amount to unsustainable development that contravenes national policy contained within the National Planning Policy Framework and local policy contained within Colchester Borough's Local Plan. The harm that would result from the proposed development would outweigh any associated benefits. On this basis, and for the reasons set out above, there is a planning policy objection to this application."

.....end of policy response

- 8.2 The Council's Archaeological Officer confirms that the site has now been subject to a desk based assessment and by trial trenched evaluation. No further pre-determination evaluation is considered necessary. He recommends the addition of a condition requiring recording and advance the understanding of the significance of any heritage asset before it is damaged or destroyed.
- 8.3 The Council's Licensing, Food and Safety Manager's previous comments are equally applicable.
- 8.4 The Council's Contaminated Land Officer, having had regard to the submitted GeoEnvironmental Study, notes that the likely risk of contamination on the site is low and that the site could be made suitable for the proposed purpose. She recommends the addition of standard remediation conditions in the event that planning permission is granted.
- 8.5 The Council's Landscape Officer has objected to the proposed landscaping and has provided a detailed critique of the landscaping.

[Officer comment: the proposed landscaping could be amended to provide a more suitable character to that being established within new development in this part of Stanway with the submission of amended drawings]
- 8.6 Essex County Council, as Local Highway Authority, states that the impact of the proposal is acceptable to the Highway Authority subject to conditions requiring suitable wheel cleaning facilities during construction, provision of shared footway/cycleway facilities to a width of 3m on the site's southern frontage and improvements on the sites by-pass frontage, site access improvements, upgrades to bus stops and a travel plan.
- 8.7 Highways England formally offers no objection.

- 8.8 The Environment Agency comments that application falls outside of their scope
- 8.9 Essex County Council Infrastructure Planning states they will not be seeking an education contribution.

9.0 Parish Council Response

- 9.1 Stanway Parish Council raises NO OBJECTION in principle but does have concerns about the two drive thru restaurants which will generate an increase in traffic and litter:-

10.0 Representations

- 10.1 4 objections have been received from local residents on the following grounds (figure in brackets represents frequency with which concern was expressed)
- (3) adding to existing congestion
 - (2) unacceptable urbanisation
 - (1) are more drive-throughs needed in Stanway
- 10.2 One letter of support has been received welcoming the expansion of leisure facilities in Stanway.
- 10.3 Colchester Cycling Campaign objects on the grounds of an increase in traffic and pollution and points to the impact of this on global warming.
- 10.4 M&G owners of Culver Square object on the grounds that
- The loss of employment land, contrary to Core Strategy Policies CE1, CE3 and Development Policy DP5;
 - Failure to adequately undertake the sequential assessment to account for available and suitable sites within Colchester town centre, contrary to Core Strategy Policies CE1 and CE2a and the National Planning Policy Framework; and
 - The cumulative impact of the proposed development, along with the planned development at Tollgate Retail Park on planned investment in Colchester town centre contrary to the National Planning Policy Framework (NPPF).

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

11.0 Parking Provision

- 11.1 The amended layout includes 129 car parking spaces (including 9 disabled spaces)
- 11.2 The Council's Adopted parking standards for A3 (restaurant), and A5 (takeaway) uses set maximums but no minimum. The Council's standards in terms of maximum spaces are A3 uses - 1 space per 5sq.m. and A5 uses – 1 space per 20 sq.m.

- 11.3 Using the above formula the maximum number of spaces permitted by adopted policy is:-

$$482 \div 5 = 96$$

$$492 \div 20 = 24$$

$$\text{TOTAL} = 120$$

- 11.4 **The proposal therefore conforms to adopted Council car parking policy as 9 spaces are provided for disabled drivers.**

- 11.5 The Council's Adopted cycle parking standard requires a minimum of 1 bike space per 100sq.m for staff plus 1 space per 100 sq.m. for customers. (ie 2 spaces per 100 sq.m.) This results in a minimum requirement for 974sq.m. $\div 100 = 10 \times 2 = 20$ spaces.

- 11.6 The proposed layout indicates parking for 20 bikes. **On this basis the proposal meets cycle parking standards.**

- 11.7 The number of disabled spaces required by the Council's Adopted parking standards for this development is 10. **The proposal provides ten spaces and is therefore standard compliant.**

12.0 Open Space Provisions

- 12.1 Whilst a development of this nature (non-residential use) does not trigger a policy requirement for open space the scheme does include new public realm associated with the commercial uses – in the form of hard surfaced pedestrian areas and patio garden areas.

13.0 Air Quality

- 13.1 The site is outside of any Air Quality Management Area and will not generate significant impacts upon the zones. (the closest is Lucy Lane north).

14.0 Development Team and Planning Obligations

- 14.1 The Development Team requirements are similar to those required on application no. 146486 and an update will be provided on the amendment sheet.

15.0 Report

Land Use – the principle

- 15.1 The application form does not provide an estimate of job numbers likely to be created by the proposed development.

