

Planning Committee Meeting

**Moot Hall, Town Hall, High Street,
Colchester, CO1 1PJ**

Tuesday, 06 September 2016 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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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 withhold 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.

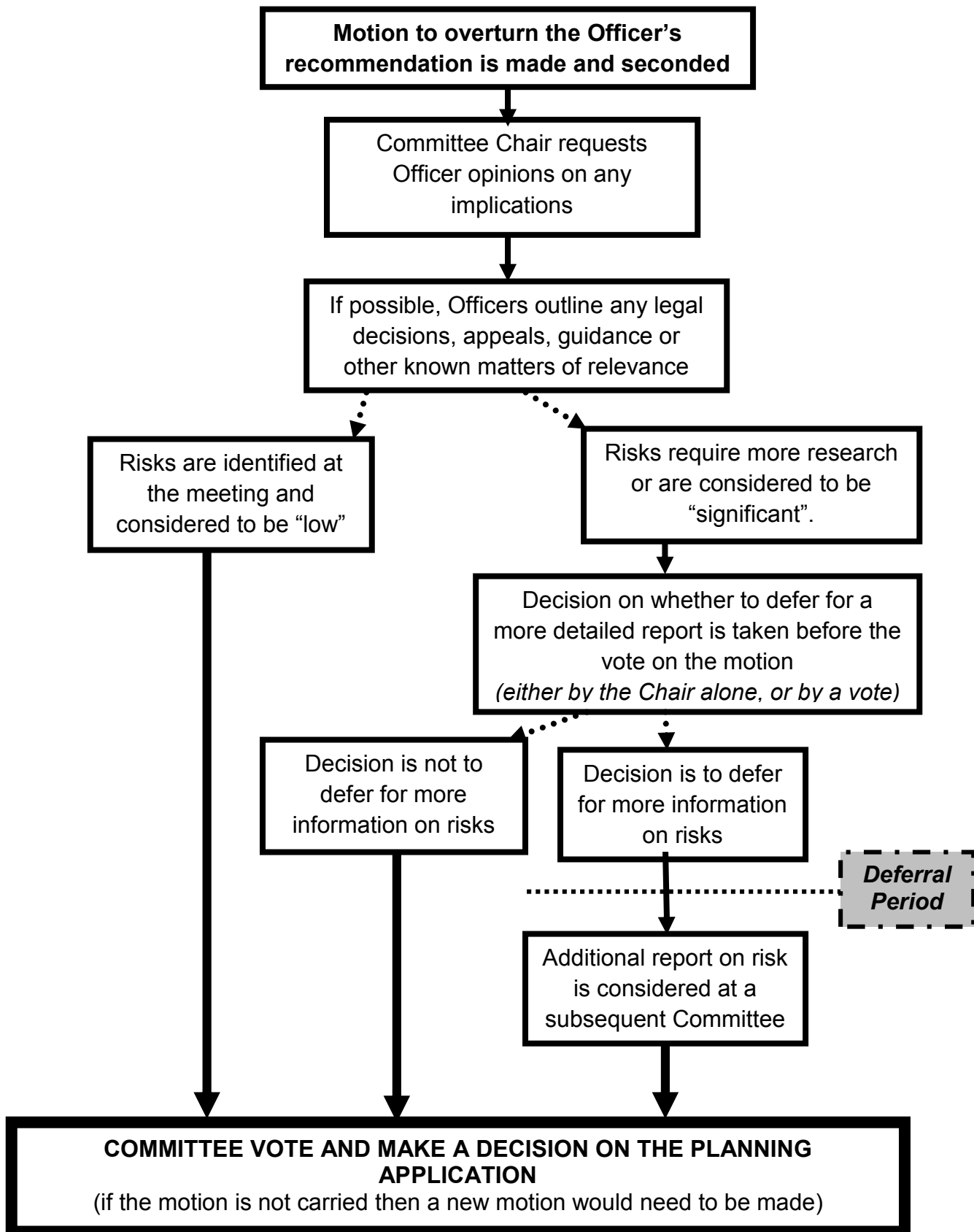
Interpretation of Class C4

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
Tuesday, 06 September 2016 at 18:00

Member:

Councillor Theresa Higgins
Councillor Cyril Liddy
Councillor Lyn Barton
Councillor Helen Chuah
Councillor Pauline Hazell
Councillor Brian Jarvis
Councillor Derek Loveland
Councillor Jackie Maclean
Councillor Philip Oxford
Councillor Rosalind Scott

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, Tina Bourne, Roger Buston, Karen Chaplin, Nigel Chapman, Peter Chillingworth, Phil Coleman, Nick Cope, Robert Davidson, Beverly Davies, John Elliott, Annie Feltham, Adam Fox, Martin Goss, Dominic Graham, Dave Harris, Darius Laws, Mike Lilley, Sue Lissimore, Fiona Maclean, Patricia Moore, Gerard Oxford, Chris Pearson, Lee Scordis, Jessica Scott-Boutell, Lesley Scott-Boutell, Paul Smith, Martyn Warnes, 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

There are no minutes for confirmation at this meeting.

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.

Lakelands SR6 Tollgate Road Stanway - Have Your Say speaking arrangements 17 - 18

7.1 152817 Parcel SR6, Tollgate Road, Stanway 19 - 62

Reserved matters application for approval of 28 affordable dwellings on Parcel SR6 including access, appearance, landscape, layout and scale.

7.2 151479 Lakelands Development Site, (Parcel NE2), Church Lane, Stanway 63 - 86

Outline application for the proposed residential development of land known as parcel NE2 for up to 65 new dwellings (including affordable housing) together with associated landscaping, access roads, car parking, infrastructure and other ancillary works.

8 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 MEETING 6 SEPTEMBER 2015

The meeting of the Planning Committee on 6 September 2016 will be held in the **Moot Hall, Town Hall, Colchester**. This is because it is likely that there will be a larger than usual number of people who will wish to attend the meeting.

One of the applications to be considered at the meeting relates to development at **Lakelands (SR6), Tollgate Road, Stanway** which has generated a significant amount of public interest. In recognition of these exceptional circumstances, the Chairman has agreed to vary the arrangements for the public to make representations to the Committee (called 'Have Your Say!')

The changed arrangements for speaking **on this application only** are:

- up to **three speakers** will be permitted to address the Committee for up to a maximum of **three minutes** each **in opposition** to the application and
- up to **three speakers** will be permitted to address the Committee for up to a maximum **three minutes** each **in support** of the application.

As is usual, speakers will be timed and a bell will be rung when there is one minute remaining and again at the end of the three minutes.

In relation to speakers who wish to address the Committee in opposition to the application, if necessary, the Chairman may need to consider giving priority to speakers who represent organisations or those who represent a significant body of the population, for example Parish Councils and organised groups and societies.

The meeting will **commence at 6pm** but members of the public are encouraged to arrive in good time and it is anticipated that **access** to the Hall will be available **from 5.00pm**.

Names of speakers will be **recorded prior to the meeting, from 5pm**. If you wish to register to speak to the Committee please **tell a member of staff when you arrive at the Moot Hall**. They will be located just inside the Hall, and they will give you instructions on how to register to speak.

For general advice on the content of your speech, please read the guidance on the Council and Meetings pages of the website on the link entitled Have Your Say [here](#). Please be aware that you will not be able to engage in a dialogue with the committee, but any questions you pose in your speech may be noted by the planning officers and they will be able to answer such questions in their response to speakers.

For further information about these arrangements contact:

amanda.chidgey@colchester.gov.uk
01206 282227

7.1 Case Officer: Vincent Pearce

Due Date: 22/03/2016
(extension of time agreed)

Site: Parcel SR6, Tollgate Road, Stanway, Colchester

Application No: 152817

Date Received: 22 December 2015

Agent: Mr Paul Dunthorne

Applicant: Flagship Housing Group Ltd

Development: Reserved Matters application for approval of 28 affordable dwellings on parcel SR6 including access, appearance, landscape, layout & scale.

Ward: **Marks Tey & Layer** (formerly Copford & West Stanway)
Stanway
[proposal straddles two wards (as above) but one parish (Stanway)]

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because Councillor Kevin Bentley has conditionally 'Called-In' the application if the recommendation is to approve which in this case it is. Councillor Bentley states:-

" I wish to call this application in on the following grounds: Design, appearance and layout being too crammed in to a very small space. Impact on visual or residential amenity including potential loss of daylight or sunlight or overshadowing, loss of privacy, noise, disturbance, smell or nuisance for the reason that this area would severely affect the visual impact of housing nearby not to mention this area has been designated as open space on the Council's own website. Highway safety and traffic for the reason that the small double mini-roundabout near the site is already heavily used and at many times already difficult to access and egress from the existing Lakelands 1 development. "

1.2 Councillor Bentley has indicated that he believes it is essential that the Committee undertakes a site visit to understand the issues further stating:-

"It is important that Members can see the small parcel of land and then observe the plans for the site for the number of dwellings to gauge how unsustainable this land is for development and the pressure increased traffic would bring to the area"

1.3 Councillor Bentley has 'called-In' the application on behalf of residents of Lakelands and has indicated that he has no 'Interest*' in the application from the sense of the Council's Code of Conduct for Councillors.

[note for the public: 'Interest' is used in paragraph 1.3 above in its legal sense. Councillors are required to declare whether they have an 'interest' in a matter (especially when decisions are being taken). An 'interest' in this sense can be defined as a direct or indirect stake in a decision from financial [pecuniary], personal or other standpoint. The declaration of an interest ensures that the public can have confidence that the councillor making the declaration is putting the public interest first and not benefitting the financial affairs of themselves or their spouse or civil partner from which the councilor would stand to gain. It is not used to imply that Councillor Bentley is disinterested as this is clearly not the case as can be seen from his comments reported in paragraph 1.1]*

2.0 Synopsis

2.1 It is considered that amongst the main planning issues are:-

- The acceptability (or not) of residential use 'in principle' on this site, part of which is shown on the current Proposals Map (2010) as Open Space
- The significance of the 2010 Masterplan which superseded the original 2002 version in facilitating the residential use of all of SR6 and the circumstances of its approval
- The quality of design & layout achieved in the context of the approved 2010 masterplan, Council policy and the context of adjoining properties
- Appropriateness of the number and design of car parking spaces to be provided judged against the Council's Adopted Parking Standards and the requirements of the outline planning permission
- Extent to which the Council's adopted amenity standards and general amenity expectations are met (or not)
- Highway safety and efficiency considerations
- The extent to which the proposal conforms to adopted affordable housing policy and associated SPD

2.2 That said this report will not restrict itself to a consideration of the above issues but will encompass an exploration all relevant material planning considerations.

2.3 This report concludes that residential development of all the site is permitted under the outline planning permission of 2012 (121040/1210410 and as a result of the 2010 masterplan approved by condition in 2010 and that the proposed reserved matters are acceptable and that they be approved.

3.0 Site Description and Context

3.1 This site straddles two ward boundaries. The northern section sits within the new ward of Marks Tey and Layer (formerly Copford and West Stanway) and the southern section rests within Stanway. The division reflects the former line of Church Lane before its realignment as part of the Lakelands/Western By-pass development. (figure 1 identifies the boundaries)

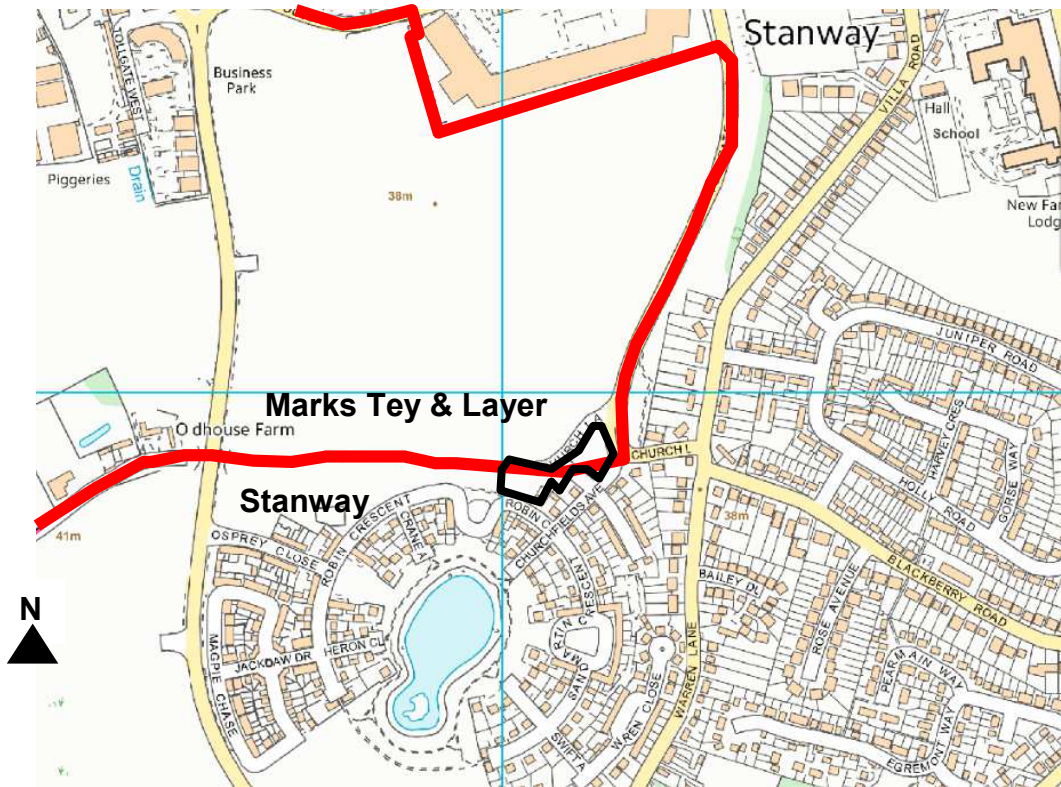


Figure 1: The site in relation to Ward boundaries

3.2



This ear-shaped site falls naturally into two parts. The smaller northern tip (the ear lobe) is effectively an island bounded by Church Lane (N), Tollgate Road (E), Churchfields Avenue (SE) & Partridge Way (SW). It is currently a shallow grassy mound. Levels on the Churchfields Avenue edge of the site cluster around the 37.5m mark with the opposite edge fronting onto Church lane dropping away to around 35m. This parcel is separated from the larger western parcel by an existing pavement beyond which the land drops more steeply from some 35.5m to 33.5m before falling away more gradually to the south-west and west (26.5m)

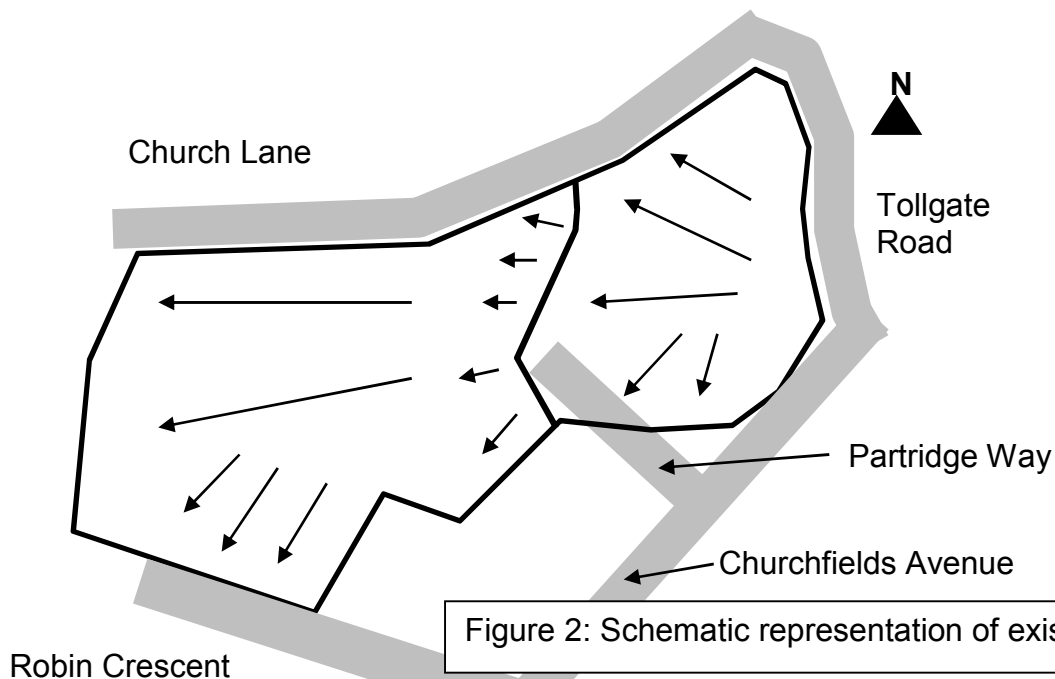


Figure 2: Schematic representation of existing levels

DC0901MMW EV3

4.0 Description of the Proposal

4.1 The proposal represents a reserved matters submission comprising the construction of 28 affordable dwelling units following the grant of outline planning permission for residential development in June 2012. (ref: 121040 & 121041). The permission required the submission of Reserved Matters within four years of the date of the planning permission of 6 June 2012. The current Reserved Matters application was submitted 18 December 2015 within the valid submission period.

