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Tollgate Partnership Ltd

Colchester Borough Council  
Local Plan (Section 2) Examination

Hearing Statement

Main Matter 2 – Sustainable Growth Policies

Prepared by Barton Willmore LLP on behalf of Tollgate Partnership Ltd

April 2021

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<b>Prepared by:</b>	Susie Stephen
<b>Checked by:</b>	Paul Newton
<b>Authorised by:</b>	Paul Newton

Barton Willmore LLP  
7 Soho Square  
London  
W1D 3QB

Tel: 020 7446 6888  
Fax: 020 7446 6889  
Email: paul.newton@bartonwillmore.co.uk

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## 1.0 INTRODUCTION

### Background

- 1.1 We act on behalf of Tollgate Partnership Ltd (TPL). TPL is a key stakeholder and landowner in Colchester having developed land at Stanway for a range of commercial uses, including retail and employment. TPL also owns land and properties elsewhere in Colchester, including the Town Centre. As such TPL has a strong interest in the formulation of local planning policy and its effective implementation.
- 1.2 This Statement relates to the following Policies set out within Section 2 of the submitted Colchester Local Plan:
- Policy SG3 'Economic Growth Provision'
  - Policy SG5 'Centre Hierarchy'
  - Policy SG6 'Town Centre Uses'
- 1.3 TPL have an extant Outline Planning Permission (Ref: APP/A1530/W/16/3147039, as amended by Ref: 193133) for a major mixed-use development in Stanway, known as Tollgate Village. This was granted by the Secretary of State in August 2017 following a call-in inquiry and TPL are currently working towards implementing the permission.
- 1.4 Representations were submitted on behalf of TPL to both the Preferred Options Consultation (Regulation 18) and Publication Draft Consultation (Regulation 19), in September 2016 and August 2017 respectively. A copy of these representations are included in **Appendices 1 and 2**.
- 1.5 A Statement of Common Ground (SoCG) between TPL and Colchester Borough Council (CBC) is being prepared and the intention is for this to be agreed between both parties ahead of the Examination Hearings.
- 1.6 Section 2 explains the background to the Tollgate Village scheme whilst Section 3 provides our comments in relation to the Inspector's Questions under Main Matter 2. We then set out in Section 4, our recommendations for Policy changes in order that the Plan can be found sound.

## 2.0 TOLLGATE VILLAGE

- 2.1 Tollgate Village is the name given to a major mixed-use development scheme located around Tollgate West in Stanway (West Colchester).

### The Site

- 2.2 The boundary of the Tollgate Village Site is identified in red on the Site Location Plan included in **Appendix 3**. The Site is broadly 'L-Shaped' and extends to some 11.75 hectares (29 acres) located north and south of Tollgate West.

- 2.3 For descriptive purposes, the Site is split into three 'Development Zones'. The key components of each are set out below:

- **Development Zone 1** is located to the north east of the Site and encompasses land formerly occupied by a Sainsbury's Supermarket and associated car park. Sainsbury's operated from the site from 1985 - 2010 and formed one of the key anchors to the Tollgate Centre. The store closed following the company's relocation to a larger store directly to the north of the Site on Western Approach in December 2010. The former store was demolished in 2011 and the Site has since remained vacant.
- **Development Zone 2** is located within the existing defined Tollgate Urban District Centre. This part of the site contains existing retail units including Office Outlet, B&M Retail, Currys/PC World and Hughes Electrical, known as Tollgate Retail Park. The current operators are served by customer car parking to the front of the stores and delivery access to the rear of the retail units. The retail units are accessed via Tollgate West.
- **Development Zone 3** is located to the south west and comprises of vacant brownfield land, located immediately west of the Tollgate Centre.

- 2.4 A plan showing the location of the respective Development Zones within Tollgate Village is included in **Appendix 4**.