- 15.2 In assessing the merits of any commercial proposal the creation of new jobs is an important consideration particularly where Council's seek to create balanced, sustainable communities. It is here that careful regard must be given to the Council's Employment Zone Strategy
- 15.3 In particular the Council needs to consider what type of employment development the Council is looking to attract through its employment zone policies in areas such as the application site which are designated as strategically important.
- 15.4 The view from the Council's Planning Policy team is unequivocal. As the site and its wider Stane Park setting is identified a strategically important employment zone land the approval of non-business uses which may generate higher land values and create jobs in the short-term will make it increasingly difficult to maintain a coherent and meaningful medium to long-term employment strategy designed to bring higher quality and higher paid jobs to the town. The site's (and Stane Park generally) excellent accessibility to the A12 means that it will potentially be attractive as a high quality business park going forward despite current market fragility. Indications from elsewhere in Stanway suggest that take up rates are improving for business park uses.
- 15.5 It is true to say that the Council's Strategic Employment Zone policy cannot guarantee that high quality business (B use) jobs will be attracted to Colchester but having strategic allocations in excellent strategic locations available make this more likely so long as land values reflect uses for such purposes and have not been inflated by the invasion of higher value land uses.
- 15.6 It is also true to say that within an employment zone Council policy embraces a wide range of B business type) uses. From office through to light industry and research and development (B1) to warehousing and distribution (B8). High tech related business uses (B1) are likely to generate higher paid, skilled, permanent jobs of a type preferred by the Council but warehouse / distribution uses would be equally appropriate with the consequent much lower levels of job numbers.
- 15.7 In considering this issue it should be noted that whilst distribution uses may have relatively low employment densities they also provide a crucial role in servicing the wider economy and supporting vast numbers of jobs in other sectors.
- 15.8 Members in determining this application will therefore inevitably have to consider the economic and social benefits of jobs 'on offer' today versus protecting the medium / longer term strategy of safeguarding sites that have strategic locational advantages for future development.
- 15.9 The loss of this site would materially impact upon the Council's Employment Strategy in the opinion of Officers. The applicant argues not. With so much land available in North Colchester (the most important strategic location as identified by the Council's own consultants – NLP) they argue that North Colchester can accommodate future demand. Indeed the applicant already owns and controls some of that land and is providing business park development.

15.10 It is here that we need to consider very carefully the question of sustainable development and what the Council means when it says it is seeking to create sustainable communities. Stanway has in the last 30 years expanded significantly and rapidly, driven largely but not exclusively by residential growth. Going forward more new housing is planned at Lakelands and Fiveways Fruit Farm. The Wyvern Farm development has just commenced. The population of Stanway continues to expand. Retail development within the Urban District Centre has created service sector jobs and some modest B use development has been created within Tollgate. Whilst the North of Colchester may score a point or two higher in terms of strategic importance, the Council is looking to ensure that such uses as are appropriate in strategic employment zones are located around the borough in order to give resident communities easy access to better paid skilled jobs.

15.11 Members are reminded this application is but one of two that collectively if approved would result in the creation of FIVE restaurants and ONE pub restaurant covering 2.6ha of land. Whilst every planning application is judged on its own merits and whilst one decision doesn't set a precedent for others it is difficult to see why if this proposal was deemed to be acceptable in land use terms the second one wouldn't be if consistency of policy application is to be applied. Therefore it is appropriate to take a look at the overall disposition of possible development across the Stane Park site. (please see figure 1 below):-

site	Area (ha)	%age of total
ENTIRE STANE PARK	12.2	100
PHASE 1a	0.97	7.9
PHASE 1b	1.63	13.4
REMAINDER	9.6	78.7

} 21.3%

FIGURE 1: Relative impact on employment zone land capacity at Stane Park

15.12 This and the concurrent application (phases 1a & 1b) account for one fifth of the overall site area within Stane Park – a not inconsequential proportion. It may be argued that because this phase and phase 1a both lie below the planned access road from the Stanway Western By-Pass (as already marked and provided for by the stub arm on the west side of the Sainsbury's roundabout) the remainder of the Stane Park land forms a coherent freestanding parcel that remains suitable for strategic 'B use' development. That may be true in theory but in practice the land owner has already indicated that other non-B use developments will be pursued going forward. Clearly the Council is able to determine such applications as come forward in the light of appropriate policy at that time but it is the planning policy team's contention that allowing non-B uses and non-policy compliant uses on phase 1b (and phase 1a land) will effectively raise the hoped for land values of the remainder. If the Council has conceded its policy position of phases 1a and 1b what happens if it is confronted not with a single application for the remainder land but is faced with multiples of smaller proposals in the shape of a phase 2 a, phase 2 b phase 2c and so on. This will be a process of attrition where it may be difficult to argue the relative harm of another small increase in non B use having conceded the principle of the importance of strategic significance.

- 15.13 On this basis it would be short-sighted to make an appraisal over the relative merits of short-term employment opportunities that does not factor in the wider underlying rationale for having a strategic employment policy. Undoubtedly for someone without a job who may get one of the potential new jobs the short-term requirement is the overriding consideration. The role of planning and an adopted local plan is however to make provision for the medium and longer term and decisions made for short-term expediency can undermine the longer term economic prosperity and sustainability of a town.
- 15.14 In considering the implications of this development in great detail the planning policy team having weighed up all these factors have strongly objected to the proposal on the basis that it undermines the Strategic employment policy to the detriment of the medium to long term economic prospects of the town must, in a plan-led planning system, be the overriding and decisive consideration.
- 15.15 In terms of land use the applicants have tended to argue that their phase 1b proposal supports local demand and represents the delivery of local facilities for local people and or is complementary to the role of the Tollgate Urban District Centre. They do however accept that customers from further afield will also be attracted by its proximity to the A12.
- 15.16 The Council strongly disputes that this proposal and that of Phase 1b constitutes development complementary to the role and function of the Tollgate Urban District Centre. The Council's retail hierarchy in designating part of Tollgate as an Urban District Centre makes it clear that its function is a local one. Indeed policy CE2b of the Core Strategy makes this explicit:-
- “ Urban District Centres should provide improved public realm, urban character and a more diverse mix of uses. New retail proposals (including change of use) will not be supported, unless they meet identified local needs and do not compete with the town centre. Expansion of Urban District centres will not be supported.....”
- 15.17 Neither Phase 1b nor any part of Stane Park sit within the designated Urban District Centre and so any expansion of the uses of the type proposed cannot be justified in policy terms relating to UDC's. Indeed if such uses were proposed within the UDC the Council would have to reject them if they did not meet identified local need. The possible creation of 2 new restaurants and a pub restaurant and or 5 restaurants and a pub/restaurant in this location is effectively creating an out of town restaurant/pub destination that will rely on the majority of custom from beyond the local area. Indeed whilst some of the planned operators will have multiple presence in the town (including the town centre) the question arises as to the likely impact that such a destination will have on the vitality and vibrancy of such sectors within the Town Centre – particularly when the Urban District Centre is supported by its own A3-A5 uses.