4.2 The following mix of accommodation is proposed:-

- 1 x 2-bedroom four person life time home bungalow
- 2 x 2-bedroom four person house
- 6 x 3-bedroom five person house
- 8 x 1-bedroom two person house
- 10 x 2-bedroom two person house
- 1 x 1-bedroom two person flat over garage (fog)

TOTAL 28 units

4.3 The proposed development provides two parcels of publicly accessible amenity space within the application site over and above the open space provided as part of the wider Lakelands development. These will be described in more detail later in this report.

4.4 The applicants Flagship Group have a conditional land contract with O&H (the landowners), one of the conditions being satisfactory reserved matters being granted.

4.5 The scheme is currently funded and Flagship intend carrying out the development (if approved) as part of a wider contract to develop affordable housing on this and two other sites on Lakelands. (the other two already having the benefit of reserved matters approval)

4.6 Whilst the project is funded the contract cost rose in March 2016 due to the original quote expiring without the current application being determined. That was some six months ago. With project funding now at risk for the three sites within this group (including SR6) the application is being brought to a special committee meeting

5.0 Land Use Allocation

5.1 **Adopted Local Plan 2010:** The site is shown on the Proposals Map of the Current Adopted Local Plan as:-

Part RESIDENTIAL & Part OPEN SPACE

STANWAY GROWTH AREA

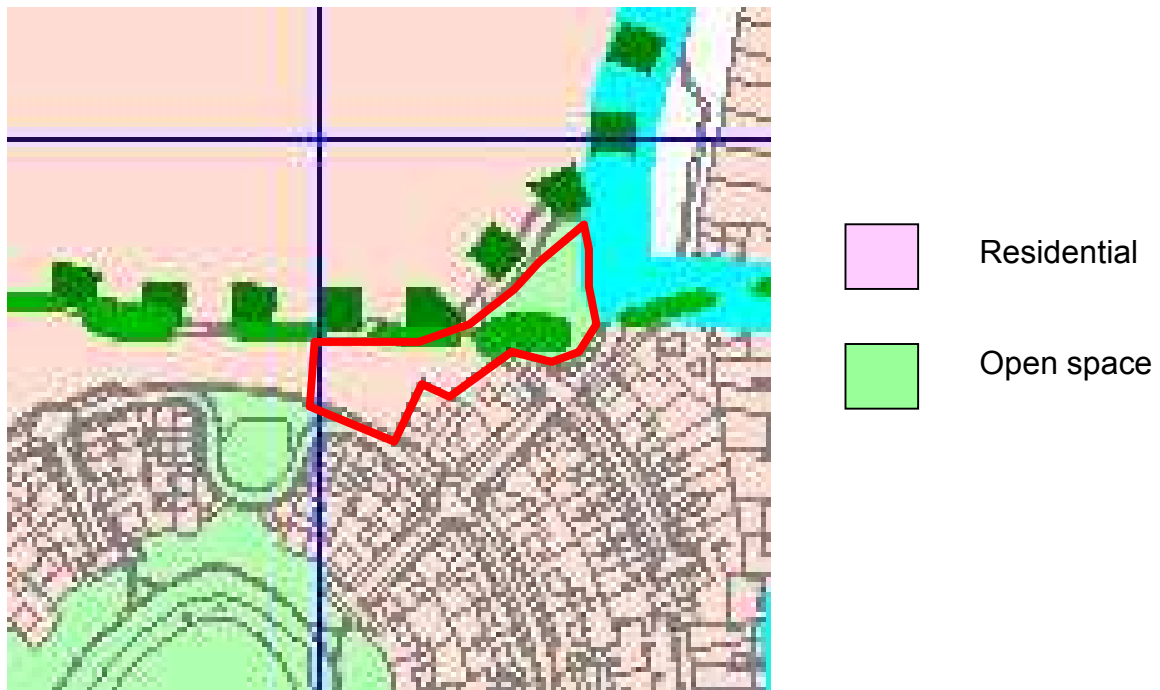


Figure 3: Extract from Adopted Proposals Map (2010)

- 5.2 In his first Written Legal Opinion of 10 March 2016 Simon Pickles (Barrister) advises the Council as to the status of the Proposals Map, particularly insofar as it shows part of the application site to be allocated as open space. He states

“ The Local Plan including the Proposals Map remains, of course, part of the development plan, in accordance with which any future application for planning permission should be determined unless other material considerations indicate otherwise. The fact that the site is shown for residential development in [the Lakelands 2 Design & Access Statement of July 2010] is, however, a powerful ‘indication otherwise’ whilst permissions 121040 & 121041 remain current and constitute the lawful fall-back position. The Council is not required to take any action now in response to the situation arising, though it will wish to consider how development of the site should be reflected in any policy review.

- 5.3 **Preferred Options Aug 2016:** “WC2: Land between Church Lane, Churchfields and Partridge Way *[note to readers this is part SR6]* – Development of the site will be supported where it provides:

- Up to 28 dwellings new dwellings [sic] of a mix and type of housing to be compatible with the surrounding development and in accordance with Design & Access Statement linked to the Lakelands Planning Permission”

- 5.4 Paragraph 6.73 of the Preferred Options supports the above by stating:-

“ This site was originally intended to form open space within the development now known as Lakelands. It was shown in an agreed 2002 Masterplan for Lakelands as an open space and the current adopted Proposals Map shows the site as open space. A

Design and Access Statement ('DAS') which was agreed via a discharge of planning condition in 2010 showed the site as to be used for residential purposes, open space provision across Lakelands having been re-planned in that document. The planning and the DAS are or would be material considerations in the determination of future planning applications in respect of the site. The Council is currently considering a reserved matters application for the residential use of the site. It is therefore allocated in the Local Plan to reflect this updated position and will be safeguarded to deliver up to 28 dwellings."

6.0 Relevant Planning History

6.1 The Lakelands site (formerly the ARC Stanway Pit – sand and gravel extraction) has a complicated planning history as a result of the fact that residential development has already taken some 25 years to progress to the current stage and it remains to be completed with further reserved matters currently under consideration. As a result numerous residential consents have been granted and two masterplans agreed (one (2010) superseding the other (2002)) It is the legal and practical implications of this history that objectors continue to dispute and the reason why the Council has sought a series of Legal Opinions which have confirmed that the current application can lawfully be accepted as a reserved matters application to outline permission granted in 2012 and that the masterplan approved in 2010 is a material planning consideration facilitating residential use of the entire site now known as SR6.

6.2 PLANNING PERMSSIONS

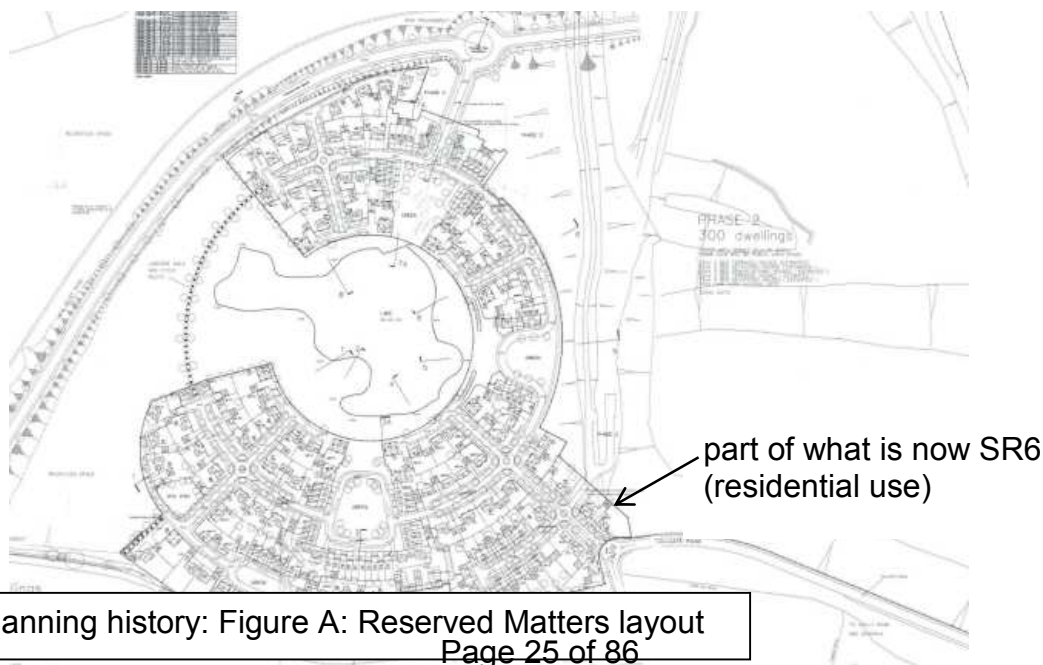
6.3 O/COL/90/1904 *[the original outline]*

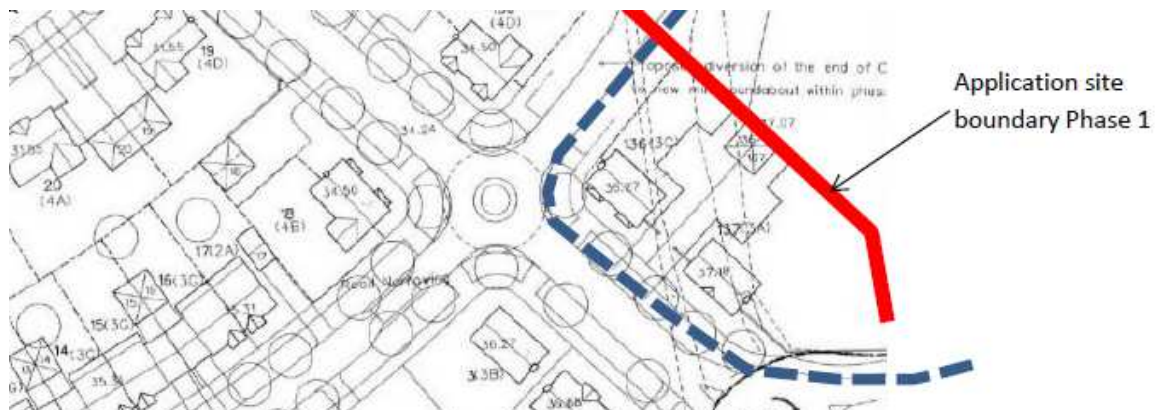
Outline application for mixed use development comprising business / employment 11.3 net acres, residential 49.3 net acres and leisure 49.2 net acres.

Approved 21 March 1995.

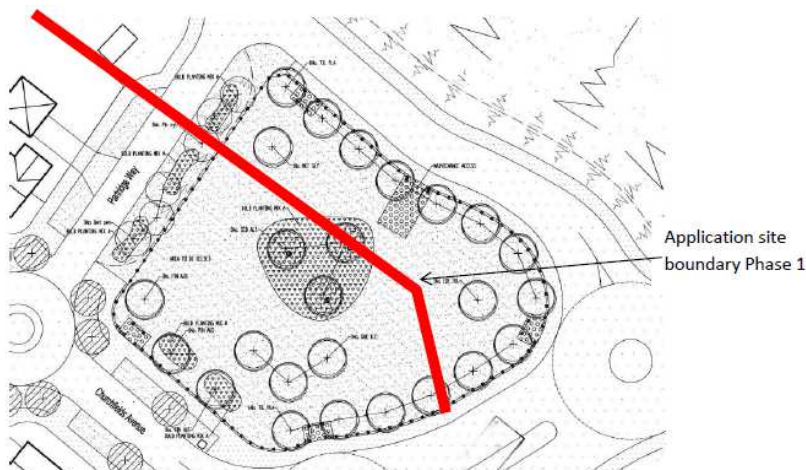
6.4 RM/COL/97/1428 *[initial phase of reserved matters for 200 residential units out of the approved 500 (in outline)]*

Phase one comprising 200 residential units (as part of an overall development of 500 residential units): Approved 27 March 1998





planning history: Figure B: Reserved Matters layout extract - part SR6 exploded view from figure A above



planning history: Figure C: 26 January 2006 landscaping (condition 3) to RM/COL/97/1428 approved (drawing JBA 04/21-02) part SR6 showing landscape rather than housing

6.5 F/COL/01/0976

Application to amend condition 03(2) of COL/90/1904 to extend specified time period from five to six years regarding submission of all reserved matters for outline application for mixed use development comprising business/employment 11.3 net acres, residential 49.3 net acres and leisure 49.2 net acres approved on 21 March 1995. (see masterplan section below)

6.6 O/COL/02/0980 *[uplift in approved total number of residential units from 500 to 800]*

Outline application for residential development (300 dwellings) and associated road proposals (an additional 300 units to the 500 units approved under C/COL/90/1904) *(new total 800 units) [amended masterplan deletion of proposed leisure use]*

Approved: 1 December 2006

6.7 **F/COL/02/1839**

Construction of Tollgate Western Relief Road. (the northern leg between Tollgate and Essex Yeomanry Way)

Approved 11 December 2006



planning history: Figure D: By-pass detail

6.8 **F/COL/03/1802**

Stabilisation of existing embankment

Approved 1 December 2006

6.9 **091379**

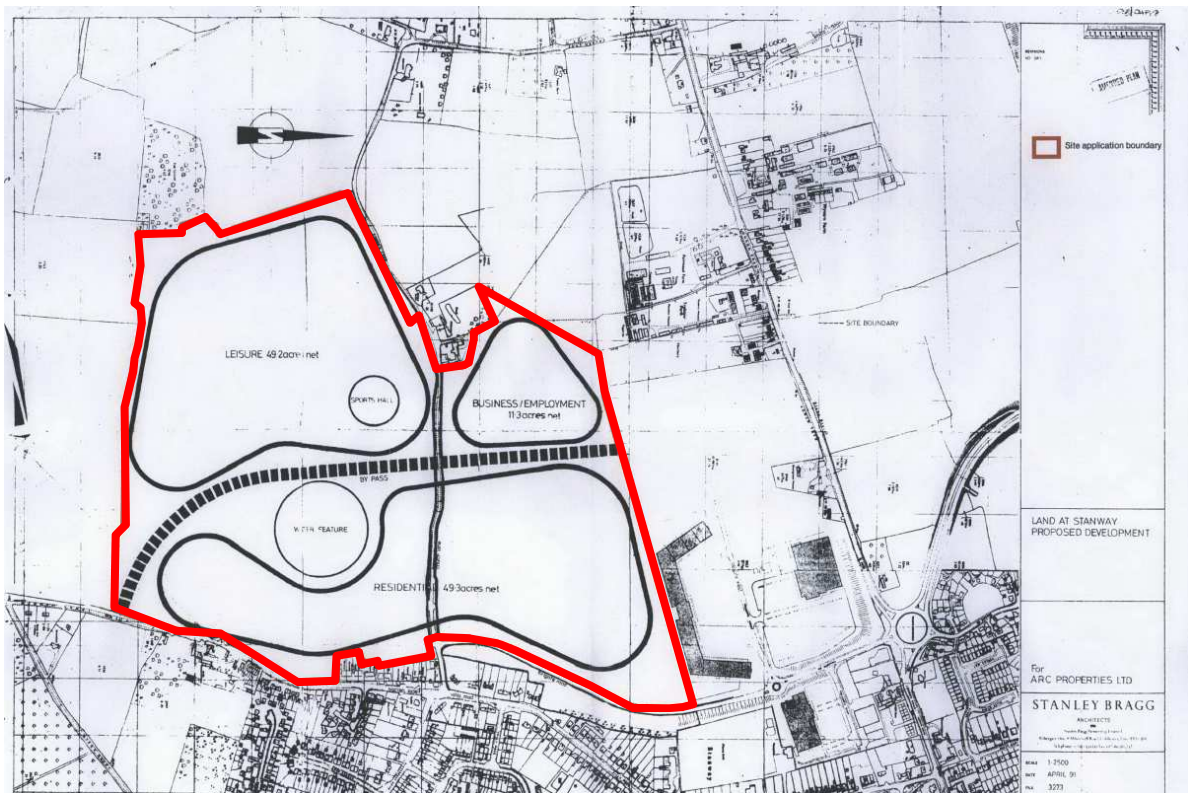
Extension of time application for the construction of part of western relief road between Warren Lane and the northern boundary of the site. (Ipa ref: F/COL/94/0890)

Approved 12 July 2010

6.10 **121040**

Application for a new planning permission to replace extant planning permission F/COL/01/0976 in order to extend the time limit for implementation.

