

**Application No:** 151479

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

**Scale (approx):** 1:2500

The Ordnance Survey map data included within this publication is provided by Colchester Borough Council of Rowan House, 33 Sheepen Road, Colchester CO3 3WG under licence from the Ordnance Survey in order to fulfil its public function to act as a planning authority. Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey map data for their own use.

This map is reproduced from Ordnance Survey Material with the permission of Ordnance Survey on behalf of the Controller Of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Crown Copyright 100023706 2015

## 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

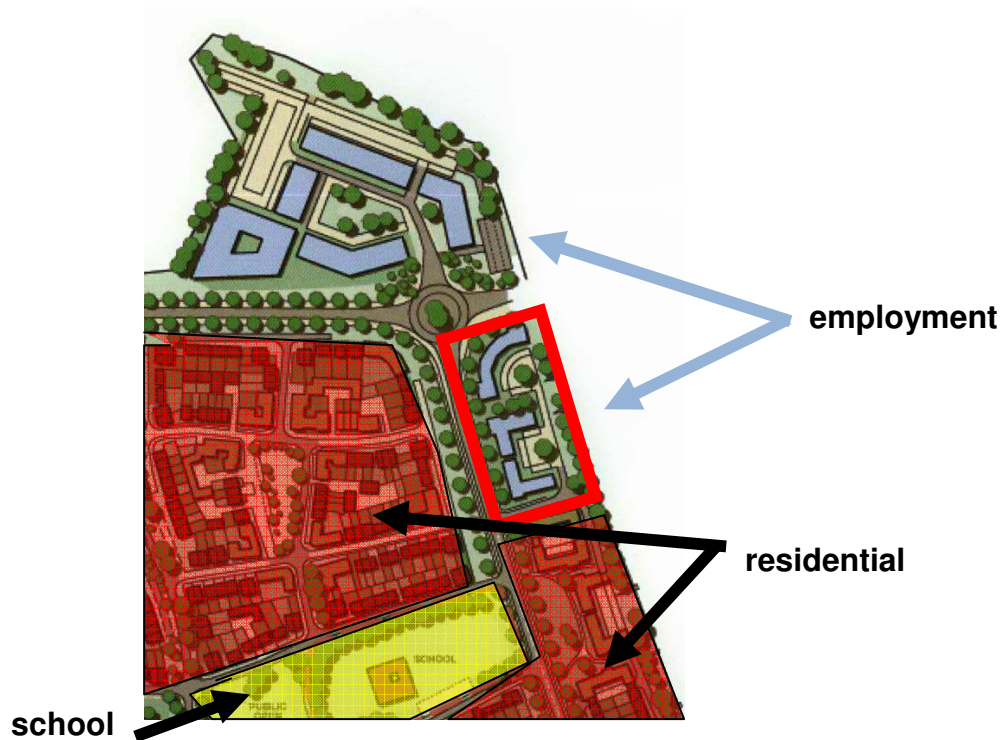
Application to amend condition 03(2) of COL/90/1904 to extend specified time period from five to six years regarding submission of all reserved matters for outline application for mixed use development comprising business/employment 11.3 net acres, residential 49.3 net acres and leisure 49.2 net acres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

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

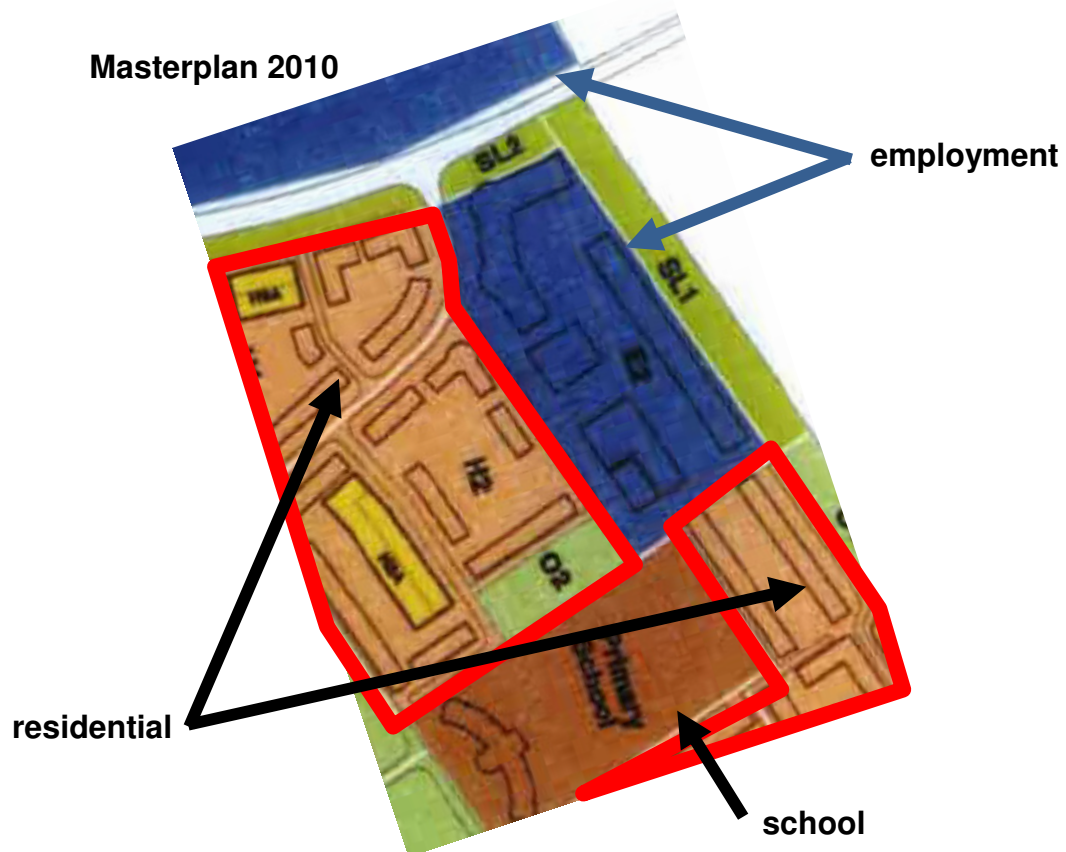
Outline application for residential development (300 dwellings) and associated road proposals (an additional 300 units to the 500 units approved under C/COL/90/1904) *(new total 800 units) [amended masterplan deletion of proposed leisure use]*

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  $65 \times 2.25$  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.