Highway matters

- 15.18 Locally, on London Road, there has been significant objection to the proposal on the grounds of perceived adverse highway impact in the sense additional traffic adding to existing congestion.

- 15.19 In response and whilst not required to do so by Essex County Council as local highway authority, the applicants have now proposed a access arrangement from London Road that will in time mean that only the proposed pub/restaurant traffic will be able to get in and out from London Road. The remainder of development south of the Sainsbury's roundabout access arm would be able to access the site from London Road but would have to leave via the access to the north once this had been delivered with development. The applicant has indicated a willingness to provide that link along with phase 1a and 1b.
- 15.20 The highway authority had indicated that it had no objection on highway safety and capacity grounds prior to this revision being made. Local residents have voiced very strong concern about the levels of congestion now being experienced on London Road since the opening of the Stanway Western Bypass. This is an issue that has been acknowledged by Essex County Council but the phase 1a proposal is not considered to materially add to that although a modest financial contribution has been secured by Essex County Council (in the event of permission being granted) towards the future implementation of remedial works by the County Council.
- 15.21 On this basis there is no sustainable ground for objection from a highway safety or capacity point of view on the local network.
- 15.22 In terms of the implications of the proposal on the strategic highway network (A12) Highways England has raised no objection.

It is therefore not recommended that the proposal is refused on the grounds of adverse impacts on highway safety and/or capacity as the Council will not be able to rely on support from either of the highway authorities.

Design, Layout scale and mass

- 15.23 The design and layout has evolved through extensive negotiation between the Major Development Service (including the Council's previous urban designer) and the applicant.
- 15.24 The proposed scheme continues the contemporary theme developed in Phase 1a as it runs northwards.
- 15.25 Whilst the Council's landscape officer has indicated the proposed landscaping requires further amendment and recommends refusal it is considered that such deficiencies could easily be resolved through negotiation and that in itself this is sufficient reason to justify a refusal of planning permission.
- 15.26 The scheme makes good provision for accessibility and permeability, including connections to the Wyvern Farm development and will facilitate the connection of highway between Wyvern farm and Stane Park for the planned bus route. (not for general traffic).

Heritage considerations.

- 15.27 The Council's archaeological officer is satisfied that the applicant has undertaken sufficient archaeological investigation to enable development if approved to proceed with little risk to archaeological importance. Members may know that Stane Park sits close to the Roman road (Stane Road) to Colchester from St Albans and the area has in the past yielded important finds.
- 15.28 The proposed development is far enough away from the listed cottage Foakes not to pose any harm to the wider setting.

Amenity

- 15.29 The proposed uses all potentially carry with them some theoretical risk of nuisance and disturbance within a residential environment. This primarily arises from odour from the cooking process and noise from late night activity. (human voices associated with external dining and drinking as well as people leaving the building in high spirits, vehicle engines/doors and lighting (car park lights and vehicle lights)).
- 15.30 The proposed hours of business have been described in the application as:-
11.00 to 23.00 every day.
- 15.31 This will inevitably mean late night activity. The obvious question that arises as a result might therefore seem "Can any potential nuisance be appropriately mitigated?" Whilst that may be so some regard also has to be had to the likely impact that policy compliant uses might have were this to be B use development.
- 15.32 The definition of a B1 (business) use is one that can occur within a residential area without undue nuisance and so in theory significant nuisance would according to the Use Class Order not be expected. However some caution needs to be expressed as distribution uses (B8) and some B1 uses might operate into the evening (if not 24 hours). That said it might normally be exceptional for such uses to occur continuously every day until 23.00hrs (with the added delay as people leave the premises when drinks can no longer be consumed).
- 15.33 The proposed car park area is located along the sites boundary with the residential development under construction at Wyvern Farm and the future residents amenity may be threatened.
- 15.34 Concern of residents in respect of late night disturbance is shared in that whilst odour nuisance (from the cooking process and extraction) can generally be controlled through the specification of the highest quality equipment (so long as it is properly maintained) nuisance from the noise of customers outside the buildings is more difficult to control. Once a development of this nature has been approved (planning permission-wise) it becomes a management issue for the operator or one for environmental control or licencing. However the planning system is tasked quite legitimately with safeguarding amenity. In this case whilst the residents in London Road and those on the east and south side of the Wyvern farm development will experience existing road noise it is difficult to see how the proposed uses will not introduce new noise nuisance into the late night environment. Such nuisance is less

likely to be associated with employment zone uses including associated car parking. This is considered sufficient grounds to refuse the application.

Floodrisk

- 15.35 Local members will be aware of the existing localised flooding issues on London Road in the vicinity of the application site on the highways south side when it rains heavily. Flash storms result in highway run off pouring into the driveway of houses on the south side where these slope down from the footpath which is marginally above the level of the adjacent road. Essex County Council as local highway authority has accepted that the works associated with the completion of the Western By-pass and the remodelling of the London Road /By-Pass roundabout and inadequacies of highway drainage have prompted this new problem.
- 15.36 This application makes adequate provision to deal with its own surface water / run-off flows without utilising the inadequate highway drainage. It will therefore not add to the existing problem and it is not reasonable for the applicant to remedy the existing problem as it does not relate to the development under consideration.

16.0 Conclusion

- 16.1 The proposal is considered unacceptable and warrants refusal on the following grounds:
- i) Contrary to adopted local plan policy as it would result in the loss of strategically important employment land and as such will undermine the Council medium to long-term employment strategy for the town to the overall detriment of the long term local economy;
 - ii) Town Centre and Urban District Centre policy grounds in that the creation of this out of centre A3/A4 destination attraction is likely to adversely harm the vitality and viability of the town centre as well as representing incompatible development with role and function of the Urban District centre;
 - iii) The proposal is likely to result in inappropriate disturbance and nuisance by way of late night noise to existing and planned nearby residential properties.

17.0 Recommendation

- 17.1 Refuse planning permission subject to the reasons set out below.