### The Permission

- 2.5 Outline planning permission (Appeal Ref: APP/A1530/W/16/3147039 and LPA Ref: 150239) was granted by the Secretary of State on 4<sup>th</sup> August 2017 for the following development:

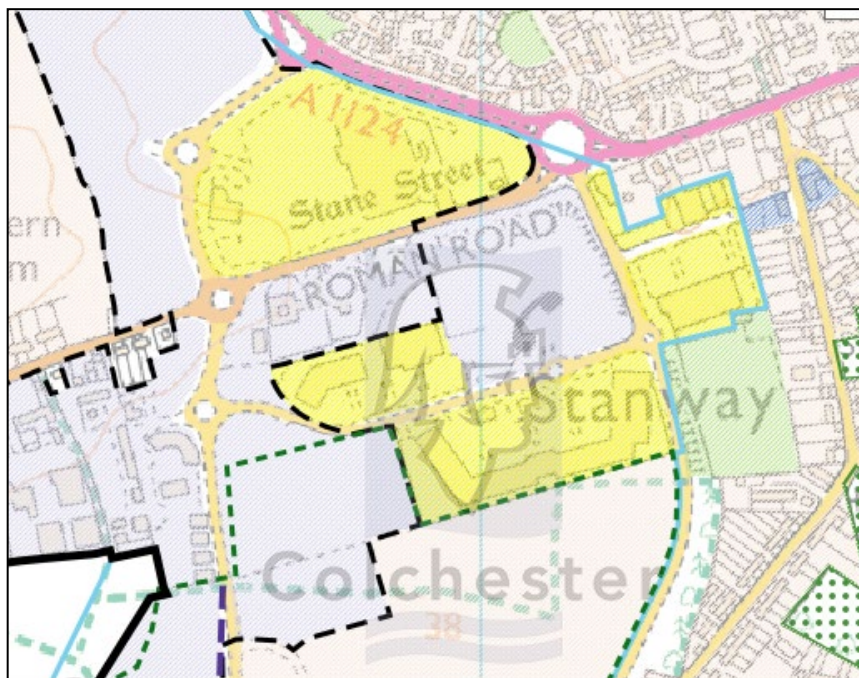
*"Mixed use development comprising leisure uses (Use Class D2), including a cinema, and retail (Use Classes A1, A2, A3, A4 & A5), with associated parking including multi-storey car park, public realm improvements, access, highways, landscaping and associated works".*

- 2.6 The outline permission was subsequently amended via a Section 73 application (Ref: 193133) approved on 9<sup>th</sup> April 2020. A copy of the Section 73 decision notice is included as **Appendix 5**. A reserved matters application (Ref: 201503) pursuant to the Section 73 permission was approved on 22<sup>nd</sup> October 2020. TPL are currently seeking the discharge of pre-commencement conditions and are committed to implementing the permission.

### **Local Plan Allocations**

*Adopted Local Plan Position (as amended in 2014)*

- 2.7 The Tollgate Village Site currently falls within the Stanway Growth Area as defined on the adopted Proposals Map (2014). In addition, the key components of the Site are currently allocated as follows:
- **DZ1** – Employment Zone (grey shading)
  - **DZ2** – Urban District Centre (yellow hatching)
  - **DZ3** – Employment Zone, Strategic Employment Zone (grey shading and black dashed line) and Local Wildlife Site (green dashed line)

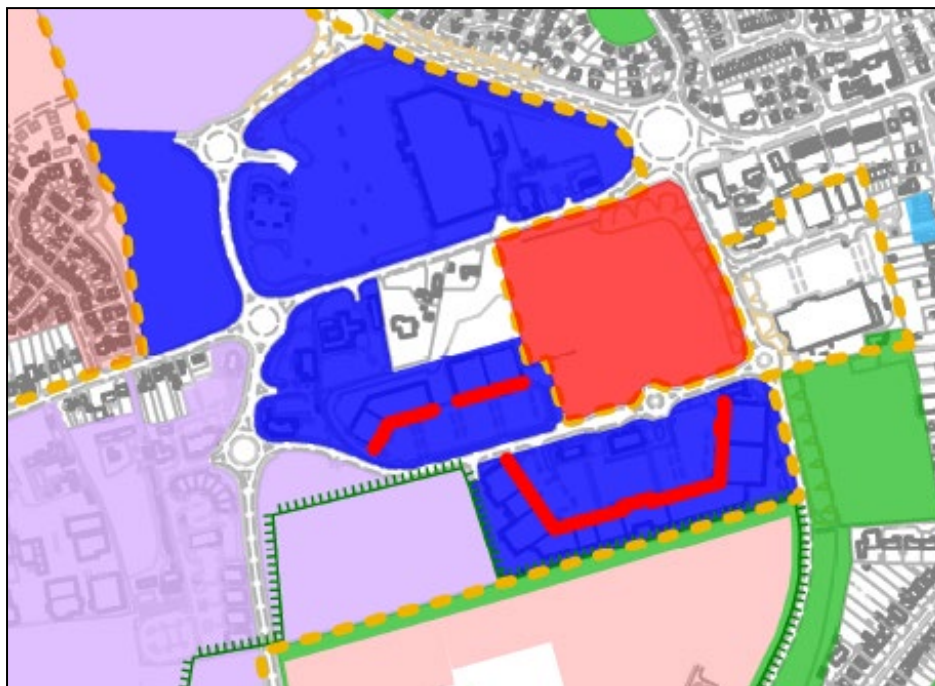
**Figure 2.1: Excerpt from the Adopted Proposals Map**