4 September 2012



planning history: Figure E: 121040 application site

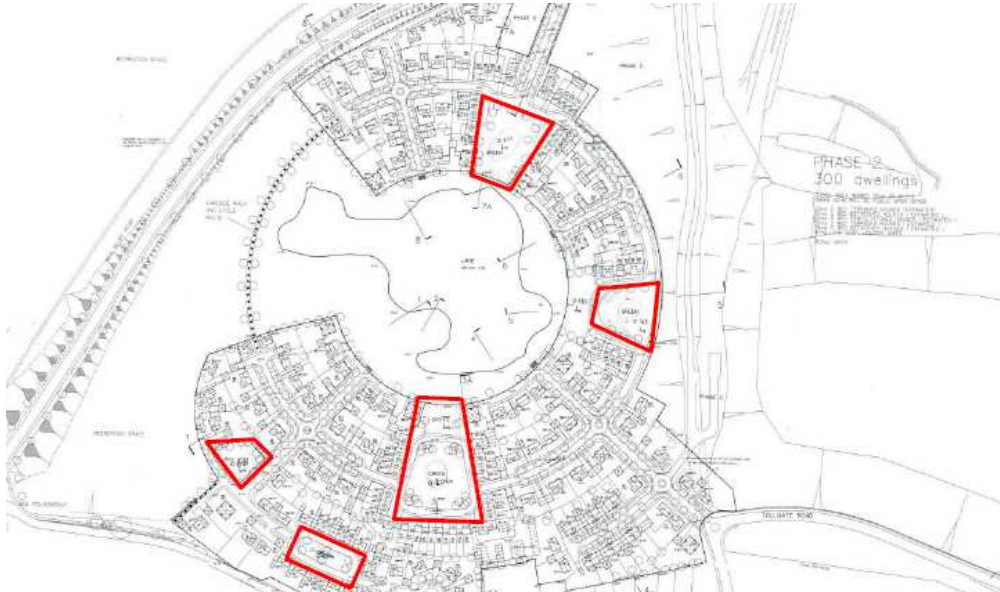
6.11 121041

Application for a new planning permission to replace extant planning permission O/COL/02/0980 in order to extend the time limit for implementation.

Approved 4 September 2012



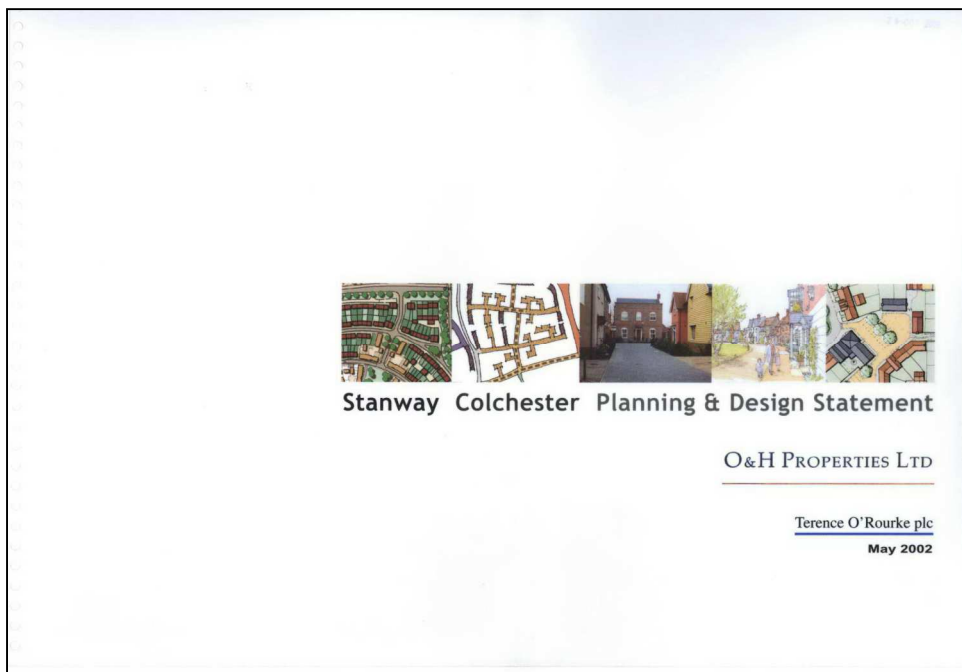
planning history: Figure F: 121041 application site



planning history: Figure G: Public Open Space (p.o.s.) areas identified within the Lakelands S106

6.12 MASTERPLANS

6.13 Application reference O/COL/02/0980 (outline) for 300 dwellings was accompanied by the 2002 Planning & Design Statement which included a masterplan.



Planning history: Figure H: Approved 2002 Masterplan

- 6.14 That document clearly showed the island formed by Church Lane, Churchfields Avenue and Partridge Way as open space within the wider masterplan context. (as shown in the extract below):-



planning history: Figure I: extract from figure 6 2002 masterplan

- 6.15 The outline planning permission that was subsequently granted on 1 December 2006 carried a condition restricting layout thus:-
9. The layout and form of the residential areas hereby approved, unless otherwise agreed with the Local Planning Authority, shall conform with the principles set out in the Design Rationale in Section B of the Planning and Design Statement produced by Terence O'Rourke PLC May 2002 or otherwise with the Essex Design Guide for Residential Areas. Reason: In order to ensure that the development is of a high standard of design based on the creation of neighbourhoods with a strong sense of identity and character.
- 6.16 In an application to discharge conditions dated 24 March 2009 Terrance O'Rourke's applied to discharge conditions 1, 8 & 9 of the permission reference O/COL/02/0890. Condition 1 required the following:-
1. Prior to the commencement of any development on the whole site and the approval of reserved matters, a Design and Access statement shall be submitted to and approved by the Local Planning Authority which sets out the broad layout, access and design principles for the development of the site and the phasing strategy to which detailed proposals would be expected to follow. Reason: In order to ensure that the phased development of the site is carried out in a co-ordinated and coherent manner and in accordance with an over-arching design and access strategy.

- 6.17 It is condition 2 that then deals with reserved matters. Reserved matters are the full details of a scheme that follow once the principle of a use has been established by the grant of an outline permission. In this particular case the reserved matters were:-
2. Following approval of the Design and Access Statement and prior to the commencement of any development within individual phases approval shall be obtained in writing from the Local Planning Authority :
 - (a) details of the siting, design and external appearance of all new buildings including a schedule of types and colours of materials to be used in external finishes
 - (b) means of access, including details of new junctions and estate roads, parking provision and measures to ensure that the design of estate roads are compliant with a 20 mph speed limit
 - (c) landscaping, including full planting specification and means of protection of any existing trees and hedgerows during development
 - (d) details of site re-contouring and including detailed drawings of before and after contours and cross-sections, slab levels, information on material to be imported, exported, cut and fill and any exploitation of minerals.Reason: The outline application, as submitted, does not give particulars sufficient for consideration of these reserved matters.

- 6.18 In submitting the discharge of condition application in March 2009 the applicants were hoping to resolve all the matters associated with condition 1, 8 & 9 attached to the outline permission ref: O/COL/02/0890.

Condition 8 related to the requirement of the Council to provide 10% of the application site as open space.

- 6.19 In a letter dated 1 July 2009 the Council, amongst other things refused to part discharge the details for condition 1 & 8 and reminded the applicant that condition 9 set out restrictions rather than necessitating further detail.

extracts from said letter:-

“F/COL/01/0976 Condition 1 & O/COL/02/0980 Condition 1

I can confirm that I am unable to discharge these conditions as there are outstanding issues relating to provision of POS 10% of the site area (see condition 9 & 8 below).

F/COL/01/0976 Condition 9 & O/COL/02/0980 Condition 8

I am unable to discharge this condition on the information provided in the DAS. There are some discrepancies regarding the amount and suitability of open space illustrated and described in the DAS. Public open space must have good functionality and this will exclude areas such as verges of whatever width. The amount of space shown in the layouts does not appear to be 10% of the site area, given that the school grounds cannot be considered public as proposed on page 49.

Improvements and additional space should include the improvement of green spaces within squares as the illustrated provision and the written commentary are contradictory in their aspirations.

F/COL/01/0976 Condition 11 & O/COL/02/0980 Condition 9

This condition does not require formal discharge. Its purpose is to guide the preparation of a master layout plan in accordance with the principles set out. It only requires specific agreement from the LPA if the layout and form of the residential development is to deviate significantly from the principles set out in the documents listed.

There has been a considerable adaptation of the layout beyond the proposals of the 2002 planning and design statement and much of this has been a refinement of the principles within the Essex Design Guide. For these reasons the layout and form cannot be reduced to a pre-negotiation standard.”

- 6.20 A year later on 20 July 2010 the Council in agreeing to amend condition 03 of the original outline planning permission to allow an additional year for the submission of reserved matters confirmed that the Lakelands 2 Design & Access Statement of July 2010 was approved.



planning history: Figure J: Approved 2010 Masterplan

6.21 Therefore after that approval the 2010 document had superseded the 2002 document.

6.24 Consequently we now need to examine the content of the 2010 masterplan to see what changes affecting the island site formed by Church lane, Churchfields Avenue and Partridge Way had been agreed. The extracts below highlight these:-



6.25 This and other references within the Lakelands 2 Design & Access Statement of July 2010 confirm that the principle of residential use on the island site was approved in the 2010 masterplan when it was agreed on 20 July 2010.

6.26 Subsequent applications for reserved matters and extensions of time then legitimately refer to the 2010 Design & Access Statement July 2010 as the base document.

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:

- H1 - Housing Delivery
- H2 - Housing Density
- H3 - Housing Diversity
- H4 - Affordable Housing
- UR2 - Built Design and Character
- PR1 - Open Space
- TA4 - Roads and Traffic
- TA5 - Parking

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

- DP1 Design and Amenity
- DP12 Dwelling Standards
- DP15 Retention of Open Space and Indoor Sports Facilities (NOTE: Legal Advice that due to planning history DP15 is not applicable)
- DP16 Private Amenity Space and Open Space Provision for New Residential Development
- DP17 Accessibility and Access
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage

- 7.4 Further to the above, the adopted Site Allocations (adopted 2010) policies set out below should also be taken into account in the decision making process:

- SA STA1 Appropriate Uses within the Stanway Growth Area
- SA STA5 Open Space in Stanway Growth Area

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

- Vehicle Parking Standards
- Open Space, Sport and Recreation
- Extending Your House?
- The Essex Design Guide
- External Materials in New Developments
- Affordable Housing

Stanway Parish Plan & Design Statement

8.0 Consultations

- 8.1 **Environmental Control** raises no objection subject to conditions requiring:-

- Construction method statement to be agreed
- Control over construction times
- Recycling, waste and storage areas to be agreed

8.2 **Natural England** has no objection

8.3 **ECC SUDS** objects on the grounds that the application doesn't include a drainage strategy

8.4 **ECC highways** has objections on the grounds of a number of identified technical deficiencies within the layout

8.5 **The Contaminated Land Officer** comments:- "As with other parcels in this area there are potential risks associated with ground gases and an appropriate level of mitigation measures will be required to be installed in all properties. Garden/soft landscape areas will also need to be suitable for use. Where not covered by existing permissions these matters will need to be conditioned.

[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 Stanway Parish Council strongly objects (Jan 2016) on the grounds that:-

a) Parcel SR6 is clearly designated a green field site.

b) The Committee does not believe that this is 'reserved matters' as it is not in line with the outline approval. The outline approval does not show development on this land and this reserved matters application should therefore be rejected. This is a new development and not part of the original outline planning permission.

c) Affordable housing should be integrated within the present development and should not be a 'standalone' area suggesting segregation.

d) The Landmark Buildings are essentially four storeys if the roof is included, which will be overbearing, out of keeping with the existing development and will have an adverse effect on the residential amenity of the neighbours.

e) Density and severe lack of parking resulting in more on street parking on roads that are too narrow.

f) The design does not fulfil Colchester Borough Councils commitment for the development to blend seamlessly.

This comment was subsequently amended with a follow-up consultation following scheme amendment stating

After considerable discussion it was **RESOLVED** that Stanway Parish Council strongly **OBJECTS** to this proposal as some of the original objections have not been addressed.

There is an ongoing uncertainty as to whether this parcel of land should be built on at all.

Affordable housing should be integrated ('pepper potted') within the present development and should not be a 'stand-alone' area suggesting segregation.

The Landmark buildings are overbearing, out of keeping with the existing development and will have an adverse effect on the residential amenity of the neighbours.

The density is too high and there is insufficient parking.

The design does not fulfil the 2010 Master Plan commitment and for the development to blend seamlessly with the existing development which is predominantly two storey with detached and semi-detached forms.

10.0 Representations

- 10.1 A written petition of objection with 80 signatories has been received. The Petition states "Keep our green open space to the Churchfields Avenue entrance to Lakelands, Stanway"
- 10.2 The application has also generated an on line petition of objection of 952 names.
- 10.3 The Place Service issued 212 consultation notifications and received 147 objections from those issued
- 10.4 A number of main themes arise from the significant level of local objection. These are:-
- 10.5 The site should remain open space as designated on the proposals map and that the masterplan approved in 2010 by condition that has effectively opened the door to residential use was not subject to public consultation.
- 10.6 The Council cannot lawfully accept the application as Reserved Matters
- 10.7 Concern is expressed that the proposed development is out of character with the existing development found within Phase 1 of Lakelands and is too dense
- 10.8 The proposal fails to provide satisfactory parking spaces.
- 10.9 The proposal fails to satisfactorily pepperpot affordable housing and is contrary to Council SPD.
- 10.10 The site should have been landscaped as previously approved. If it had been enforced then the current proposal is unlikely to have been tabled
- 10.11 The proposal is contrary to highway safety
- 10.12 the proposal fails to make adequate drainage provision

10.13 Adverse impact on the amenity of existing properties

10.14 Sufficient residential development in Stanway

THE FULL TEXT OF ALL REPRESENTATIONS IS AVAILABLE ON THE WEB SITE UNDER THE PLANNING REFERENCE AT THE HEAD OF THIS REPORT

11.0 **Parking Provision**

11.1 The proposed development generates the following Adopted Council parking standard requirement for off-street spaces:-

9 x 1-bed units x 1.25 spaces = 11.25 spaces

19 x 2-bed+ units x 2.25 spaces = 42.75 spaces

Total requirement = 54 spaces

11.2 The proposed layout provides 54 spaces

11.3 The proposal therefore complies with the Council's current Adopted Parking Standards and parking provision is acceptable.