1 - Non-Standard Refusal Reason

Conflict with Site allocation as a Strategic Employment Zone

The application site is allocated in the Adopted Local Plan as a Strategic Employment Zone (policies CE1, CE3, SA STA3 and DP5). The proposed restaurant uses are not in conformity with the provisions of the local plan and the loss of this Adopted strategically important employment zone site is considered prejudicial to the Council's overall employment strategy to the detriment of the medium to long-term economic benefit of the town. Notwithstanding that the proposed development will generate new jobs in the hospitality sector the proposal would erode the integrity and future attractiveness of Stane Park for business park development that requires excellent access to the Nation's strategic trunk road system. This

concern is further compounded by the fact that Stanway is expanding rapidly in terms of housing delivery and the Strategic Employment Site offers potentially sustainable employment opportunities for residents who are otherwise forced to travel in search of job opportunities.

This site and its wider hinterland is allocated in the Council's Adopted Core Strategy - Policy SD1 as the Stanway Growth Area (SGA) where development is expected to be focused and where proposals that accord with other policies in the Local Plan will be approved without delay. In defining the Stanway Strategic Employment Zone, within which the application site lies, the Council identified the type of development that would be appropriate to achieve its medium to long-term economic objectives within Table CE1b (as supports employment classification and hierarchy policy CE1 and the strategic designation provided by table CE1a). These appropriate uses are defined as B1b research and development, studios, laboratories, hi-tech; B1c light industry; B2 general industry; and B8 storage and distribution. Secondary land uses are described as B1a offices; C1 hotels, D2 assembly and leisure and sui generis. The proposed land uses comprising A3 or A4 uses do not comply with that policy.

The proposed development on this strategically important Employment Zone would seriously undermine the Council's ability to plan for the medium to long term expansion of the Town's economy to create sustainable high value jobs in locations that complement areas experiencing rapid and significant housing growth and with excellent access to the strategic highway network. (in this case the A12).

The Council's carefully planned employment strategy is reinforced within its Adopted Site Allocations (2010) in so far as Policy SA STA1 and SA STA 3 that make provision for employment use (which exclude those proposed here) and reject the need for town centre uses such as those proposed here respectively.

2 - Non-Standard Refusal Reason

Urban District Centre and Town Centre retail policy

The Council is of the opinion that the growth and concentration of the proposed A3 uses and A4 use in this out of centre "destination" are harmful to the vitality and viability of the Town Centre on the grounds that the location is in a sustainable location promoting trips and car borne traffic with more sequentially preferable locations for such growth in town centre uses being available. The Council's Adopted Local Plan Policy CE2a defines that the Town centre will be promoted as the sequentially preferable location for growth as a prestigious regional centre where a mix of uses will be encouraged. This Core strategy objective is further expanded by Development Policy DP6.

Adopted Local Plan policies CE1 & CE2 define that such uses as those proposed are appropriate in Mixed Use Centres. Policy DP5 defines the range of uses that are acceptable within designated employment zones and the proposals do not fall within these uses. The designated Stanway Growth Area is not a mixed use area and the application is not within the designated Urban District Centre. The proposal therefore seeks to effectively expand the Stanway Urban District Centre into an area designated for strategic employment purposes. Policy CE2 b clearly states that the expansion of Urban Districts Centres will not be supported and the proposals are in direct conflict with the strategic aims of the adopted local plan which seek to promote sustainable employment growth and promote growth in sequentially preferable and accessible locations whilst protecting the vitality of the town centre.

3 - Non-Standard Refusal Reason

Impact on amenity

The Council is of the opinion that the creation of a significant A3 /A4 destination attraction that is open for business from 11.00hrs to 23.00hrs every day of the week and on bank holidays so close to existing and planned residential development is likely to cause unacceptable late night noise and disturbance to residents. It is unlikely that boundary planting will sufficiently buffer noise from customers enjoying meals and drinks outdoors and/or leaving the premises to get to cars in the associated car park along with subsequent vehicle related noise to avoid unacceptable disruption and disturbance to residents. The Council takes the view that risk of such nuisance is inherently increased by uses such as those proposed compared to uses permitted within an employment zone. (other than perhaps B2 uses which could be controlled by condition in terms of operating hours). The proposals are therefore contrary to Development Plan Policy DP1 of the adopted local plan that seeks to protect the amenities of local residents.

20.0 Positivity Statement

- 20.1 The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.



Application No: 151540

Location: Ralph & Rita Martin, 37-41 Layer Road, Colchester, CO2 7JW

Scale (approx): 1:1250

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7.3 Case Officer: Eleanor Moss

OTHER

Site: 37-41 Layer Road, Colchester, CO2 7JW

Application No: 151540

Date Received: 23 July 2015

Agent: Jonathan Reubin

Applicant: Mr Will Quince

Development: Change of use to A2 financial & professional services.

Ward: Shrub End

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the applicant is an elected member.

2.0 Synopsis

- 2.1 The key issues explored below are the impact of the proposed A2 (financial and professional services) on the surrounding area.

3.0 Site Description and Context

- 3.1 The application site is currently a vacant premises previously used for retail purposes (a news agent) within Layer Road. Layer Road is made up of a mix of uses and buildings, mostly residential and retail. The information provided to support the application states the retail shop has become non-viable due to the opening of Sainsbury close by and the redevelopment of the football club. As a consequence the retail shop has had to close.

4.0 Description of the Proposal

- 4.1 This application seeks planning permission for the change of use of 37 – 41 Layer Road to A2 use (Financial and Professional Services). The application site is to be used as a constituency office and surgery for the local MP.

5.0 Land Use Allocation

- 5.1 Retail

6.0 Relevant Planning History

- 6.1 146062 - Proposed single storey rear extension to provide a new internal toilet with basin with new rear access. Block up side access with the formation of a small store room within the existing premises.

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 also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

- 7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations
SD3 - Community Facilities
TA5 - Parking

- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):

DP1 Design and Amenity
DP6 Colchester Town Centre Uses
DP7 Local Centres and Individual Shops
DP19 Parking Standards

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

Community Facilities
Vehicle Parking Standards

8.0 Consultations

- 8.1 None received at the time of writing

9.0 Parish Council Response

- 9.1 The Parish Council have not commented upon this application.