Source: [www.colchester.gov.uk](http://www.colchester.gov.uk)

*Local Plan 2017-2033 Publication Draft (June 2017)*

2.8 Within the Publication Draft of the emerging Local Plan, the Tollgate Village Site (in its entirety) is shown within the Stanway Strategic Economic Area. In addition, the key components of the Site were shown to be allocated as follows:

- **DZ1** – Residential (red shading)
- **DZ2** – Tollgate District Centre (blue shading) with Retail Frontage (red line)
- **DZ3** – Employment (purple shading) and Local Wildlife Site (green fringe line)

**Figure 2.2: Excerpt from the West Colchester Map Publication Draft**

Source: [www.colchester.gov.uk](http://www.colchester.gov.uk)

*Topic Papers 'Proposed Modifications' Position (March 2021)*

2.9 In March 2021, the Council published a series of Topic Papers which include details of proposed modifications to the Publication Draft Local Plan 2017-2033. Those paragraphs of relevance to the Tollgate Village Site are listed below:

1. *Topic Paper 1 – Consequential Changes, paragraph 3.8 (first bullet)*

***Reduction of Stanway allocation from 15.6 to 5.4 hectares as a result of planning consents granted for alternative uses.***

2. *Topic Paper 2 – Housing Matters, paragraph 3.5:*

***However, between submission in 2017 and the current day there have been changes in the supply, not least the deletion of 1350 units in the proposed Garden Community at Colchester Braintree Borders. In addition, a site within Stanway, allocated for 200 new homes, received permission for a retail and leisure led development which will reduce the proposed supply.***



3. *Topic Paper 3 – Economic Growth Policies, paragraph 6.1 (first bullet)*

*Reduction of Stanway allocation from 15.6 to 5.4 hectares as a result of planning consents granted for alternative uses following on from planning decisions won at appeal for a mixed retail/leisure development at the Tollgate Village (Planning application 150239) and at the adjacent Stane Park site for restaurant/retail uses 5 (planning applications 146486 and 193163)*

4. *Topic Paper 4 - Retail and Town Centre Policies, paragraph 5.3*

*The planning permissions granted on appeal for retail and leisure uses within areas formerly designated as employment has changed the boundaries of uses within the Stanway Strategic Employment Zone and Tollgate District Centre but has not otherwise invalidated the appropriateness of distinct areas for employment and main town centre uses. These boundary changes will need to be illustrated on the map for Policies WC1-5 but do not affect the policy wording.*

2.10 Based on the above, our understanding is that the Council is presently proposing that the key components of the Tollgate Village Site are to be allocated as follows:

- **DZ1** – Tollgate District Centre
- **DZ2** – Tollgate District Centre
- **DZ3** – Tollgate District Centre

2.11 TPL fully support the Council's intention to recognise the potential for Tollgate Village to come forward as a central component of a wider and expanded Tollgate District Centre. This approach gives due consideration to the fact that the Site has outline planning permission for a mix of town centre uses which will only help to bolster the District Centre and its function in the retail hierarchy moving forwards.

### 3.0 EXAMINATION ISSUES & POLICY RECOMMENDATIONS

3.1 Our case in relation to this Matter is consistent with the submissions made on behalf of TPL to date, but also take into account the Council's updated position as set out in Topic Papers 1, 3 and 4.

3.2 The position of TPL is set out below under the Inspector's Questions in relation to Matter 2. We then outline recommended amendments to Policy in order for the Plan to achieve soundness.