11.4 As a consequence the concerns of many of the objectors in respect of what is perceived as a shortage of 'off-street' parking spaces within the development cannot be reasonably sustained as a reason to resist the proposed development.

11.5 It should be noted that the original outline planning permission of 1995 (O/COL/90/1904) in its condition 9 addressed the issue of parking provision. It stated:-

"9. Such car parking accommodation and garaging serving residential accommodation, as shall be agreed in conformity with Council parking standards, shall be provided and retained permanently for the parking of private motor vehicles and for no other purpose.

Reason: To ensure the permanent retention of the accommodation for parking purposes and to ensure that traffic congestion is avoided."

11.6 Parking was again addressed in the planning permissions 121040 and 121041. Condition 8 to both states:-

"Condition 8: The residential development shall have a minimum average of 2.25 off-street car parking spaces per dwelling in accordance with details to be submitted to and agreed in writing by the local planning authority. The parking facilities, as agreed, shall be maintained at all times for parking

Reason To ensure the provision of adequate car parking within the scheme in accordance with the Council's parking standards."

- 11.7 As Members will have noted from the calculations provided above the proposed one-bedroom units are accompanied by a parking standard compliant number of spaces at a ratio of 1.25 spaces : 1 x one bedroom unit. On the face of it this would appear to conflict with the 2.25 described in condition 8 of the 2012 permissions.
- 11.8 However condition 8 refers to an average of 2.25 in the context of all of Lakelands.
- 11.9 It should also be noted that the Council's Adopted Parking Standards for residential development changed in 2009 from a parking requirement based on a maximum standard to one based on a minimum standard
- 11.10 As the proposed level of parking within SR6 meets the Council's current Adopted parking standards and as condition 8 attached to 121040 & 121041 merely required an average of 2.25 across Lakelands it is reaffirmed that there is no sustainable reason to refuse the proposal on the grounds of inadequate off-street parking.
- 11.11 bay sizes meet the minimum size requirement.

12.0 Open Space Provisions

- 12.1 The development includes areas of public amenity space. The largest occupies the prominent Tollgate Road / Church Lane corner and will provide a green landscaped apron with the built form creating a backdrop. The second smaller area of amenity space sits beside the existing path/cycleway that bisects the site. The location of these is highlighted below in Figure 4



Figure 4: Public amenity space within the proposed development

- 12.2 Development Policy DP16 (Oct 2010) ..Open Space Provision for New Residential Development states..

“In addition to private amenity space, all new residential development will be expected to provide new public areas of accessible strategic or local open space. Precise levels of provision will depend on the location of the proposal and the nature of open space needs in the area but as a guideline, at least 10% of the gross area should be provided as usable open space....”

- 12.3 The proposed amenity areas will deliver 0.07ha of open space available to the public. Using the site area that includes half the road width (as used in the density calculation this means the amenity areas represent 10% of the total area (0.77ha). This is therefore policy DP16 compliant.
- 12.4 The two amenity areas actually represent 12.3% of the 'developable' area
- 12.5 Members will note that the 10% in DP16 is described as a minimum and councillors familiar with the Lakelands area will be aware that the overall development was approved with an excess of 10% open space across the entire site. Indeed included is new country park, a large informal park around the central lake, a soon to be completed central park and new phases of open space within later phases of development to the north. The application site adjoins an area of open space. Figure 5 below highlights some of the current & planned open space within Lakelands.
- 12.6 The existing open space on part of SR6 was never intended to form part of the designated public open space (p.o.s.) within the Lakelands development S106 Agreement and was not shown as p.o.s. on the relevant S106 drawings.
- 12.7 Members will recall from earlier references in this report that the site which is currently laid to grass is shown as a residential site in the approved 2010 masterplan. The approved masterplan does not envisage its continued existence as open space.
- 12.8 As this application is a reserved matters submission and as the relevant masterplan (2010) shows this site as residential and as there is an excess of 10% open space across the Lakelands development it is considered that the inclusion of 10% open space within the SR6 proposal is appropriate.



Figure 5: Public Open Space within Lakelands

12.9 In his Written Legal Opinion of 20 March 2016 Simon Pickles (Barrister) addresses the relevance of Council Policy DP15 :retention of Open Space and Indoor Sports Facilities stating unequivocally:-

“ 20. Permissions 121040 & 121041, in conjunction with [the Lakelands 2 Design & Access Statement of July 2010], authorise residential development of the site notwithstanding the provisions of Policy DP15. The landowner is, again, entitled to rely on those permissions according to their terms subject only to their revocation or modification. Local Plan Policy DP15 has no role play in consideration of the current application of approval of reserved matters, and the fact that the Local Plan was adopted after [the Lakelands 2 Design & Access Statement of July 2010] was approved does not alter this conclusion.’

12.10 DP15 states “Development, including change of use, of any existing or proposed public or private open space, outdoor sports ground, school playing field forming part of an educational establishment and allotments (as identified on the proposals map) will not be supported unless it can be demonstrated that:-

- Alternative and improved provision will be created in a location well related to the functional requirements of the relocated use and its existing and future users;
- The proposal would not result in the loss of an area important for its amenity or contribution to the green infrastructure network or to the character of the area in general; and,
- It achieves the aims of the Colchester Parks and Green Spaces Strategy.

12.11 Notwithstanding whilst Simon Pickles’ advice is that DP15 has no role to play in this context (paragraph 12.9 above), officers note, so far as the merits of the use of the application site as open space is concerned, that - as can be seen from Figure 5 above - the Lakelands development is incredibly well served by new open space. The level of amenity currently offered by the existing rough grassed site is considered to be low, whereas the enhanced landscape of the new open space within the development at SR6 will enhance the natural quality of the environment on this exposed corner site. Lakelands has been planned and is being built out around a new strong network of green corridors that radiate out from the central lake. The rough existing grassed corner plot is not, moreover, large enough to accommodate sports pitches and the fact that its perimeter is edged by roads suggests that it is not ideal for play area use. Its amenity value is therefore related directly instead to how it might add to the quality of the street scene from an aesthetic perspective. Visual quality will be considered in the main body of this report.

13.0 Air Quality

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

14.0 Development Team and Planning Obligations

14.1 This application is classed as a “Major” application and therefore there was a requirement for it to be considered by the Development Team. At its meeting of 19 May 2016 the Development Team determined that it would not ask for any S106 contributions as the application was a reserved matters submission - the earlier outline having established appropriate and reasonable S106 contributions.

14.2 Members are advised that in the event that reserved matters approval is granted and these units built then the overall requirement for delivery of 19.2% of the total number of units approved at outline will have been achieved.

14.3 Members are also advised that the affordable units being proposed on SR6 are all rented. If the details are approved this is likely to be the last 100% affordable rented scheme delivered in the borough following recent Government changes to the

definition of affordable housing. Colchester continues to have a priority need for affordable rented accommodation for the high number of residents in housing need.

15.0 Report

15.1.0 Principle of residential use across the entire site known as SR6

- 15.1.1 The issue at the heart of strong local objection is the loss of what has for many years been an 'open grassed site' on the corner of Churchfields Avenue, Partridge Way and Churchfields Avenue. Local people have come to consider the corner plot to SR6 as a local amenity which will be lost to development in the event that reserved matters approval is given to the current proposal.
- 15.1.2 It is true to say that at the time of approving the initial Lakelands phase of the development (200 units) it was intended build two houses on part of the corner site and later it was intended to landscape this corner parcel of the wider SR6 site and a landscape scheme was approved. A masterplan approved in 2002 showed the corner parcel of what is now SR6 as open space. That scheme was never formally implemented and the status of the site was modified in a masterplan approved by condition in 2010.
- 15.1.3 The Council has received many representations from local people as well as from Stanway Parish Council. The proposal has also attracted the close involvement of Councillor Kevin Bentley (Ward Member for Marks Toy & Layer and County Councillor) and that of the Right Honourable Priti Patel MP (local MP for the Witham Constituency which includes West Stanway [as well as Copford, Birch & Winstree, Marks Tey and Tiptree] within the Borough of Colchester. Ms Patel is also Secretary of State for International Development.
- 15.1.4 In response to procedural concerns raised the Council has sought a Legal Opinion from Counsel on three occasions since submission of the reserved matters application. In summary the key points of law on which the Council wished to be advised included:
- Can the application reference 152917 be lawfully accepted as a reserved matters submission; and if it can –
 - what weight needs to be given to the 2010 masterplan as approved by condition, the local plan allocation on the Proposals Map (2010) and open space policies in the Adopted Local Plan 2010.
- 15.1.5 Members are advised that in the case of the most recently requested Legal Opinion the questions posed were as worded by representatives of objectors and forwarded to the Council by Councillor Kevin Bentley. The purpose of agreeing this approach was to ensure absolute transparency and to ensure that the Council could not be exposed to the criticism of asking '*loaded*' questions. All Legal Advice received has been openly shared on the Council's web pages.
- 15.1.6 Mr Simon Pickles (Barrister at Landmark Chambers in London) provided all of these Legal Opinions.

15.1.7 Mr Pickles has consistently advised that the Council should lawfully accept and determine the current reserved matters submission pursuant to decision notices issued in 2012 in respect of the applications ref: 141040 & 141040 and that the 2010 Masterplan is properly central to the current decision-making process despite the historic land use allocation from 2010 on the Proposals Map (2010).

15.1.8 In his latest extensive Advice of 29 June 2016, in response to resident's questions, he advises in section 7 of that Opinion that:-

"I have, in the course of preparing this Further Opinion and in the light of the substantial additional information provided, considered further also the advice I provided earlier. That information does not, however, cause me to alter that advice or suggest to me that I should expand upon the reasons behind it....."

15.1.9 Members are therefore advised that the current reserved matters application must be judged on its individual planning merits relating to details following the grant of outline planning permission. The masterplan approved in 2010 by condition accepts residential use on all of the site now known as SR6 and the 2014 outline planning permission was granted in that context. Members are not being asked, in light of the Lakelands 2 Design & Access Statement of July 2010 to consider or re-consider now the merits of residential use (as opposed to part residential part open space use) across all of the site now known as SR6. Similarly in the light of this the Council is not required to consider or re-consider now the merits of the reserved matters application in light of Policy DP15 (open space) - though consideration of the merits of the use of the site as open space has in fact been undertaken above.

15.2.0 Layout, density, massing, design and character

15.2.1 The proposed layout and design have changed significantly since the application was first submitted in response to objections received.

15.2.2 The extent to which buildings occupy the surface area of the prominent corner parcel has been reduced and an area of open space introduced. Built form has been pulled away from the Churchfields Avenue and Partridge Way frontages to reduce any risk of occupiers feeling overlooked or overshadowed or having their outlook adversely affected. The drawing extracts shown below in Figure 6 show these differences.



Amended layout now before Members



Initial now superseded layout

Figure 6: Comparison between initial layout and subsequently amended layout

- 15.2.3 It is considered that the amended layout provides a visually coherent sense of place at this entry point to the wider Lakelands development.
- 15.2.4 In considering the merits of the current reserved matters the Council needs to have regard to the requirements of the 2010 masterplan and in particular:-
- The suggested density zones
 - The suggested massing
 - and the urban design function expected to be played by this site
- 15.2.5 The application site was identified as gateway marking a change between higher density levels to the on the north side of the Lakelands development and lower density levels on the southern half. The Avenue between Tollgate Road and the By-Pass access to the Lakelands Development was to be accentuated by built-form. It therefore represents a point of transition between the low density initial stages of development and those that have followed and are to follow.
- 15.2.6 To facilitate this design objective the site is described in the 2010 masterplan as a being within a 'Principal Gateway' the function of which is described thus:-

Principal gateway – Tollgate Road

- 3.9 There will be two principal gateways to the scheme, these are located at either end of the main avenue which will link the proposed bypass to Tollgate Road. These gateways should be defined by a number of landmark buildings which, combined with avenue planting, will create two strong visual gateways to the development.
- 3.10 The Tollgate Road gateway will be defined by apartments and higher density development which will create a strong urban form at the southern end of the existing Tollgate Road. This will be a key nodal point where within close proximity there are 'gateways' to Stanway, the existing Lakelands phase 1 development and the proposed phase 2 area. As such, this will be an important nodal point within the wider movement network which connects the proposed development to the existing urban form. From this point, the main avenue will lead into the heart of the development gently falling from the level of the existing road to the new ground level in this part of the scheme.
- 3.11 The avenue will then lead from this point into the heart of the development where the proposed phase 2 area connects with the phase 1 development to the south. The avenue will have a sinuous alignment which follows the broad circular geometry created by Robin Crescent immediately to the south which is such a key feature of the phase 1 development.

- 15.2.7 To help Members visualise where these intended principal gateways are in relation to the wider context figure 7 is included below.

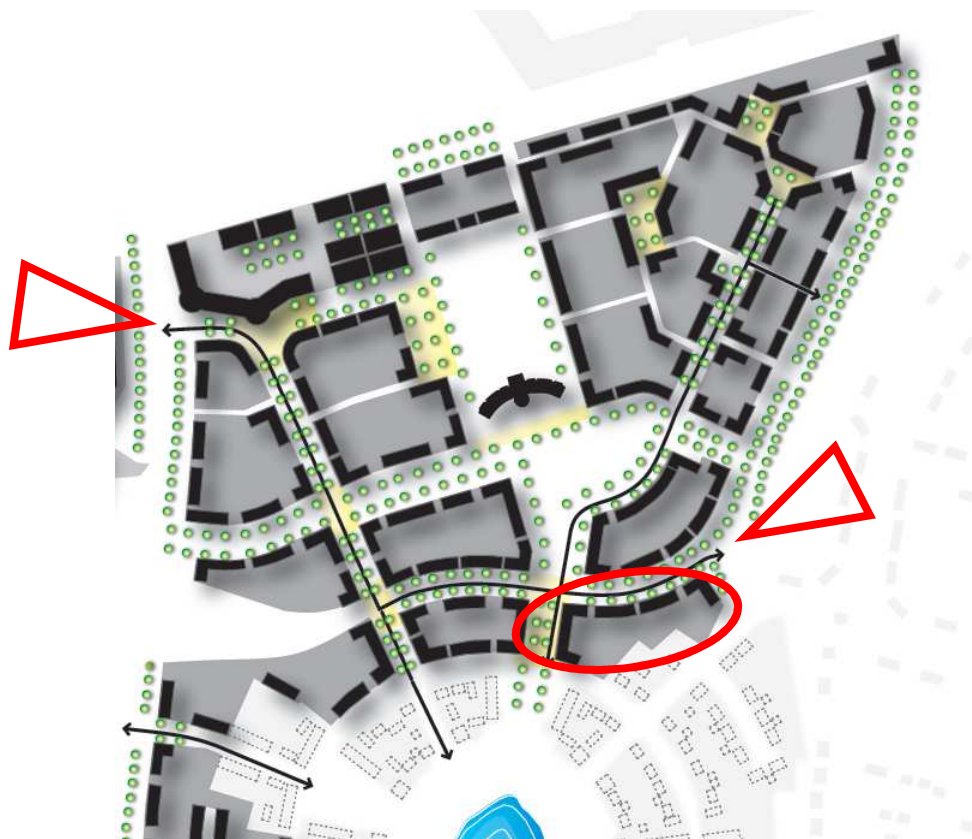


Figure 7: extract from 2010 masterplan figure 7, page 25 Urban Design Structure

(note: the red triangles have been added to highlight the entry points referred to in the associated text. The triangles are not included in the masterplan drawing – The red oval is added to identify the location of SR6)

- 15.2.8 Figure 7 below shows how the masterplan of 2010 envisaged density levels would be distributed going forwards.