10.0 Representations

- 10.1 There have been no representations received at the time of writing.

11.0 Parking Provision

11.1 N/A

12.0 Open Space Provisions

12.1 N/A

13.0 Air Quality

13.1 The site is outside of any Air Quality Management Area and will not generate significant impacts upon the zones.

14.0 Development Team and Planning Obligations

14.1 This application is not classed as a “Major” application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (S106) of the Town and Country Planning Act 1990.

15.0 Report

Principle of development

- 15.1 The advice contained in national planning policy guidance (PPS4) identifies office uses as a main town centre use and that a sequential preference is applied to locating such uses within existing centres. It is however recognised that a MP’s constituency office does not carry out a pure office function and will facilitate public service and community functions as well. Furthermore, there is a reasonable expectation that an MP’s constituency office is to be located within the MP’s own constituency.
- 15.2 The nature of a constituency office means that it will be open and available to the public, who will be able to call-in at the premises without prior appointment. Typically, visitors to a constituency office would make specific trips to seek the advice or assistance of their MP, or their staff, and their visit is not incidental to some other purpose (e.g. shopping) where constituents bring urgent matters which cannot wait for the scheduled MP surgery times (The MP will typically hold drop in surgeries through the year).
- 15.3 Turning to the Use Classes Order, a constituency office is not specifically defined but does, in terms of the activities, services and advice provided, reflect more closely the characteristics of an A2 use class (Financial and Professional Services) rather than a pure B1(a) (Business- office) use. An A2 use provides ‘(a) financial services, or (b) professional services (other than health or medical services), or (c) any other services (including use as a betting office)... where the services are provided principally to visiting members of the public’. A B1(a) covers offices not classed within class A2.

- 15.4 It is considered that the proposed constituency office would provide a community based service, offering professional advice and assistance to visiting members of the public. In adopting such an interpretation of the proposed use, would preclude the requirement for the proposal to be subjected to the sequential based assessment outlined within national government guidance (PPS4).
- 15.5 The application premises is presently unoccupied however was previously occupied as a shop and lies within a mile and a half of Colchester Town Train Station and is well served by public transport links.

Design and Layout

- 15.6 This proposal seeks to convert 37 – 41 Layer Road from a retail use (A1) to a financial and professional services (A2) use. The proposal will involve no external or internal structural alterations to the existing building. The proposal will accommodate storage rooms, a reception area, a kitchen, two office areas and a lounge at ground floor. The constituency office shall employ two secretarial staff. The property will utilise the existing access arrangements.
- 15.7 The proposal is seeking a permanent change of use.
- 15.8 As there are no external or internal alterations it is considered that the design is considered to be acceptable in its own merits.

Impact on neighbouring properties

- 15.9 The proposal is located within Layer Road, this area contains a number of different properties and a number of different uses. The most prominent uses within this street are residential and retail. The closest neighbouring property is a florist shop, which is unaffected by the proposals. The proposed constituency use is not anticipated to present adverse residential amenity concerns. The premises are positioned well away from residential properties and as such it is not considered that the scheme would adversely impact upon the residential properties within the area. Nevertheless, with visitors coming and going at the constituency office it is considered reasonable to impose opening time restrictions so that these activities do not occur at unsocial hours.

Parking and Highways

- 15.10 From a highways perspective, this proposal is considered acceptable as the scheme will serve the local community and the site benefits from close bus links and other public transport facilities. Although the site does not benefit from off-street parking, the site has previously been used for retail purposes and it is not considered that A2 use will generate significantly increased levels of traffic. Visitors to the premises will be from within the constituency and as such it is not considered that they will have travelled a great distance from the site. There is street parking available directly outside the premises and along Layer Road and if visitors do access the premises by motor vehicle then they will be able to park close to the premises. Clearly, it is important for the MP to be located within his constituency and given that the site lies close to the town centre with bus services directly outside the site should ensure that visitors have convenient access to the MP.

16.0 Conclusion

- 16.1 Due to the nature of the proposed use, the constituency office is not considered to conflict with town centre based uses or the neighbouring retail premises. The proposal is not considered to adversely impact on the amenity of nearby residents and would not be detrimental to highway safety. Accordingly, this planning application is recommended for approval.

17.0 Recommendation

- 17.1 APPROVE subject to the following conditions

1 - 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 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted approved plans 2014-108-003.

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

3 - Non-Standard Condition/Reason

37 - 41 Layer Road shall be used solely for financial and professional services and for no other purpose including any other purpose in Class A2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any Statutory instrument revoking and re-enacting that Order with or without modification).

Reason: This is the basis on which the application was submitted and subsequently considered and the Local Planning Authority would need to give further consideration to the impacts of a different use at this site at such a time as any future change of use were to be proposed.