***Do CLP Section 2 Policies SG3 and SG4 make adequate provision to meet Colchester's economic growth requirements for the plan period and its timescale for delivery?***

3.3 The CLP Section 1 establishes the need for additional employment land in the Borough (Policy SP5). For Colchester, this identifies a need for between 22-30 ha of land. This followed the Inspector's conclusion that *'the higher-growth scenario requirement figure for Colchester is unrealistically high and needs to be replaced by a lower figure of about 30ha derived from the Colchester Employment Land Needs Assessment'* (paragraph 68 of the Examiner's Report, 10<sup>th</sup> December 2020).

3.4 The Publication Draft Local Plan (June 2017) allocated 44.2ha of employment land, including land at Tollgate Village, as noted in paragraph 2.8 above. On the basis of the Examiner's Report on CLP Section 1, there is no sound justification or 'need' for the CLP Section 2 to allocate 44.2ha of land. Such a quantum is not reflected by the supporting evidence base.

3.5 In responding to this, Topic Paper 1 identifies a proposed reduction in employment allocations from 44.2ha down to 35.3ha. This includes a reduction in the Stanway area from 15.6ha to 5.4ha (paragraph 3.8, first bullet). In discussion, the Council has confirmed that the 5.4ha of land in Stanway which remains allocated for employment comprises land at Trafalgar Farm (1.4ha) and Lakelands West (4ha) and does not include land at Tollgate Village.

- 3.6 The reason for reducing the employment allocations in Stanway is given as '*a result of planning consents granted for alternative uses*' (paragraph 3.8 (first bullet), Topic Paper 1). This demonstrates a recognition of the Tollgate Village planning permission which is also reflected by the intimation in Topic Paper 4, that the land at Tollgate Village will instead be, more appropriately, allocated as part of the Tollgate District Centre (this is discussed in more detail in our Hearing Statement for Main Matter 8).
- 3.7 Despite the reduction of allocated land within the Stanway Strategic Employment Area (SEA), the Council have identified and allocated 32.5ha of land for employment use which is sufficient to meet the upper end of the range required, with a buffer to add flexibility. It is therefore clear that there is no demonstrable or justifiable need to revisit or reconsider land at Tollgate Village as part of the Stanway employment allocations. Indeed, TPL support its continued exclusion.

***Are the retail policies (SG5, SG6 and SG6a) of CLP Section 2 which relate to Centre Hierarchy, Town Centre Uses and Local Centres justified by appropriate available evidence, having regard to national guidance, and local context, including CLP Section 1?***

- 3.8 TPL supports the recognition that the Centres, including Tollgate District Centre, will be the preferred location for Main Town Centre Uses. The Centre Hierarchy set out in Policy SG5 provides a clear description of the role and function of the Town Centre as the preeminent centre in the Borough. This position is supported by the evidence set out within the Retail and Town Centre Study (RTCS) (2016) and the Retail and Town Centre Study Update (RTCSU) (2020), which demonstrates the unparalleled scale and breadth of offer within the town centre. The District Centres are therefore justifiably positioned at a lower level in the hierarchy, notwithstanding that the individual character, role and function of the identified District Centres differs between them.
- 3.9 In describing the role of the District Centres in Policy SG5, the inclusion of the caveat '*but not to a level comparable with Colchester Town Centre*' is considered superfluous in the context of the evidence which clearly sets Colchester Town Centre apart from the District Centres (and the boundary of the District Centres effectively restrict their growth in any event). It should therefore be deleted. The omission of this wording within Policy SG5 (and also at paragraph 12.46) does not undermine the Centre Hierarchy nor elevate the role of the District Centres.