Figure 7: Masterplan 2010: Target density levels – drawing 3.16

(Note: red outline added to the drawing for the purpose of this report to highlight the location of the site now known as SR6)

- 15.2.9 The applicants in their submission initially described the density of the proposed development as being 48 dwellings per hectare. Having subsequently checked the calculation officers advised the applicants that the figure quoted was incorrect. The re-calculated density figure provided by the applicants now describes the density as 34 dwellings per hectare.
- 15.2 10 The calculations made by the Place Service indicate that the density of the proposed development is 36.3 dwellings per hectare (if as is usual half of the adjacent road width is included) if part of the existing adjacent open space immediately to the west where properties front onto that space is included then the density falls to 35 dwellings per hectare.
- 15.2 11 Therefore the density of the proposed development complies with the density zoning in the 2010 masterplan and does not represent over development.in this respect.

- 15.2.12 This however is only part of the assessment that needs to be made when considering whether or not the development delivers what is described in the approved masterplan in function and design terms and for this we need to consider the scale and massing of the proposed development. It is to this that the report now turns.
- 15.2.13 Existing properties on the south-east side of Churchfields Avenue are detached and two storeys in height as are those in Partridge Way and the adjacent sections of Robin Crescent. The formal squares further to the west (and opposite the southern SR6 plots no's 12-15) are 2½ storeys in height and form continuous built frontage. Those being built north of Church Lane are variously 3 and 4 storeys.
- 15.2.14 The 2010 masterplan advocates 4 –storey development of the prominent Church Lane, Tollgate Road, Churchfields Avenue corner with 3-storey development along Church Lane and 2 ½ storey development adjoining existing development in Robin Crescent. The objective was not to mimic the 2 storey scale of development found predominantly but not exclusively within the earlier stages of development at Lakelands.
- 15.2.15 In response to strong objections received in respect of the proposed reserved matters detail the massing of the proposed development has been significantly modified from that suggested in the masterplan to create a less dramatic change in scale with a new more gradual transition. Figure 8 below shows the massing and scale envisaged in the masterplan and figure 9 shows the suggested form of development for SR6 within the approved 2010 masterplan.

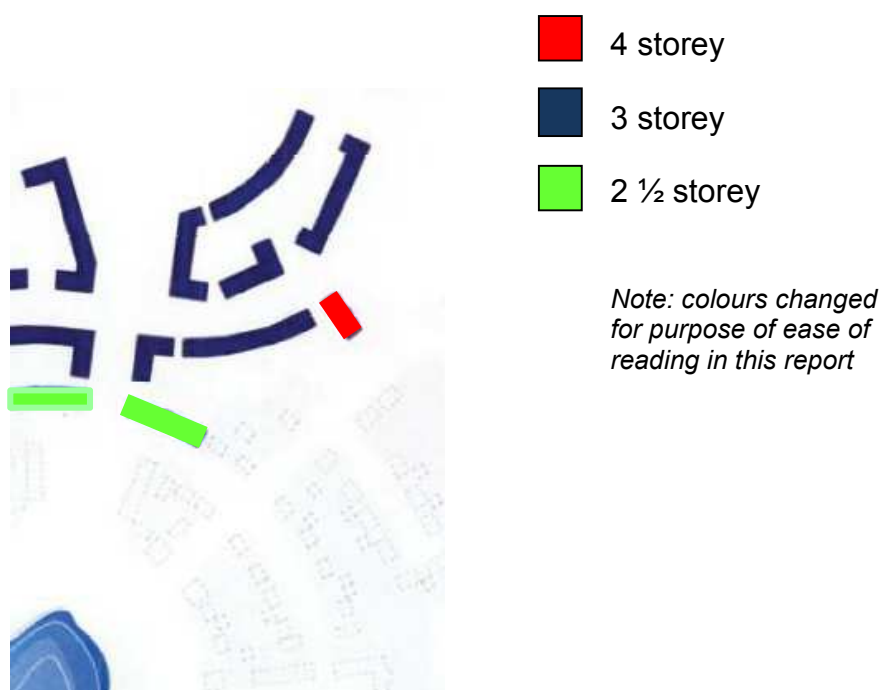


Figure 8: Extract from approved masterplan 2010 – Drawing 3.16 page 43 showing suggested storey heights



Figure 3.9 Illustrative model - from Tollgate Road looking west

Figure 9: Suggested form of development for SR6 within the approved 2010 masterplan

- 15.2 16 Whilst the latest proposal makes for a less dramatic gateway in terms of sheer height; it is argued that the combination of built and natural form being proposed provides an equally valid urban design solution to highlighting the entrance to the wider Lakelands development. It will ensure that people will be able to navigate around and through the development by reference to stand-out features in the street scene (legibility) rather than the development having a uniformity of scale and appearance but will be more sympathetic to existing development. The schematic representation provided in figure 10 shows how the proposed storey heights transition through SR6 from existing development to northern half of Lakelands avoiding the fracturing uplift of scale of the masterplan so disliked by local people – who continue to advocate 2-storey development of a type and appearance found nearby.



Figure 10: Schematic depiction of proposed storey heights in context of existing and approved

(note the reduction on SR6 from those advocated in the approved 2010 masterplan as shown in figure 8 of this report)

- 15.2.17 Significant numbers of objectors have stated that they believe the proposed development should not only have a scale and mass that matches existing predominantly 2-storey development but that it should also be similar in appearance and comprise detached units.

15.2 18 Whilst the units on the Church Lane, Tollgate Road, Churchfields Avenue corner of SR6 do not look like existing units in Churchfields Avenue & Partridge Way they do take a close and direct reference from the striking terraced units that surround each of the main formal squares within the earlier stages of Lakelands Development. (as demonstrated in figure 11 a/b below). By taking this approach the architect has been able in 2 ½ storeys to create the entrance presence required in the masterplan without having to go to the advocated 4 storeys. In urban design terms it works in a different way to that envisaged in the masterplan by creating a strong formal ribbon of built form as a striking backdrop to an area of open space which will be landscaped to provide a soft foreground which provide a green connection between the tree lined avenues of Church Lane and Churchfields Avenue rather than having a highly urbanised built up frontage. Other similarities can be found for other types used





Figure 11c: Proposed SR6 Robin Crescent frontage



By-pass frontage



Osprey Close

Figure 11d: Houses from earlier stages of Lakelands

15.2.19 Members are advised that the applicants have also agreed to re-contour the existing mound by reducing levels in order to support the amended design approach in order to reduce scale from that shown in the masterplan which was a direct response to the adverse local reaction. The relationship between proposed form and existing properties will be considered in more detail in the section 15.3 of this report.

15.2.20 The external materials to be used will be drawn from a palette of bricks, render and Eternit slates which is considered acceptable.

15.3.0 Amenity

15.3.1 Policy DP12: Dwelling Standards is relevant to a consideration of amenity standards. The buildings as amended have been carefully positioned to avoid any overshadowing, daylighting, sunlight loss or overlooking issues of existing properties and the proposal complies with DP12.

- 15.3.2 Figure 12 describes the distances between the proposed development and existing homes. Members will see that the relationship is better than that found elsewhere on adjacent parts of the Lakelands development.



Figure 12: Distances between proposed and existing properties

- 15.3.3 The proposed gardens are also policy compliant with policy DP16.
- 15.4.0 Highway matters
- 15.4.1 There is no objection to the principle of residential use of the site in highway capacity or highway safety terms. The internal estate road hierarchy was designed to accommodate 800 units. Children walking to schools in the area will be put at no additional material risk by this development. It should also be noted that Partridge Way was originally intended to provide a through-route to Church Lane before the road was truncated and it can safely accommodate flows from the proposed bungalow and flats
- 15.4.2 In their response the Highway Authority pointed out a number of simple technical deficiencies to vision splays in some private drives and the requirement for an additional section of path which have been satisfactorily addressed.
- 15.4.3 There is therefore no sustainable reason to reject the proposal on highway grounds.

15.5.0 Landscaping

15.5.1 There is no landscape objection to this proposal subject to conditions.

15.5.2 Members are advised that Flagship Housing is willing to landscape the corner parcel of amenity space (Church Lane/Churchfields Avenue/Partridge Way) to an agreed standard and offer its transfer to Stanway Parish Council should it wish to accept it. This would mean that the Parish Council would be able to safeguard its use as amenity space into the future. Consideration of the merits of the reserved matters does not however depend upon this aspect and it is something that parties could explore independently in the event of approval being given to the details being considered here in this application.

15.6.0 Drainage

15.6.1 Drainage arrangements for the Lakelands development have previously been agreed and the development is moving towards completion. The applicants have indicated that they will connect to the existing systems and that is now reasonable.

15.6.2 Essex County Council became the sustainable urban drainage authority in April 2015 and their comments in respect of this application are noted. It is not however reasonable require the applicants to provide full drainage details and flood risk assessment retrospectively simply because ECC does not have access to that material. It is however considered acceptable to require the applicant by condition to provide details as to how their development will connect to the existing systems and provide information to demonstrate that the development of 28 units will not pose any off-site flood risk to other parts of Lakelands.

15.7.0 Affordable Housing

15.7.1 The Council's Strategic Planning Policy for Affordable Housing is set out in Core Strategy Policy H4 – Affordable Housing which was reviewed as recently as July 2014).

15.7.2 It goes on to state:-

“ ... 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.”

15.7.3 The Lakelands development is required to deliver 19.2% affordable housing and much has already been delivered around the wider site. Other sites now have reserved matters approval for affordable housing and they will commence soon. The 28 units contained in this application represent delivery of the final 28 units needed to meet the 19.2% requirement. Whilst other sites may be available and whilst the Council recently agreed a variation of Agreement that facilitates financial payments in lieu of any deficit number of units, Flagship Housing is offering to deliver 28 affordable rented units on –site now. In truth this probably represents the last scheme that will offer affordable rented properties following recent changes to the affordable housing regime announced by the Government. Money in lieu is unlikely to deliver

this many units and certainly not for rent, where the Borough has its greatest requirement for those in housing need.

- 15.7.4 The Council's affordable housing SPD sets out the Council's guidance in respect of amongst other things the Design and Integration of affordable Housing when it states:-
- “ 6.4 As part of a planning application, applicants will be expected to demonstrate how the affordable housing element will be realised within the overall development. In schemes over 15 units the affordable housing should be “pepperpotted” throughout the scheme in groups, the size of which should be discussed and agreed with the Council. The affordable housing should be well designed.”
- 15.7.5 “Pepperpotting” is the name given to the process of distributing affordable housing throughout a development in such a way that it is indistinguishable from open market housing. This can be individual units or ideally in clusters of up to 15 units. Pepperpotting is generally not feasible in flatted developments where open market and affordable units are in the same block for management reasons. The Council's SPD aims to avoid large groupings of affordable housing and there is a balance to be struck as Registered Providers (the affordable housing provider) prefer clusters rather than individual units as this offers economies of scale and management/maintenance benefits.
- 15.7.6 In the context of the 800 units planned within Lakelands a grouping of 28 units is not considered unreasonable or unacceptable particularly when the design standard and amenity levels achieved are good. Members will recall that it has welcomed the 100% affordable nature of the large Brook Street development on the basis that it provided much needed accommodation at a time of severe shortage. That situation persists.
- 15.7.7 Concerns from some residents that affordable housing at Lakelands is being concentrated into large ‘ghettoised’ clusters is unfounded. As can be seen from Figure 13 below the 28 units at SR6 will be adjoined by open market housing. Al-in-all there will be seven patches of affordable housing across Lakelands and no one area will adjoin another.
- 15.7.8 Members will know that since the banking crisis of 2008 and the consequent knock-on slow -down in the economy the number of affordable homes being delivered has dropped dramatically. The development process is yielding fewer and fewer affordable homes through development related s106 Agreements as national housebuilders challenge affordable housing requirements on the grounds of project viability.
- 15.7.9 The need for affordable housing in Colchester remains high and the gap between delivery and demand is widening as a result of the slow-down in delivery. Currently there are some 4224 households in housing need with the greatest pressure being for 1 and 2 bedroom units.



- Phase A
- Phase B
- Phase C
- affordable housing
-
-

Figure 13: Distribution of affordable housing across later phases of Lakelands

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- 15.7.7 Members are also advised that in response to local objections Flagship has offered to the Council that it would be willing to operate a local lettings policy in the first instance on SR6 or offer at least a proportion of the units on this basis. This offer has been rejected as being contrary to the Council's letting policy.
- 15.8.0 Residential Development (general)
- 15.8.1 Simon Pickles's advice in respect of residential use of the site being established by the permissions of 2012 and the 2010 Masterplan is clear.
- 15.8.2 Members will also have noted from Section 5 of this report that the site (and Lakelands more generally) is within the Stanway Growth Area (SGA). This is important because the Adopted Core Strategy (December 2008, revised July 2014) in Policy H1 – Housing Delivery states that the planned 19,000 new homes will be focused in five key locations described as Growth Areas + the Town centre. These include the Stanway Growth Area. (800 units).
- 15.8.3 Core Strategy Policy H2 – Housing Density (revised July 2014) states that the Borough Council will seek housing densities that make efficient use of land and relate to the context. New developments must enhance local character and optimise the capacity of accessible locations.
- 15.8.4 As discussed earlier the proposed development does accord with masterplan density targets and produces a density level well within the Government's range of acceptability. The design is considered appropriate in the context as described in paragraphs 15.2.0 to 15.2.2 above.
- 15.8.5 Core Strategy Policy H3 (revised July 2014) supports the delivery of a broad range of housing types and tenures on developments across the Borough in order to create inclusive and sustainable communities. It goes on to say...
- “.. Housing developments should provide a mix of housing types to suit a range of different households, whilst also realising the opportunities presented by accessible locations. The mix of housing types should therefore be informed by an appraisal of community context and housing need.
- Housing developments will also need to contribute to the provision of affordable housing and homes that are suitable to the needs of older persons with disabilities and those with special needs.”
- 15.8.6 The proposed mix will not only deliver the broad mix of accommodation required by H3 and will also contribute towards meeting the affordable housing objectives of the Council which remain a corporate planning priority. The development also includes within its 28 units a lifetime home bungalow, something that normal open market housebuilders rarely provide.

16.0 Conclusion

- 16.1 The detail of the development proposed in this Reserved Matters application complies with relevant adopted local plan policies and is therefore acceptable.
- 16.2 Whilst part of this application involves residential use of land identified on the Proposals Map (2010) as open space, this does not override the fact that outline planning permission has been granted for development of the site in accordance with a masterplan showing full residential development of the site. Furthermore, the development falls outside any of those categories requiring referral to the Secretary of State as a departure; and the Committee is therefore able to determine the application at the meeting.
- 16.3 Simon Pickles (Barrister) in his first Written legal Opinion concluded thus:-

“ The Council should approve the reserved matters application insofar as it provides for the residential development of the site because condition 1 attached to permissions 121040 & 121041, [the Lakelands 2 Design and Access Statement of July 2010] and the masterplan provide that development of the site should take that form. The Local Plan land use allocation has no bearing on the proper interpretation and effect [of] those planning permissions. [The Lakelands 2 design & Access Statement of July 2010] is the primary decision-making tool in this context, though the Local Plan may have some residual role to play in informing judgements that remain to be made as to detail.”

17.0 Recommendation

APPROVE subject to the following conditions:

1: Schedule of Types and Colours to be Submitted

Notwithstanding such detail as may have been submitted with the application no development shall proceed above ground (other than site level adjustment) until further details of all types and colours of external and surfacing materials to be used have been submitted to and approved, in writing, by the Local Planning Authority and the development shall thereafter be carried out in accordance with the approved schedule.