19.0 Informatives

(1) ZT0 – Advisory Note on Construction & Demolition

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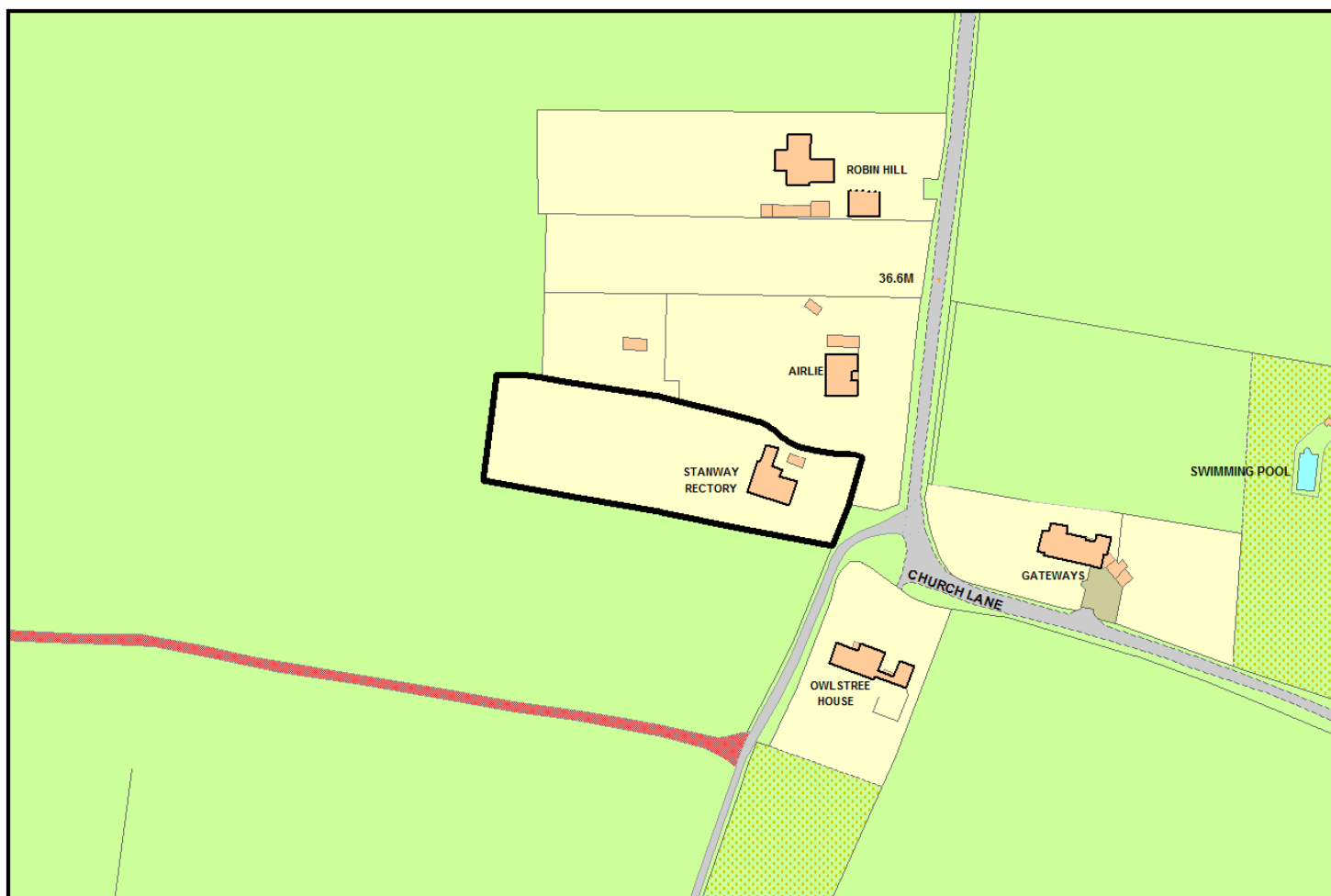
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Application No: 151672

Location: Stanway Rectory, Church Lane, Stanway, Colchester, CO3 8LR

Scale (approx): 1:1250

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7.4 Case Officer: Richard Collins Due Date: 28/09/2015 HOUSEHOLDER

Site: Stanway Rectory, Church Lane, Stanway, Colchester, CO3 8LR

Application No: 151672

Date Received: 3 August 2015

Agent: Tim Moll Architecture Ltd

Applicant: Mr Mclean

Development: Demolition of outbuildings and construction of single storey and two storey extensions. (Resubmission of application 150746)

Ward: Copford & West Stanway

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the applicant is related to a member of the Council.

2.0 Synopsis

- 2.1 The key issues explored below are that of design and amenity. The proposal is considered to have an acceptable design that would not result in any amenity issues – such as overlooking or overshadowing. Approval is recommended.

3.0 Site Description and Context

- 3.1 The application property is a red brick and plain tile detached two-storey dwelling with attached single-storey addition and detached single garage set in spacious grounds. The property is setback approx. 40 metres from the highway, with an intervening coppice of trees located between the application property and the highway. The application site is bounded by agricultural land to the north and west, with the nearest residential properties located to the east (Airlie) and south-west (Owlstree House), both of which are two-storey properties.

4.0 Description of the Proposal

- 4.1 The proposal is for the demolition of the existing detached single garage, and attached single-storey utility room, and erection of single-storey and two-storey extensions.

- 4.2 The single-storey elements include the provision of a dining room, utility, w/c, workshop and triple garage to the front and side of the dwelling. The single-storey extensions would be a maximum of 4.7 metres in height, and protrude approx. 11.5 metres forward of the existing dwellinghouse. The dining room, utility and workshop would be finished in a cream render, with roof tiles to match the existing plain tiles. The triple garage would be finished in back hardiplank cement boarding, and matching plain tiles to the roof. Three roof-lights are proposed in the roof slope of the workshop and garage extensions, all facing into the site.
- 4.3 The two-storey element to the side of the dwelling includes the provision of an extended family kitchen at ground floor, with an additional bedroom at first floor. The extension would be a maximum of 8.8 metres in height, and 7.1 metres in width. The extension would be finished in cream painted render, and plain tiles to match existing.
- 4.4 The application drawings also include a rear facing dormer window in the roof slope of the existing dwelling. This dormer window would be classed as permitted development and therefore does not form part of the proposal.

5.0 Land Use Allocation

- 5.1 Residential.

6.0 Relevant Planning History

- 6.1 150746 - Demolition of outbuildings and construction of single storey and two storey extensions. Granted on 26 June 2015.

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 also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.
- 7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

UR2 - Built Design and Character

- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):

DP1 Design and Amenity
DP13 Dwelling Alterations, Extensions and Replacement Dwellings
DP19 Parking Standards

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

Vehicle Parking Standards
Extending Your House?
The Essex Design Guide

8.0 Consultations

- 8.1 Natural England – No comments to make regarding this application.

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

9.0 Parish Council Response

- 9.1 The Parish Council raises no objections to this application.

10.0 Representations

- 10.1 None received.

11.0 Parking Provision

- 11.1 No change.

12.0 Open Space Provisions

- 12.1 No change.