- 3.10 The supporting text provides a summary description of the District Centres and their individual respective role and function within the Borough. This broadly identifies areas for improvement, consistent with the objectives of the NPPF at paragraph 23. This is informed by the Council's evidence base, namely the RTCS (2106) and the more recent RTCSU (2020).
- 3.11 In the case of Tollgate District Centre, it is noted at paragraph 12.49 that *'its role and function as a district centre would be enhanced through the introduction of new services and/or community facilities, as opposed to further new retail development'*. It is considered that the inclusion of *'as opposed to further new retail development'* is negatively worded and could be construed as a restriction on new retail development within the District Centre, inconsistent with national policy and the Government's more recent shift in legislation aimed at maximising flexibility, particularly within town centre<sup>1</sup> locations. We therefore recommend the deletion of *'as opposed to further new retail development'* for this reason.
- 3.12 Turning to Policy SG6, we note that the Council has suggested amendments to this Policy (as set out in Topic Paper 4). This includes the removal of any requirement for proposals within Tollgate District Centre to be subject to an impact assessment, on the basis that such a requirement would not be consistent with national policy. This proposed amendment is supported with a further suggested amendment to the supporting text at paragraph 12.70 to make it abundantly clear that only proposals for town centre uses on unallocated edge or out-of-centre sites will need to demonstrate compliance with the sequential and impact tests. The wording in its present form simply refers to 'planning applications'.
- 3.13 Policy SG6 remains unnecessarily complex and confused. At the outset, the policy applies to proposals for town centre uses that are not within a defined centre and not in accordance with the Local Plan (i.e. subject to an allocation). The format of the policy is that of a staged approach, with Stage 1 requiring compliance with the sequential test, and only once Stage 1 has been passed do proposals fall to be considered against the Stage 2 criteria listed under i)-vii).
- 3.14 However, the issue (and confusion) arises when criteria i) and ii) are applied to 'in-centre' proposals which would clearly not have been subject to Stage 1 of the Policy. The reference to 'in-centre' proposals should be omitted and criteria i) and ii) should only be applicable to edge-of-centre proposals, which have passed the sequential test.

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<sup>1</sup> As defined by the NPPF (2012) as 'city centres, town centres, district centres and local centres but exclude small parades of shops of purely neighbourhood significance'

- 3.15 It should also be made clear that criteria vii) is only applicable to proposals on the edge of Colchester town centre.

## 4.0 RECOMMENDED POLICY CHANGES

- 4.1 Based on the concerns raised in Section 3, we set out below our recommended changes to Policies SG5 and SG6 and their respective supporting text. For clarity we have based our proposed changes on the Council's amended text as set out Appendix 1 to Topic Paper 4 (as opposed to the original submission version of the Local Plan). Our proposed changes are shown in **Bold**.
- 4.2 To assist the Inspector, we have also set out our proposed changes in the context of the wider policy wording and supporting text at **Appendix 6**.

### Recommended Changes to Policy SG5

- Delete 'but not to a level comparable with Colchester Town Centre' within Policy SG5 and at Paragraph 12.46.
- Delete 'as opposed to further new retail development' at Paragraph 12.49.

### Recommended Changes to Policy SG6

- Amend Paragraph 12.70 as follows:

*In order to manage appropriate growth within the Town and District Centres and to help safeguard the current hierarchy and the role and function of each of the centres, planning applications for town centre uses which are not in an existing centre or allocated in this Plan will be required to address the provisions in the National Planning Policy Framework concerning the sequential test and retail impact assessment.*

- Amend Policy SG6 as follows:

*Proposals for town centre uses that are not within a defined centre and are not in accordance with ~~the Local~~ this Plan, including proposals for a change or intensification of use, or variation of a planning condition, will need to demonstrate compliance with the ~~that a sequential test approach has been undertaken to site selection~~ as set out in ~~required by~~ national policy.*

*Applicants should demonstrate flexibility on issues such as format and scale. ~~in terms of their availability, suitability and viability for the broad scale and type of~~*

~~development proposed; and~~ Only ~~when alternative sites have been discounted~~  
~~if suitable sites are not available~~ should less sequentially preferable sites be considered.

In cases where the Local Planning Authority are satisfied that the sequential test has been met, proposals will be supported where they also comply with the requirements set out in criteria (i-vii) below:

- i) ~~The~~ Proposals for main town centre uses ~~in or~~ on the edge of centres ~~are is~~ of a type, proportion and scale appropriate to the role and function of the centre and would not threaten the primacy of Colchester Town Centre at the apex of the centre hierarchy, either individually or cumulatively with other committed proposals, and;
- ii) ~~The~~ Proposals for main town centre uses ~~in or~~ on the edge of centres ~~are is~~ suitable to the town / district centre function and maintains or adds to its viability and vitality and enhances the diversity of the centre without changing the position of the centre within the overall hierarchy and;
- iii) Proposals would not give rise to a detrimental effect, individually or cumulatively, on the character or amenity of the area through smell, litter, noise or traffic problems and
- iv) The proposal would not have a significant adverse impact on the vitality and viability of Colchester Town Centre and/or any other defined centre either individually or cumulatively with other committed proposals and;
- v) The proposal would not have a significant adverse impact on committed and / planned public or private investment in Colchester Town Centre and /or any other defined centre either individually or cumulatively with other committed proposals and;
- vi) In relation to criteria (iv) and (v) above an Impact Assessment must be provided where the proposal;
  - a. ~~In any centre~~ Exceeds the thresholds set out in table SG6 below, or;
  - ~~b. Where the proposal is within Tollgate District Centre and exceeds the thresholds set out in table SG6 below or;~~