Reason: This is a prominent site where types and colours of external materials to be used should be harmonious to their surroundings in order to avoid any detrimental visual impact.

2. Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the approved drawings including the cross-sections.

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

3. Additional details on windows doors wall and railing etc

Prior to the installation, construction or otherwise provision of the features described herein additional drawings that show details of any proposed new windows, doors, eaves, verges, cills, arches, railings and boundary walls to be used, by section and elevation, at a scale of 1:20 shall be submitted to and approved, in writing, by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved additional drawings.

Reason: There is insufficient detail with regard to these elements to ensure that these details are of a sufficient high quality to produce a satisfactory appearance that will complement the attractive elevations as shown on the approved drawings. This is particularly important as the site is on a prominent corner and forms an entry point into the wider Lakelands development.

4. Landfill mitigation

Prior to commencement of any works full details of ground gas analysis and any associated mitigation measures necessary to be installed in any property or on any site where a risk of ground gas migration may have been identified shall be submitted to and approved by the local planning authority. Such detail as shall have been approved shall be implemented prior to the occupation of any residential unit where agreed mitigation measures are required or prior to the coming into use of any space where agreed mitigation measures are required.

Reason: In order to ensure that any contamination that may be found is properly mitigated. The Lakelands development is within 250m of the Stanway landfill site and this condition is a standard precautionary measure.

5. Landscaping Details

None of the elements described below shall be implemented, constructed or otherwise delivered until full details of all landscape works have been submitted to and agreed, in writing, by the Local Planning Authority and the works shall be carried in accordance with an implementation programme that has been subsequently agreed, in writing, by the Local Planning Authority. The submitted landscape details shall include:

- HARD SURFACING MATERIALS;
- MINOR ARTEFACTS AND STRUCTURES (E.G. FURNITURE, PLAY EQUIPMENT, REFUSE OR OTHER STORAGE UNITS, SIGNS, LIGHTING ETC.);
- PROPOSED AND EXISTING FUNCTIONAL SERVICES ABOVE AND BELOW GROUND (E.G. DRAINAGE POWER, COMMUNICATIONS CABLES, PIPELINES ETC. INDICATING LINES, MANHOLES, SUPPORTS ETC.);
- PLANTING PLANS;
- WRITTEN SPECIFICATIONS (INCLUDING CULTIVATION AND OTHER OPERATIONS ASSOCIATED WITH PLANT AND GRASS ESTABLISHMENT);
- SCHEDULES OF PLANTS, NOTING SPECIES, PLANT SIZES AND PROPOSED NUMBERS/DENSITIES WHERE APPROPRIATE; AND
- IMPLEMENTATION TIMETABLES AND MONITORING PROGRAMS. (IMPLENTATION PROGRAMME)

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

6. Landscape Management Plan

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

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

7. Earthworks

No landscaping shall take place until full details of all earthworks have been submitted to and agreed, in writing, by the Local Planning Authority. These details shall include the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform. The development shall thereafter be carried out in accordance with the approved details.

Reason: To ensure that any earthworks are acceptable in relation to their surroundings.

8. Construction Method Statement

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

- the parking of vehicles of site operatives and visitors;
- hours of deliveries and hours of work;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- wheel washing facilities;
- measures to control the emission of dust and dirt during construction; and
- a scheme for recycling/disposing of waste resulting from demolition and construction works.
- Construction and delivery traffic routing

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

9. Limits to Hours of Work

No demolition or construction work shall take outside of the following times;

Weekdays: 08.00 – 18.00

Saturdays: 08.00 – 13.00

Sundays and Bank Holidays: Not at all

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

10. Refuse and recycling

Prior to the first occupation of the development hereby permitted, refuse and recycling storage facilities shall be provided in accordance with a scheme which shall have been previously submitted to and agreed, in writing, by the Local Planning Authority. Such facilities shall thereafter be retained to the satisfaction of the Local Planning Authority at all times.

Reason: The application contains insufficient information to ensure that adequate facilities are provided for refuse and recycling storage and collection.

11. Communal Storage Areas

Prior to the first occupation of the development hereby permitted, details of management arrangements for the maintenance of communal storage areas shall be submitted to, and agreed in writing by, the Local Planning Authority. Such detail as shall have been agreed shall thereafter continue unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

Reason: The application contains insufficient information to ensure that the communal storage areas will be maintained to a satisfactory condition and there is a potential adverse impact on the quality of the surrounding environment.

12. Drainage

Prior to the commencement of any building construction work (excludes ground works) details of surface water and foul water drainage shall be submitted to and approved by the local planning authority along with details as to how any risk of off-site flooding will be mitigated. Such detail as shall have been approved shall be implemented prior to occupation of any unit/s.

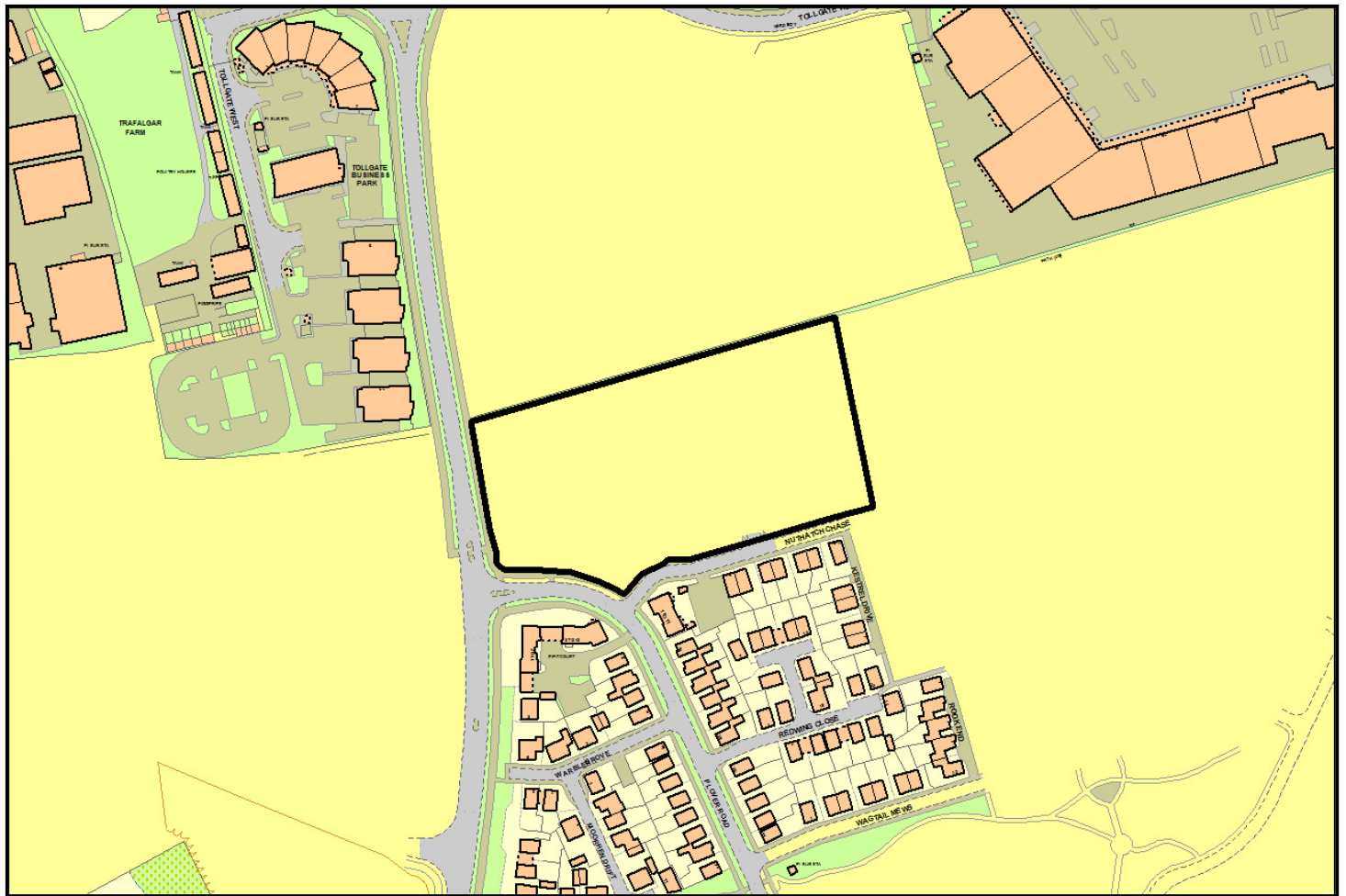
Informatives:

NOTE: Demolition and Construction

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

Positivity Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.



Application No: 151479

Location: Lakelands Development Site (Parcel NE2), Church Lane, Stanway, Colchester

Scale (approx): 1:2500

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7.2 Case Officer: Vincent Pearce

MAJOR

Site: Lakelands Development Site (Parcel NE2), Church Lane, Stanway, Colchester

Application No: 151479

Date Received: 20 July 2015

Agent: Miss Rhian Powell, Terence O'Rourke Ltd

Applicant: Pippa Cheetham, O & H Colchester Ltd

Development: Outline application for the proposed Residential development of land known as parcel NE2 for up to 65 new dwellings (including affordable housing) together with associated landscaping, access roads, car parking, infrastructure and other ancillary works.

Ward: Stanway

Summary of Recommendation: Conditional Approval subject to signing of Section 106 Agreement

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it is a major application that represents a 'Departure' from the Adopted Local Plan in that were the recommendation to approve the proposal to be agreed there will be a loss of some Strategic Employment Zone (SEZ) land in Stanway in favour of additional residential development. It is also referred to the Planning Committee because it is recommended to grant permission subject to a S106 Agreement.
- 1.2 The site currently benefits from outline planning permission for employment zone uses as part of the wider Lakelands suite of permissions. This is a full application outside of the residential permissions previously granted and the 65 units being proposed would, if approved, increase the total number of units permitted on Lakelands from 800 to 865. This application involves development that sits outside of existing S106 Agreements.

2.0 Synopsis

- 2.1 This application whilst contrary to the Council's Local Plan is recommended for approval having regard to the recent Stane Park appeal decisions which permitted the loss of SEZ land at Stanway and in the light of material factors that include: - the site's relatively small area compared to the overall SEZ; the fact it is not the highest quality employment land within the Stanway SEZ and its location adjacent to residential development at Lakelands.

- 2.2 Members will be aware that the Council is currently in the process of producing a new local plan (Preferred Options consultation currently underway). It would ordinarily be preferable to deal with such a proposal through that process rather than a planning application. The applicants have however asked for their proposal to be determined on its own planning merits and are aware of the Stane Park appeal decision.
- 2.3 Members will also be aware that the Tollgate Village proposal (mixed retail, leisure and food & drink units) refused on 19 February 2016 (ref 150239) is now the subject of a public inquiry due to start on 17 January 2017 and that a duplicate Tollgate Village proposal (ref: 160868) has yet to be determined. Similarly members will recall the two planning applications referred to above on the site known as Stane Park that were recently allowed on appeal. One of the central planning issues raised by the Tollgate Village proposals and the Stane Park proposals is the loss of SEZ land at Stanway. Members will be keen to understand why the proposal for NE2 is being recommended for approval whilst a contrary recommendation (and ultimately decision) was made in respect of both Tollgate Village and Stane Park. It is important to be able to demonstrate consistency of approach and interpretation of policy. In reaching the conclusions contained in this report and in making the recommendation to grant planning permission significant weight has been given to outcome of the Stane Park appeals where the Inspector allowed the developments despite the SEZ allocation of the land. Those decisions are now material considerations and the Inspectors justification needs to be carefully considered for any parallel relevance.

3.0 Site Description and Context

- 3.1 This broadly rectangular site sits immediately adjacent to the Stanway Western By-Pass (east side) in the far north-western corner of the main Lakelands site. It sits immediately adjacent to the southern edge of the site of the proposed Tollgate Village development. To the south of the site is a primary school and to the west is existing residential development.
- 3.2 As with all of Lakelands, the site was part of a former sand and gravel pit (Stanway Quarry) and now comprises 'made-up' ground as levels were raised to accommodate development.
- 3.3 This previously cleared site is currently being used as a site compound for developers working on the later phases of residential development at Lakelands.
- 3.4 The site measures approximately 1.74ha.
- 3.5 It is accessed by an existing new estate road that serves the wider Lakelands residential development hereabouts. The application site sits significantly below the level of land to the north (site of the proposed Tollgate Village development) and the boundary is marked by an escarpment

4.0 Description of the Proposal

- 4.1 This is an **OUTLINE** application with **ALL MATTERS RESERVED** for the development of up to 65 residential units. The application is supported by an illustrative layout which indicates a potential mix of 46 x houses, 17 x flats and 2 x flats over garages (fogs).

4.2 The site area quoted in the application is 1.74 ha which based on the indicative 65 units produces a density of 37 dwellings per hectare. However as the site has a steeply banked northern edge, the site area needs to be adjusted to reflect what is actually developable (the embankment not being usable in any meaningful way). Furthermore, it is not appropriate to include all of the road width in the calculation of site area. (Only half can legitimately be included where access to frontages is taken from it).

4.3 The application is supported by the following submitted documentation:-

- Illustrative layout drawing 100371F/A/P003
- Parameters plan drawing 100371F/A/P004
- Planning, Design & Access Statement & Health Impact Assessment
- Ground conditions & remediation Statement
- Flood Risk Assessment
- Design & Construction Statement
- Noise Statement

5.0 Land Use Allocation

- Strategic Employment Zone (SEZ)
- Employment Zone (EZ)
- Stanway Growth Area (STA)

6.0 Relevant Planning History

6.1 O/COL/90/1904 *[the original outline]*

Outline application for mixed use development comprising business / employment 11.3 net acres, residential 49.3 net acres and leisure 49.2 net acres.

Approved 21 March 1995.

6.2 F/COL/01/0976

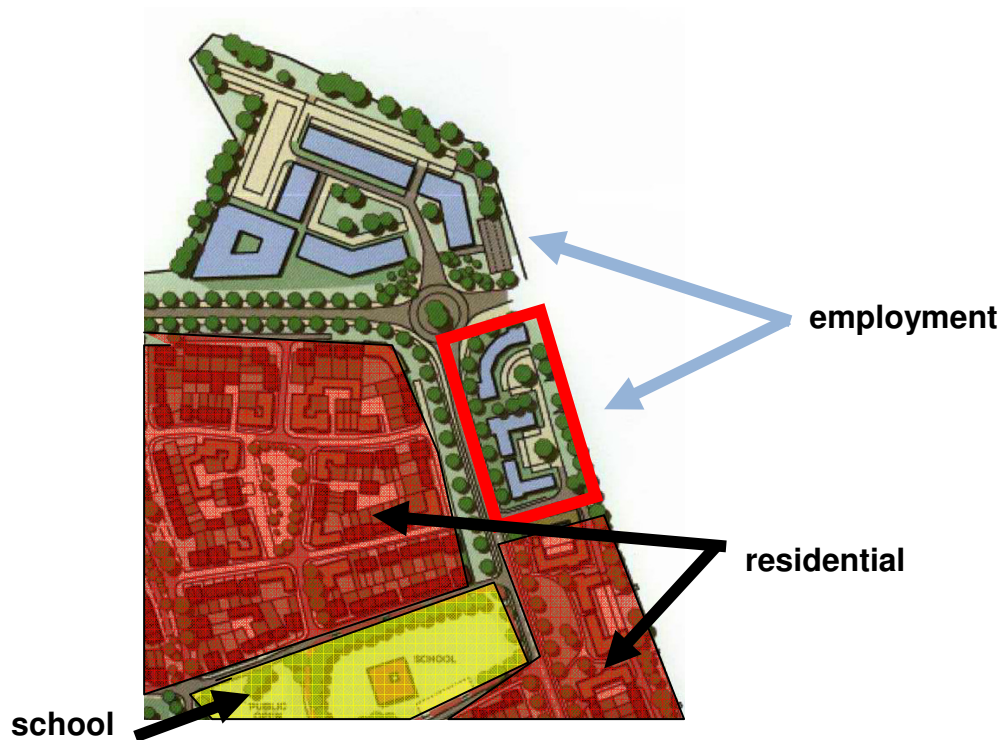
Application to amend condition 03(2) of COL/90/1904 to extend specified time period from five to six years regarding submission of all reserved matters for outline application for mixed use development comprising business/employment 11.3 net acres, residential 49.3 net acres and leisure 49.2 net acres approved on 21 March 1995.