13.0 Air Quality

- 13.1 The site is outside of any Air Quality Management Area and will not generate significant impacts upon the zones.

14.0 Development Team and Planning Obligations

- 14.1 This application is not classed as a "Major" application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (S106) of the Town and Country Planning Act 1990.

15.0 Report

- 15.1 As reported at paragraph 6.1, planning permission has already been granted for an almost identical development on 26 June 2015, which was presented to the Planning Committee on 25 June 2015. Following the granting of this permission, the applicant wishes to slightly increase the size of the single-storey front extension which forms the dining room from 4.8m in width to 6.8m in width (internally). This has resulted in the single-storey front triple garage extension moving closer to the boundary with the neighbouring property to the north (Airlie), from 3.2m to 1.2m at its closest point. Such a change could not be accepted as a non-material amendment and hence the need for the re-submitted application.
- 15.2 The application site is located outside of the defined settlement boundary of Stanway. Policy DP13 of the adopted Colchester Borough Development Policies (adopted 2010, amended 2014), states development of this nature outside of the settlement boundaries will be supported only where all the following relevant criteria can be met:
- (i) Respects and enhances the character of the original dwelling and does not significantly alter its size;
 - (ii) Respects and enhances the landscape character and setting of the site and the wider rural area; and
 - (iii) Avoids a cramped form of development and retains an appropriate level of private amenity space for the occupants of the dwelling.
- 15.3 The principle of development is therefore acceptable, subject to the detailed criteria above.

Design and Layout

- 15.4 The proposed two-storey extension would be recessed from the existing dwelling by an appropriate amount and would be 0.5 metres lower than the existing dwelling. Both of these factors would mean that the proposal would be read as a subservient addition that would not overwhelm the original dwelling.
- 15.5 The single-storey extensions whilst projecting forward of the existing dwelling would not harm the setting of the site, given its spacious setting and setback from the highway, and given the break in roof levels between the workshop extension and triple garage, the garage would read as a separate addition. This is accentuated by a change in materials between the workshop and garage.
- 15.6 Whilst the roof materials are to match the existing plain tiles found on the dwellinghouse, the proposed facing materials differ from that on the existing dwelling, being soft red bricks. Given the age of the property, likely to be circa 1930, finding a suitable brick match may be difficult. The proposal therefore includes a cream painted render and black hardiplank cement boarding to the triple garage. These materials are considered to be acceptable, and assist in reading the extension as a subservient extension and a later addition to the historic evolution of the property.

Impact on the Surrounding Area

- 15.7 Church Lane is a rural lane punctuated by large residential properties set within spacious grounds. The application site itself is large and can accommodate the proposed development comfortably.
- 15.8 Neighbouring properties are two-storey in form, with single-storey attached and detached additions. The palette of materials on surrounding properties are also mixed, with in particular Robin Hill to the north of the site which has a mixture of red brick, cream painted render and black boarding.
- 15.9 The site is fronted by a small coppice of trees (which is outside of the red line of the application) which helps to screen the property from views from the public highway. It is considered the proposed development will not have any adverse impact on landscape character, the setting of the site and the wider area.

Impact on Neighbouring Properties

- 15.10 Regarding amenity the nearest neighbour to the proposal is the property known as Airlie to the north of the application site. The proposed extension would be a minimum of 1.2 metres from the boundary, and approx. 19 metres from the side elevation of Airlie. Whilst the boundary line is formed by metre high chestnut pale fencing, there are a number of mature trees within the ownership of the neighbouring property which would help to screen the development. In any event given the distance of the extension to Airlie, and that no first floor side windows are proposed in the two-storey extension, the proposal is not considered to have any adverse impact on the amenities of neighbouring properties by way of overlooking or overshadowing.

Other Matters

- 15.11 The proposal will retain an appropriate level of private amenity space for the occupants of the dwelling, and would not appear cramped or overdeveloped.
- 15.12 It is noted that the parking spaces within the triple garage are under-sized when assessed against the adopted Parking Standards, however the property is afforded significant parking, turning and manoeuvring facilities within its frontage, which would still be retained following the implementation of this development. As a result, the under-sized parking spaces are not considered to be a reason to refuse planning permission.

16.0 Conclusion

- 16.1 The design is considered acceptable and there would be no detrimental amenity impacts. The proposal is therefore considered acceptable and would comply with Policies DP1, DP13 and UR2.

17.0 Recommendation

- 17.1 APPROVE subject to the following conditions.

18.0 Conditions

1 - 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 - *Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 02G and 03C. Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.

3 - Non-Standard Condition/Reason

The external facing and roofing materials to be used shall be those specified on the submitted application form and drawings, unless otherwise agreed, in writing, by the Local Planning Authority. Reason: To ensure that materials are of an acceptable quality appropriate to the area.

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Report of	Head of Commercial Services	Author	Daniel Cameron
Title	Affordable Housing Contributions Report		
Wards Affected	All		

This report sets out the current level of the Affordable Housing contributions received/secured by Colchester Borough Council in lieu of delivery on site.

1. Decision Required

- 1.1 Members are asked to note the contents of the report.
- 1.2 The report examines the current level of Affordable Housing contributions held by Colchester Borough Council as well as future contributions secured within existing Section 106 agreements but not yet received. Furthermore, it also outlines the proposed methods for spend to ensure maximum benefit is received by the Borough from the contributions.
- 1.3 Members are invited to provide any feedback on the report; including whether it would be helpful for similar reports should be provided on more regular basis and what further information Members might require in future reports.

2. Reasons for Decisions

- 2.1 Members indicated at recent Officer-led training exercises as well as when discussing recent Planning Applications at Committee that they would like to be presented with a clearer understanding of the level of Affordable Housing contributions currently held.
- 2.2 This report is presented for consideration to ensure that Members are informed of:
 - The current position of the Affordable Housing contribution levels;
 - The likely contribution levels in the near future; and
 - The current options for spending these contributions.