- €- b. *Where the Council considers that there are potential impacts arising from the proposal cumulatively with other committed development.*

~~vii) The proposal protects and enhances the special historic character of the town centre.~~



**APPENDIX 1**  
**CLP PREFERRED OPTIONS REPRESENTATIONS BY TPL**  
**(13 SEPTEMBER 2016)**

20638/A3/AI/PN

13<sup>th</sup> September 2016

## **COLCHESTER LOCAL PLAN – PREFERRED OPTIONS CONSULTATION REPRESENTATIONS BY THE TOLLGATE PARTNERSHIP LTD**

### **Introduction & Background**

1. We act on behalf of The Tollgate Partnership Ltd (“TPL”) and have been instructed to submit representations in relation to the emerging Colchester Local Plan – Preferred Options Consultation Document (“the Plan”).
2. TPL is a key stakeholder and investor in Colchester and specifically Stanway and therefore welcomes the opportunity to input into the evolution of the Plan.
3. Having reviewed the Plan we are concerned that, as currently drafted the Plan:
  - is not robust;
  - is not based on a meaningful and up-to-date evidence base;
  - is inconsistent with the NPPF and the supporting PPG; and
  - is inconsistent with itself in many places.
4. Rather than identify all detailed matters, our objection focus on three key issues, namely the:
  - robustness of the evidence base;
  - the employment policies; and
  - the retail policies
5. Against this background, we set out our comments on the emerging Plan below.

### **Representations**

#### **Part 1**

##### *Plan Period / Evidence Base*

6. We note that the proposed Plan period is 2016 to 2033. There is however some confusion as paragraph 1.2 refers to the Plan covering the period ‘beyond’ 2033. This should be clarified.
7. It is also important to note that two key evidence base documents, namely the Council’s Retail

and Town Centre Uses Study (NLP, March 2013) and Employment Land Needs Assessment (NLP, January 2015), only cover the period to 2026 and 2032 respectively. Whilst we note the intention to update the evidence base, these documents are not specifically referred to. This should be clarified.

8. As a result, the evidence base documents and the resultant position will need to be updated.

*Policy SP3 – Providing for Employment*

9. The Policy sets out a requirement for 55.8ha of employment land in Colchester over the Plan period to 2033. This is based on Scenario 3 (Higher Past Completion Rates) as set out in Table 7.2 of the Employment Land Needs Assessment. In its Assessment, NLP recognise that Scenario 3, as well as Scenario 2 (Past Completion Rates) are less robust as they relate to the inclusion / exclusion of one single firm's relocation within the Borough (paragraph 7.8).
10. Scenario 1 (Baseline Job Growth) shows a requirement for B Class space of 29.8ha, whereas Scenario 4 (Labour Supply) shows a requirement of 22ha. Based on the available employment space of 76.9ha set out in the Assessment, these would result in a surplus of B Class land of between 47.1ha and 54.9ha.
11. At the recent Stane Park Inquiry (CBC refs: 146486 and 150945), in allowing the Appeals the Inspector found that the Council has a 65 year supply of employment land (which was agreed by CBC) and recognised that the Assessment identifies a requirement of between 22ha to 29.8ha of land to 2032 (i.e. Scenarios 4 and 1 set out above). It is therefore clear that there is no justification for adopting the higher employment land requirement. We comment on individual allocations in more detail below.
12. No justification has been provided by the Council for adopting its current approach and discounting the more robust scenarios.
13. On the basis of the above, we therefore object to overall quantum of B Class land identified for Colchester as this is not justified against the evidence base. We recommend that this is reviewed, including an update to ensure needs cover the Plan period and reflect the findings of the robust scenarios in its evidence base and the recent Stane Park appeal decision.

## **Part 2**

*Policy SG3 – Economic Growth Provision and Centre Hierarchy*

14. The Policy sets out the requirement for at least 55.2ha of B Class Land up to 2033. For the reasons set out above, this is not considered sound.
15. Supporting Table SG3 allocates 21.4ha of land for 'primarily' B Class Use at Stanway Strategic Economic Area. This is the highest individual SEA allocation. Such an approach is at odds with the Employment Land Needs Assessment which recognises that Stanway:
  - Currently lacks critical mass as an employment location and market appeal appears

limited. The area accommodates more than a third (35% / 26.8ha) of available employment land, although it seems unlikely that the full scale of provision would be required to meet business needs over the plan period. Sites with the greatest prospect of coming forward for employment development in the future – notably Stane Park – should provide the focus for continued allocation.