6.3 O/COL/02/0980 *[uplift in approved total number of residential units from 500 to 800]*

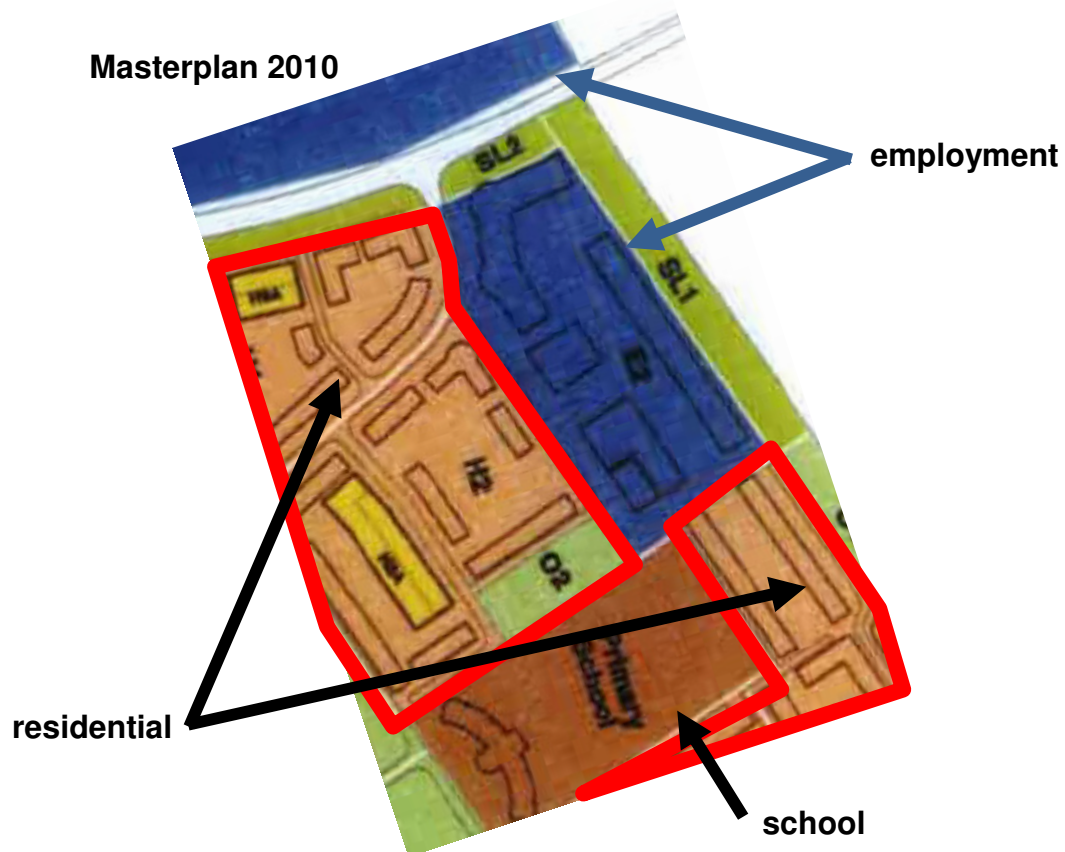
Outline application for residential development (300 dwellings) and associated road proposals (an additional 300 units to the 500 units approved under C/COL/90/1904) *(new total 800 units) [amended masterplan deletion of proposed leisure use]*

Approved: 1 December 2006

Masterplan 2002



Masterplan 2010



6.4 **121040**

Application for a new planning permission to replace extant planning permission F/COL/01/0976 in order to extend the time limit for implementation.

4 September 2012

6.5 **121041**

Application for a new planning permission to replace extant planning permission O/COL/02/0980 in order to extend the time limit for implementation.

Approved 4 September 2012

6.6 **146100**

Variation of condition to deliver residential development rather than employment (NE2)

Withdrawn 4 April 2016

6.7 **146117:**

Variation of condition to deliver residential development rather than employment (NE2)

Withdrawn 4 April 2016

Other applications/decisions in the area involving loss of employment land

Stane Park

6.8 **146486:** Pub and 2 x restaurants Allowed on Appeal 2016 after refusal on grounds including loss of employment land

6.9 **150945:** Restaurant and 2 x drive-throughs Allowed on Appeal after refusal on grounds including loss of employment land

Tollgate Village

6.10 **150239:** Mixed use development (Leisure Including cinema retail and A3-A5)
Refused 19 February 2016 on grounds including loss of employment land.
Subject of a public inquiry set for 10 January 2017

6.11 **160868:** duplicate of 150239 – as yet undetermined

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 which 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
- SD2 - Delivering Facilities and Infrastructure
- SD3 - Community Facilities
- CE1 - Centres and Employment Classification and Hierarchy
- CE3 - Employment Zones
- H1 - Housing Delivery
- H2 - Housing Density
- H3 - Housing Diversity
- H4 - Affordable Housing
- UR2 - Built Design and Character
- PR1 - Open Space
- 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

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

- DP1 Design and Amenity
- DP3 Planning Obligations and the Community Infrastructure Levy
- DP4 Community Facilities
- DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses
- DP12 Dwelling Standards
- DP16 Private Amenity Space and Open Space Provision for New Residential Development
- DP17 Accessibility and Access
- DP18 Transport Infrastructure Proposals
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage

- 7.4 Further to the above, the adopted Site Allocations (adopted 2010) policies set out below should also be taken into account in the decision making process:

SA H1 Housing Allocations

SA STA1 Appropriate Uses within the Stanway Growth Area

SA STA2 Phasing of Greenfield sites in Stanway Growth Area

SA STA3 Employment and Retail Uses in Stanway Growth Area

SA STA4 Transportation in Stanway Growth Area

SA STA5 Open Space in Stanway Growth Area

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

Stanway Parish Plan & Design Statement (March 2011)

Tollgate Village Statement (July 2013)

Community Facilities

Vehicle Parking Standards

Open Space, Sport and Recreation

The Essex Design Guide

External Materials in New Developments

Affordable Housing

Cycling Delivery Strategy

8.0 Consultations

- 8.1 The **Council's Planning Policy Team** has provided the following response which concludes that the loss of employment land is justified in the light of the Inspector's comments in the Stane Park appeals.

'This parcel of the Lakelands site has outline planning approval for employment use. The site is located in the Stanway Strategic Employment Zone (SEZ) within the Stanway Growth Area.

Policy DP5 (Appropriate Employment Uses and Protection of Employment Land and Existing Businesses) safeguards land currently allocated for employment purposes, for appropriate employment uses. It states that as a general principle such land should be safeguarded. Any use that may have an adverse effect on employment generation will only be permitted where the LPA is satisfied that evidence can be provided to demonstrate that no suitable and viable employment use can be found, or is likely to be in the foreseeable future.

Paragraph 22 of the NPPF states that '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'. To aid its assessment of sites allocated for employment use, the Council commissioned an Employment Land Needs Assessment from Nathaniel Lichfield and Partners which was published in January 2015. The ELNA included a review of Colchester's employment sites portfolio which considered the characteristics and quality of existing and undeveloped employment

sites in the Borough and their suitability to meet future employment development needs. It reached the following conclusions on the Lakelands NE2 site:

Land South of London Road/Lakelands Phase 2, Church Lane

5.28 This 1.78 hectare plot is situated immediately to the east of the relief road, and like the site at Oldhouse Farm has been earmarked to provide employment use (B1, B2, B8 and car showroom uses) as part of Lakelands, a major residential-led mixed-use development. The plot has prominent frontage onto the relief road, is close to the Tollgate Urban District Centre and will have good access to local amenities at the lakelands scheme when it completes. It also has very good accessibility, both locally and with the strategic road network. However, as per the 1995 outline consent for Lakelands, housing is intended to be developed in close proximity to the plot which will constrain its employment potential.

5.29 Recently an application has been submitted for a variation of the permission for Lakelands, to allow the plot to be developed for residential rather than employment use. (146100) Consultation with local agents did not identify this plot as having a particular role or function in terms of satisfying a specific market need and it is difficult to identify any valid, compelling reason why this variation should be opposed. In addition, the nearby site on the west of the relief road referred to as 'Land at Oldhouse Farm' makes a much more attractive and logical location for employment and is more likely to attract commercial interest. Nevertheless, if this variation is allowed there will be a loss of employment land.

The issues raised above affected the score given to the site of 19, which was attributed lower scores than other Stanway employment sites which ranged from 20 to 23. The ELNA recommended the de-allocation of some sites in Stanway in light of an identified surplus of sites in the area. Based on the site's score and relatively small size, its de-allocation would be compatible with the development of a Stanway portfolio of sites with the 'best intrinsic qualities and greatest prospect of coming forward for employment development in future'. (ELNA, para 8.48)

While the site is currently recommended for continued employment allocation in the Preferred Options Local Plan, it is noted that employment allocations for Stanway within the new Local Plan will need to be revisited to address the implications of the recent Inspector's decision on a nearby site in Stanway at Stane Park. The Inspector considered that the site did not have a reasonable prospect of being used for employment uses in the foreseeable future.

The particular circumstances of the site including adjoining residential uses and the existence of more attractive employment sites nearby, combined with the more general requirement for the Council to consolidate its employment land portfolio accordingly are considered to justify the loss of employment land in this instance'.

- 8.2 The **Council's Urban Designer** does not object to the principle but comments that the illustrative layout does not demonstrate the site can accommodate the suggested number of units given the conflict with the principles contained in the approved masterplan for the wider Lakelands development.

[Officer comment: The comments are noted but as the submitted layout is illustrative and design and layout form one of the reserved matters it is possible and reasonable to condition any approval (should Members be minded to grant permission) such that the layout drawing is formally excluded and that reference to number of units is qualified and restricted.]

- 8.3 The **Council's Landscape Planning Officer** recommends that any outline permission be conditioned to require the submission and approval of:-

- Full landscape details as these form another of the reserved matters; and,
- A landscape management plan; and,
- Details of earthwork

- 8.4 The **Council's Enterprise Officer** has raised no objection to the loss of this land for employment purposes.

- 8.5 **Essex County Council Sustainable Urban Drainage (SUDS) Team** raises no objection subject to the addition of conditions requiring:-

- prior to commencement submission and approval of a surface water drainage scheme; and,
- prior to commencement submission and approval of a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction; and,
- prior to commencement approval of a drainage maintenance plan; and,
- the maintenance of a yearly log of maintenance carried out in accordance with any approved maintenance plan.

[Officer comment: these are considered reasonable in the event that members are minded to grant planning permission as drainage is one of the reserved matters.]

- 8.6 **Essex County Council (Education)** indicates that the development where it contains qualifying (2-bed and over) units will be expected to contribute to the provision of early years and childcare and primary places. It will not generate the need for secondary contributions. Provisional estimates provided by ECC (Education) based on 65 x 2-bed units put the contributions at:

- early years/childcare - £69,321
- primary £202,664

[Officer comment: Clearly as the proposal is in outline it is not possible to provide an exact contribution requirement until such time as reserved matters are approved (in the event that outline planning permission is first granted)]

- 8.7 **Natural England** has provided its standing advice but the site falls below the threshold for which requires Agency consultation. The site is not considered to necessitate any ecological evaluation due to its disturbed nature forming as it does a compound area for the development of the northern parts of the Lakelands.
- 8.8 At the time of writing this report **Essex County Council (Highways) & Essex County Council (Public Rights of Way)** had not commented although previously they have confirmed that residential development of NE2 is likely to generate less vehicular movements than an employment scheme. The highway infrastructure has already been provided. On that basis they previously raised no objection but did indicate that travel packs should be secured. (this can be achieved by condition).

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 Stanway Parish Council OBJECTS stating:-

"[the proposal] is too dense and overdeveloped. There is insufficient parking and the proposed four storey buildings are not in keeping with the street scene, the rest of the Lakelands Development or the Stanway Area."

10.0 Representations

- 10.1 Essex Bridleways Association object on the grounds that no new bridleways are being created on Lakelands and that no linkages are being delivered to existing bridleways.
- 10.2 One letter of objection has been received on the grounds that no provision is made for bridleway expansion in Stanway.

11.0 Parking Provision

- 11.1 The illustrative layout indicates 121 off-street parking spaces/garages with an additional 11 on street layby spaces for visitors. A development of 65 units assuming all are 2bed+ would generate a parking requirement of 65×2.25 spaces per unit = 147 spaces. The proposal is therefore potentially deficient by 15 spaces. Clearly if one-bed units were introduced the required parking provision would fall in line with the Council's Adopted Parking Standards (i.e. a one-bed unit generates a requirement for 1.25 spaces per unit).
- 11.2 This supports the objection of the Parish Council that parking is inadequate. It may also indicate overdevelopment were the illustrative layout and proposed number of units to be accepted with them all at 2 bedroom unit size or above. That said as the application does not describe unit sizes the proposal may well comply with parking standards once the details (assuming outline planning permission was first granted) have been worked up. This does suggest that the indicative illustrative layout should be excluded from the permission and that the reference to 65 units be qualified by condition.

12.0 Open Space Provisions

- 12.1 The indicative layout does not include any open space within the development on the basis that it is adjacent to an existing approved open space and will therefore benefit from shared amenity and as a result of the wider Lakelands development including more than the required (by policy DP16) 10% open space. On this basis it is reasonable to accept that the adjacent open space and those spaces beyond throughout Lakelands also provide adequate open space for this development and that the proposal conforms to Policy DP16 (the 10% requirement) in that the new residential development if approved will form part of the wider Lakelands development.

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 classed as a “Major” application and therefore there was a requirement for it to be considered by the Development Team. It was considered that Planning Obligations should be sought via Section 106 (S106) of the Town and Country Planning Act 1990. The Obligations that would be agreed as part of any planning permission would be:

- delivery of 20% affordable housing in line with Adopted SPD
- appropriate education contribution based on predicted demand and available existing/planned capacity
- travel packs (this can be conditioned)
- provisional estimate of £247,000 for sport and recreation projects based on predicted impact
- provisional estimate of a £59,716 financial contribution towards new community facilities being planned at Lakelands as a result in the increased demand – equivalent to 113sq.m of additional floorspace.

15.0 Report

15.1 Nature of the Outline application

- 15.2 This is an outline planning application with **all** matters reserved. This means the Committee is only being asked to consider the acceptability or not of the principle of a residential use. In the event that outline planning permission is granted (if Members are so minded) then full details of the following key elements would all have to be the subject of a further subsequent planning application (reserved matters):-

- appearance
- layout
- scale
- means of access
- drainage
- landscaping

15.3 **Consideration of the principle**

15.3.1 The application site falls within an area designated as a Strategic Employment Zone (SEZ) where the majority of new jobs are to be directed through the Adopted Core Strategy Policy CE1. Within CE1 the presumption is that uses that do not comply with those considered appropriate in an EZ (as described in Table CE1b) will not normally be supported.

15.3.2 In that context, residential use is not appropriate in an EZ and nor is it in the context of CE3 (Employment Zones)

“Employment Zones will accommodate business developments that are not suited to Mixed Use Centres, including industry and warehousing.”