3. Affordable Housing

Policy Background

- 3.1 The National Planning Policy Framework states at paragraph 50 that Local Planning Authorities are required: “where they have identified that affordable housing is needed, to set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified (for example to improve or make more effective use of the existing housing stock) and the agreed approach contributes to the objective of creating mixed and balanced communities. Such policies should be sufficiently flexible to take account of changing market conditions over time.”

- 3.2 Within the current Adopted Core Strategy (2008 updated July 2014), policy H4 sets out the Council's policy stance towards securing affordable housing. It states: "The Council will be seeking to secure 20% of new dwellings (including conversions) to be provided as affordable housing (normally on site)... In exceptional circumstances, where high development costs undermine the viability of housing delivery, developers will be expected to demonstrate an alternative affordable housing provision... The Council will require developments to integrate affordable housing and market housing, with a consistent standard of quality design and public spaces, to create mixed and sustainable communities."

Affordable Housing Contributions

- 3.3 Currently our planning policy requires Affordable Housing delivery to be normally provided on-site by the developer. This is to be scattered (called 'pepper potting') across the site in a tenure-blind manner and the mix of properties to be delivered should be reflective of the overall mix of properties being built.
- 3.4 Where developers are unable to deliver Affordable Housing on site, commuted sums are sought to enable the delivery of Affordable Housing within the area so that housing needs can still be met.
- 3.5 There are currently eleven sites with Planning Permission within the Borough which should provide commuted sums for Affordable Housing in lieu of on-site provision. These are spread across the borough and potentially secure a hypothetical total of just over two million pounds. This total is subject to change given that contributions will only come forward and be paid to the Council if the specific trigger points within the Section 106 Agreements securing the relevant contributions are met. Should these developments not progress and permission lapses, or the specific trigger point is not met, no contributions will be forthcoming which would reduce this potential total. Further, if the agreement is re-negotiated and a lower affordable housing contribution secured, then a lower sum could be paid to the Council.
- 3.6 A number of recent agreements also contain provision to make monetary contributions towards the provision of Affordable Housing within the Borough. The Section 106 documents securing these sums have not yet been completed. Accordingly, these have not been taken into account within the figures presented within this report, largely for the same reasons as outlined above. Regular reporting would allow Members to see progress of these agreements.
- 3.7 Of the amounts currently agreed within Section 106 Agreements, the Council has received £616,030.50 from four of the 11 sites mentioned above.
- 3.8 Contributions forming part of the funds received to date do contain expiry clauses. We therefore need to allocate the funding to a specific project to deliver Affordable Housing within the Borough, or risk losing the contribution as they will otherwise need to be returned to the developer.
- 3.9 At present, of the sums currently held by the Council, there are no prohibitive clauses within the Section 106 Agreements restricting the scope or area of the potential spend. The only restriction is that the contributions be used to provide affordable housing at either affordable or intermediate levels of rent.

Delivering Affordable Housing

- 3.10 Commuted sums can be used to secure additional affordable housing through a number of routes. Colchester Borough Council has normally used them only where Homes and Communities Agency grant is unavailable and/or to purchase additional units on a scheme or to assist in bringing forward development on another site. Commuted sums are not used to provide funding for affordable housing that can be provided as part of the policy requirement for affordable housing.
- 3.11 Commuted sum funding has been provided to Registered Providers in the form of a grant in exchange for 100% control of the nominations rights over the affordable housing delivered. When making these arrangements the Council tests value for money, that the homes meet current housing needs and are deliverable.
- 3.12 Recent commuted sum spend on affordable housing is shown at Appendix 1.
- 3.13 Delivery of off-site affordable housing has become more challenging in recent years. Registered Providers have been outbid by private developers when seeking to purchase land and the purchase of open market units to serve as affordable units has not been good value for money.
- 3.14 The Council is in the process of inviting Registered Providers to express an interest in delivering additional affordable homes in Colchester. This will potentially involve the use of commuted sum funding. If successful, the Council may use this process in the future.

4. Financial implications

- 4.1 As outlined in paragraph 3.8 if we fail to spend contributions before their expiry date then the funds revert to the developer. This would harm the provision of Affordable Housing within Colchester through the loss of potential funding.

5. Equality, Diversity and Human Rights Implications

- 5.1 The provision of affordable homes helps to promote equality regardless of economic status and therefore contributes towards promoting diversity through improved access to housing unrelated to the individual's ability to compete in the open market.

6. Publicity Considerations

- 6.1 No public consultation is required.

7. Risk Consideration

- 7.1 The timely spend of contributions received will avoid the risk of such fund becoming 'timed out' and returned to the developer. This requires appropriate schemes to be brought forward.

8. Strategic Plan References

8.1 The Strategic Plan has four headline themes. Under the 'Prosperous' theme, the plan inter-alia seeks to:

- Provide opportunities to increase the number of homes available including those that are affordable for local people and to build and refurbish our own Council houses for people in significant need
- The provision of affordable homes through the use of commuted sums is one method of delivering this strategic aim.

9. Community Safety Implications

9.1 The proposed changes do not directly affect community safety.

10. Background Papers

10.1 The National Planning Policy Framework is available on the Gov.uk website. Colchester Borough Council's Strategic Plan and Core Strategy are available on the website.

Appendix 1: Historical spend of commuted sums to deliver affordable housing, 2009-14.

Capital programmes for RSL's				
Year		Balance		Units provided
2009/10	Balance	£688,900		
	Spent	-£492,000	£407k Colne	
			£85k East Thames (Old Swan)	4 units
	Remaining	£196,000		
2010/11	S106	£458,600		
	Spent	-£458,600	Hythe Hill (Castle Keep)	52 units
	Remaining	£196,900		
2011/12	Remaining	£196,900		
2012/13	Remaining	£196,900		
2013/14	S106	£550,000		
	Spent	-£550,000	Colne (Brook Street)	18 units
		-£105,000	Home (Hawkins Rd)	5 units
	Remaining	£91,900		
2014/15	S106	£60,000		
	Spent	-£60,000	Colne (Brook Street)	2 units
	Remaining	£91,900		