- Employment development has been slow to come forward and it lacks any significant critical mass and does not have a strong profile as a key Colchester business location, particularly in the face of strong competition / established sites elsewhere such as Colchester Business Park (para 8.46).
- In light of the surplus of employment land it would be difficult to justify retaining the full extent of undeveloped allocations from both a quantitative and qualitative market perspective (para 8.48).

16. We do not therefore consider that there is justification for the allocation of 21.4ha of land at Stanway, particularly in the context of the overall requirement for between 22-29.8ha set out in the employment evidence base.
17. The Policy then sets out a Centre Hierarchy, but has removed all of the existing Urban District Centres in Colchester from the hierarchy. There is no justification for this approach and it would not accord with NPPF paragraph 23 which requires LPAs to define a network and hierarchy of centres, that is resilient to anticipated future economic changes. In undertaken this approach, the Plan would offer no policy protection to existing retail facilities in these locations, which would otherwise be the case.
18. We therefore object to the Policy on this basis as it is not consistent with the NPPF, is not justified and cannot be considered sound.

#### *Policy TC1 – Town Centre Policy and Hierarchy*

19. We support the proposed threshold of 2,500 sq m for undertaking a retail impact assessment. It is however unclear why a retail impact assessment would be required for proposals in District and Local Centres (which we assume relates those outside centre of the Colchester urban area), as this is not consistent with the NPPF.

#### *Policy TC2 – Retail Frontages*

20. Policy TC2 refers to the Town Centre Primary Shopping Area. However, the Proposals Map Key does not identify a Primary Shopping Area, but does show a Town Centre Main Shopping Area. It is unclear if they are intended to be the same, but for the avoidance of doubt the Key should be updated to refer to the Primary Shopping Area.

#### *Policy TC3 – Town Centre Allocations*

21. The Policy sets out the need for 36,730 sq m net (i.e. sales) additional comparison goods floorspace over the period to 2026, derived from the 2013 Retail Study. It refers to evidence being updated to inform specific allocations, but it is unclear whether this will comprise a new Retail Study. In the absence of an up to date evidence base to cover the Plan period, the Policy cannot be found sound.

22. Notwithstanding this, the Policy allocates Town Centre sites for development (St Botolphs, Vineyard Gate, Priory Walk) although does not specify the quantum of retail floorspace they could accommodate. NPPF paragraph 23 requires needs to be met in full and Plans should identify and allocate sites in accordance with the sequential approach, in order to meet this need.
23. The Retail Study figure of 36,730 sq m net, excluding 9,000 sq m net at Vineyard Gate referred to in the Study, would still leave circa 28,000 sq m net floorspace. It should be recognised that Vineyard Gate has been identified for over 15 years and is still yet to come forward.
24. The Plan does not set out how this quantum of floorspace can be accommodated on the remaining sites and we do not consider that the remaining Town Centre sites referred to are capable of accommodating this level of need. Therefore, the Council is required to undertake sequential assessment to assess sites in edge and then out of centre locations in order to meet identified needs in full. No such assessment has been undertaken. It should be recognised here that the Retail Study sets out that if longer term comparison goods growth (beyond 2016) cannot be accommodated in the Town Centre, the Council should consider the potential to expand Urban District Centres or the provision of new shopping destinations in the urban area.
25. The sequential assessment should include existing Urban District Centre sites (noting that the removal of such Centres from the hierarchy is considered to be unsound). This would include land north and south of Tollgate West (also known as Tollgate Village) and which is a part-in / part edge-of-centre location to the existing Tollgate District Centre and could contribute to meeting identified needs.
26. On the basis of the above, the Policy is not sound as it not positively prepared, is not justified against the evidence base, and not consistent with the NPPF.