Strategic Employment Zones (SEZ) are identified at Stanway.. which provide ample capacity to accommodate projected business growth during the plan period. The Borough Council will seek to focus business development at these Strategic Employment Zones, and will improve the supporting transport infrastructure...”

15.3.3 Parts of Stanway are also identified in the Adopted Core Strategy as falling within the Stanway Growth Area. (SGA). The application site falls within that area as does the wider Lakelands development.

15.3.4 The Adopted Core Strategy Policy H1 (Housing Delivery) states that:-

“The Borough Council will plan, monitor and manage the delivery of at least 19,000 new homes in Colchester Borough between 2001 and 2023. This housing development will be focussed on the following areas:

- Stanway Growth Area.....”

15.3.5 That said the application site is not currently allocated for residential use. Currently the Council is able to demonstrate that it has a five-year housing land supply. Members will however be aware that the Council is currently consulting on its preferred options for future growth as part of the process for agreeing the next local plan. That plan will, amongst other things, again promote a significant expansion in homes and jobs.

15.3.6 In considering the merits of this proposal, as with any other, a careful consideration of planning policy is required. Members will have noted from the formal response of the Planning Policy Team that they believe the Council now needs to have regard to the Stane Park appeal decisions as a new material consideration that was not available at the time of determining nearby proposals for changes of use away from employment..

Relevance of Stane Park Appeal Decisions

- 15.4. The Stane Park decisions are important because the Inspector, in allowing the appeals and granting permissions for uses that sat outside of the uses considered acceptable by Adopted Policies CE1, CE3 and table CE1b, made the following important relevant (to the current proposal) points:-
- 15.4.1 The main issues in respect of Stane Park as identified by the Inspector included:-
- Will the proposals “lead to an unacceptable loss of employment land” (para 5 of the Inspector’s Report).
- 15.4.1a The current proposal involves a loss of employment land and Members will also need to consider whether that loss is unacceptable.
- 15.4.2 In terms of the status of the development plan the Inspector commented specifically (amongst others) on CE1 and CE3) stating:-
- “The cited Centres and Employment Policies, including Policies CE1...and CE3 cannot be given full weight given that the Council accepted this by including them in the Focussed Review for precisely the reason that it did not consider them to be fully consistent with the [National Planning Policy] Framework. They were not amended by the Focussed Review.
- 15.4.2a Consideration of the merits of the current proposal also have Policies CE1 and CE3 at the heart. Members will no doubt wish to explore similarities and differences between cases in order to ensure that any decision in respect of NE2 is consistent and reasonable bearing in mind that these particular policies cannot carry full weight.
- 15.4.3 In paragraph 47 of his report The Inspector comments that:-
- “In Colchester it is agreed that there is a 65 year supply of employment land based on current take-up rates.....Indeed the commercial rents in the area would have to rise very substantially for them to become viable. Due to this and to the significant infrastructure costs I consider that the sites have no reasonable prospect of being used for employment purposes in the foreseeable future.”
- 15.4.3a Members are advised that this particular site is given a lower qualitative score in the 2015 Employment Land Needs Assessment (ELNA) Document than the Stane Park and Tollgate Village sites and is a significantly smaller and less significant site when compared to the Tollgate Village and Stane Park sites.
- 15.4.4 The Inspector believed that the Stane Park appeal proposals with their restaurants and pub would “provide a substantial number of jobs close to residential areas in the near future.” (Para 50 of the Inspector’s Report.)

15.4.4a This residential proposal will not create jobs in the way that the Stane Park proposals will although it will sustain construction jobs in the area for a short period. The loss of this site for employment purposes, were Members minded to grant planning permission, will mean that the site will be lost for job creation close to a burgeoning community; but it is considered that sufficient Employment Zone land remains allocated and available to ensure that new jobs are created locally in future. The Enterprise Team has not objected to the modest loss of Employment Land in the circumstances described earlier.

15.4.5 In view of the fact that the site immediately adjoins a residential development where 800 new homes are in the process of being provided and that the Stanway Growth Area is also a focus for new housing development and in view of the fact that this small site scores lowest of all the employment sites in the Stanway Area, the principle of a residential use is considered acceptable and is supported in this individual case by the Planning Policy Team. Furthermore, given the nature of the existing adjoining uses (residential and school) the use of the site for housing is arguably more contextually appropriate.

15.6 Other considerations

Building heights

15.7 The submitted parameter plan provides illustrative information as to possible storey heights. These range from two storeys to up to four storeys as shown below.

15.7.1 Whilst the concerns of the Parish Council are noted in terms of their view that storey heights are excessive the range can be found elsewhere across the northern half of Lakelands. From an urban design perspective it is often appropriate to accentuate entry points and corner sites. Indeed the 2010 masterplan advocates this at either end of the main avenue.

15.7.2 That said it is not possible to endorse the illustrative combined parameter plan as it has not been possible to assess the possible implications for meeting the relevant council space, amenity and parking standards. On that basis it is suggested that if Members are minded to grant permission then drawing number 100371F/A/P004 also be excluded from that permission by condition

Noise

15.8. Parts of the proposed residential development will, if approved, be adjacent to the Stanway Western By-Pass and whilst residential development has been permitted beside the By-Pass to the south it is considered prudent to require any reserved matters submissions to be accompanied by a noise assessment and mitigation strategy in order to ensure that homes built close to the road do not experience undue disturbance and unacceptable nuisance from traffic noise.

Drainage

15.9 The application is accompanied by a Flood Risk Assessment and a sustainable construction statement both have which have been considered by the SUDS authority that has raised no objection subject to conditions.

Contamination & remediation

- 15.10 Whilst much of the wider Lakelands site has now been developed and appropriate contamination studies and remediation works undertaken this site has never previously been intended for residential use. As parts of the wider Lakelands site fall within 250m of a former landfill site; the site of NE2 contains made up ground; the site is currently being used as a construction compound and as the site was formerly a mineral working it is considered appropriate to require the carrying out of contamination risk surveys and appropriate remediation where necessary in the interest of safeguarding public health.

Stanway Parish Plan & Design Statement (SPPDS)

- 15.11 The SPPDS support commercial development when it states in paragraph 32 'Commercial' of its recommendations

“ Ensure that future development proposals provide a range of commercial premises (size and type), including incubation units, that sustain existing businesses and create opportunities for business to expand in Stanway”

- 15.11.1 Ordinarily within Stanway you would expect this demand to be satisfied within the SEZ but in opposing the proposal the Parish Council refers only to what it sees as the unacceptable form of the illustrative residential scheme and not the loss of employment land. On that basis it is assumed that the parish has no objection to the loss which would concur with the views of the Planning Policy Team in the light of the material considerations explored earlier in this report

- 15.11.2 In paragraph 10 of the recommendations section of the SPPDS it states that

“New developments should blend with the existing skyline. There should be no exceptionally high buildings that are likely to dominate the area”.

- 15.11.3 In terms of the context of Lakelands three and four storey buildings are not necessary out of keeping and as this site sits below the ground level of the commercial land to the north height can be concealed by the higher backdrop of building which already or will prevent skyline disruption buy the proposed residential development. (assuming that heights are not exceptional)

16.0 Conclusion

- 16.1 Whilst the proposal involves a loss of Strategic Employment Zone land contrary to policies CE1 and CE3 that loss is not considered unacceptable in either quantitative or qualitative terms and would conform with Government policy in the NPPF. The delivery of residential development on this site is considered appropriate and reasonable in the light of the adjacency of the large Lakelands residential development and in view of the fact that the site falls within the Stanway Growth Area where the strategic delivery of housing is directed and these material considerations outweigh the Employment policy objection. The securing of 20% affordable housing in line with Adopted Policy within the overall development is considered particularly beneficial in the face of the current significant number of people in housing need in Colchester and the slow-down in delivery of that tenure type since the economic down-turn from 2008.

- 16.2 In order for the benefits that outweigh the loss of SEZ land to be realised a S106 Agreement is necessary.
- 16.3 It is also considered appropriate to ensure that the principles within the Deed of Variation that apply to the main Lakelands development are applied to this proposal in terms of having a fall -back position of a commuted financial sum for delivery of affordable housing in lieu of any unit required to achieve 20% that cannot be accommodated on this site. Within the 20% affordable housing 80% needs to be affordable rented units.
- 16.4 Whilst the principle of residential use is considered acceptable it is not possible to with the meagre level of detail available at present that up to 65 units could be satisfactorily accommodated on the site. It is therefore concluded that if members are minded to grant permission the illustrative layout drawing should be excluded from that permission by condition. It is further concluded that the permission should be conditioned such as to exclude reference to up to 65 residential units.
- 16.5 The proposal, if Members are minded to grant planning permission in line with the recommendation, falls well below the threshold for referral to the Secretary of State.

17.0 Recommendation

Subject to no objection (that cannot be overcome by condition or S106) being received from Essex County Council as the local highway authority then

APPROVE subject to:-

- A. The signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 within 6 months from the date of the Committee meeting. In the event that the legal agreement is not signed within 6 months, to delegate authority to the Head of Environmental and Protective Services to refuse the application, or otherwise to be authorised to complete the agreement to provide the following:
- 20% Affordable Housing;
 - Education Contribution;
 - Community Facilities Contribution;
 - Sport and Recreation Contribution.

AND

- B That Agreement including a clause triggering an appropriate financial contribution from the developer/owner or relevant party with an interest in the land to the Council in lieu of any affordable unit not provided on the site of NE2 in order that the Council or its nominee can facilitate or otherwise procure the delivery of affordable housing.

AND

- C The following conditions.

1 - Time Limit for Outline Permissions Identifying the Reserved Matters

No development shall be commenced until plans and particulars of the reserved matters referred to in the below conditions relating to the ACCESS, APPEARANCE, LANDSCAPING, LAYOUT, SCALE DRAINAGE and CONTAMINATION RISK/REMEDICATION have been submitted to and agreed, in writing, by the Local Planning Authority. Included within the normal Reserved Matters applications shall also be details of :-

- the type and colour of all external materials to be used
- all boundary treatment
- cross sections through the site in locations to be agreed with the local planning authority
- drainage
- refuse storage facilities
- any imported fill or excavation that may be required
- noise assessment and noise mitigation measures (traffic noise from Stanway Western By-Pass)
- travel pack arrangements
- PROPOSED FINISHED LEVELS OR CONTOURS;
- MEANS OF ENCLOSURE;
- CAR PARKING LAYOUTS;
- OTHER VEHICLE AND PEDESTRIAN ACCESS AND CIRCULATION AREAS;
- HARD SURFACING MATERIALS;
- MINOR ARTEFACTS AND STRUCTURES (E.G. FURNITURE, PLAY EQUIPMENT, REFUSE OR OTHER STORAGE UNITS, SIGNS, LIGHTING ETC.);
- PROPOSED AND EXISTING FUNCTIONAL SERVICES ABOVE AND BELOW GROUND (E.G. DRAINAGE POWER, COMMUNICATIONS CABLES, PIPELINES ETC. INDICATING LINES, MANHOLES, SUPPORTS ETC.);
- PLANTING PLANS;
- WRITTEN SPECIFICATIONS (INCLUDING CULTIVATION AND OTHER OPERATIONS ASSOCIATED WITH PLANT AND GRASS ESTABLISHMENT);
- SCHEDULES OF PLANTS, NOTING SPECIES, PLANT SIZES AND PROPOSED NUMBERS/DENSITIES WHERE APPROPRIATE; AND
- IMPLEMENTATION TIMETABLES AND MONITORING PROGRAMS. The development shall only be carried out in accordance with the approved details.

Reason: The application as submitted does not provide sufficient particulars for consideration of these details

2 - Time Limit for Outline Permissions (applications for Reserved Matters)

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004

3 - Time Limit for Outline Permissions (commencement of development)

The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

4 - Exclusion of plans from the permission

The illustrative layout on drawing number 100371F/A/P003 and the illustrative combined parameter plan on drawing number 100371F/A/P004, submitted with the application are hereby specifically excluded from this permission.

Reason: It has not been possible to properly determine whether the illustrative layout and parameter plan scale and massing can be satisfactorily accommodated on the site without resulting in overdevelopment - evidence for which would arise from a situation where the Councils relevant Adopted space, amenity and parking standards cannot be met.

5 - Number of units

In the light of the exclusion of the illustrative layout and combined parameter plan as set out in condition 4 above the Council also excludes any reference to the total number of units being permitted in this planning permission. Consequently 'up to 65 units' are not hereby permitted.

Reason: Insufficient information is submitted with the application to enable the Council to determine whether the site is capable of satisfactorily accommodating up to 65 dwelling units in a form that is acceptable and that will conform to its Adopted space, amenity and parking standards. The ultimate number of units that is likely to be approved will depend upon the submission of detail with the appropriate reserved matters. Applicants are advised that reserved matters should be based on densities and character of development that reflect those approved on related Lakelands residential developments and that all relevant Adopted space, amenity and parking standards will need to be met if reserved matters applications are to be successful. It is these material considerations that will ultimately dictate the total number of units.

6 - Removal of permitted development

Notwithstanding the provisions of Classes A, B, C and D of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no extensions shall be erected unless otherwise subsequently approved, in writing, by the Local Planning Authority or Secretary of State as part of a subsequent planning permission.

Reason: In the interest of visual amenity and to ensure the development avoids an overdeveloped or cluttered appearance and affords satisfactory levels of amenity for future occupiers.

7 - Contaminated Land Part 1 of 4 (Site Characterisation)

No works shall take place until an investigation and risk assessment, in addition to any assessment provided with the planning application, has been completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval, in writing, of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include: (i) a survey of the extent, scale and nature of contamination, including contamination by soil gas and asbestos;

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,

- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors

8 - Contaminated Land Part 2 of 4 (Submission of Remediation Scheme)

No works shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been prepared and then submitted to and agreed, in writing, by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors

9 - Contaminated Land Part 3 of 4 (Implementation of Approved Remediation Scheme)

No works shall take place other than that required to carry out remediation, the approved remediation scheme must be carried out in accordance with the details approved. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification/validation report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

10 - Contaminated Land Part 4 of 4 (Reporting of Unexpected Contamination)

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 7 and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 8, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 9.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors

11 - Landscape Management Plan

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

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

12 – Earthworks

No works shall take place until details of all earthworks have been submitted to and agreed, in writing, by the Local Planning Authority. These details shall include the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform. The development shall thereafter be carried out in accordance with the approved details.

Reason: To ensure that any earthworks are acceptable in relation to their surroundings.

13 - Construction Method Statement

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

- the parking of vehicles of site operatives and visitors;
- routing of construction delivery vehicles;
- site compound location;
- hours of deliveries and hours of work;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- wheel washing facilities;
- measures to control the emission of dust and dirt during construction; and
- a scheme for recycling/disposing of waste resulting from demolition and construction works.

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

14 - Surface Water Drainage

No works shall place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented prior to occupation.

The scheme shall include

- managing surface water as part of the application area up to 1 in 100 inclusive of climate change storm event
- an appropriate amount of treatment in line with CIRIA SuDS manual C753
- Conveyance and exceedance routes in the application area

Reason:

- To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site
- To ensure the effective operation of SuDS features over the lifetime of the development
- To provide mitigation of any environmental harm which may be caused to the local water environment

15 - Offsite flooding

No works shall take place until a scheme to minimize the risk of offsite flooding caused by surface water run-off and groundwater during construction works has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented as approved.

Reason: The National Planning Policy Framework paragraph 103 states that local planning authorities should ensure flood risk is not increased elsewhere by development. Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased run-off rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/ disposal of surface water and ground water which needs to be agreed before commencement of the development

16 - Maintenance Plan

No works shall take place until a Management Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies has been submitted to and agreed in writing by the local planning authority.

Reason: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk.

17 – Monitoring

The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon request by the local planning authority

Reason: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk.

18.0 Positivity Statement

- 18.1 The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