*Policy NC1 – North Colchester and Severalls Strategic Economic Area*

27. We are concerned that the Policy seeks to allocate land at Zone 2 for new leisure floorspace, with reference to the 2006 planning permission. It should be recognised that the permitted Class D2 leisure component of that scheme has been delivered by way of the new David Lloyd health and fitness centre. The permission does not allow any other Class D2 leisure floorspace and therefore cannot be used to justify other D2 class uses in this location.
28. As with the Town Centre retail floorspace set out above, a sequential assessment is required under NPPF paragraph 23 for leisure uses. This should assess in Centre, then edge of Centre and finally out-of-centre locations. No such assessment has been undertaken and the allocation for leisure use cannot be considered sound on this basis. Land north and south of Tollgate West, Stanway represents a sequentially preferable location (in relation to the existing Tollgate District Centre) for such use against the terms of the NPPF.
29. Therefore, on the basis of the above, the Policy is not sound as it not justified and not consistent with the NPPF. The reference to leisure use in this location should be removed and sequentially preferable sites / locations assessed in order to accommodate such use.

## *Policy WC1 – Stanway Strategic Economic Area*

### Zone 1

30. We object to the identification of land north and south of Tollgate West for B Class employment use in Zone 1. It is clear from the Council's Employment Land Needs Assessment, as detailed above, that there is a substantial oversupply of employment land in the Borough and that land at Stanway is appropriate for release.
31. The Assessment shows that this land (Sites 9 and 10 in the Assessment) have a total score (against various assessment criteria), of 20. Higher rated sites have available / undeveloped land of circa 51ha, which is clearly more than sufficient to meet the needs under Scenarios 1 and 4 of the Assessment and would still leave a substantial oversupply. There is no justification set out in the Plan or evidence base for the allocation of this land for B Class purposes. It is clearly not required to meet the identified need for future B Class Land as set out in the Assessment.
32. Further, the criteria based approach in the Policy does not allow for flexibility against the terms of NPPF paragraph 22, which seeks to avoid the long term protection of employment sites, where they are no longer needed for that purpose.
33. Notwithstanding the above, the Policy also refers to Main Town Centre uses not being permitted in Zone 1. This would preclude B Class offices and therefore appears to be at odds with itself.

### Zone 2

34. This comprises land currently identified in the adopted Development Plan as Tollgate Urban District Centre. We hereby object to the proposed removal of this designation as it is not justified and not consistent with the NPPF. It is unclear how the Plan intends to 'safeguard' this area in the absence of a Centre designation which would otherwise afford policy protection from competing development. The only justification appears to be the reference (para 6.67) to this and other former District Centres no longer meeting the 'commonly understood definition of a district centre'. We can find no evidence in the Plan as to what this 'commonly understood' definition is and have serious concerns with the Council's approach on this basis. If there is such a definition, it is unclear what has changed in the Centre since the current Development Plan was adopted and allocated the existing District Centre.
35. Notwithstanding the above, the reference to a sequential and retail impact assessment in such locations is not consistent with NPPF paragraphs 24, 26 and 27. This equally applies to Policy SP5.
36. For the sequential test, the Policy suggests this relates to sites 'closer' to the Town Centre. This is not consistent with NPPF paragraph 24 which requires town centre, followed by edge, then out-of-centre locations. It states that for edge and out of centre sites, preference should be given to accessible sites, well connected to the centre. In relation to impact, the NPPF clearly sets out that the 'test' is whether proposals for retail development outside of centres would be likely to have a 'significant adverse impact' on Centres against the paragraph 26 criteria. The

proposed policy wording, referring only to 'adversely', is not consistent with the NPPF.

37. As it stands we do not consider that the Policy is sound as it is neither justified nor consistent with the NPPF.
38. Arising from the above, and for the reasons set out at paragraphs 22 and 25 above, land north and south of Tollgate West should be identified for leisure and retail use, in order that the Plan can meet identified needs in the next most sequentially preferable location after the Town Centre.

### **Summary & Recommendations**

39. Arising from the above and in order to be found sound, the Plan should be amended as follows:
- Evidence base documents will need to be updated to assess needs for retail and B Class use over the plan period to 2033. The Plan will then need to be updated accordingly.
  - There is a substantial oversupply of employment land in the Borough and the Plan should be updated to refer to the most robust scenarios for B Class requirements, as set out in its evidence base. There is no evidence based justification for the allocation of land north and south of Tollgate West for B Class Use in Policy WC1.
  - The Plan has not established how identified comparison goods needs can be met in full. It is clear that identified Town Centre sites cannot meet the identified need for additional comparison goods floorspace and a sequential assessment of edge and out of centre sites has not been undertaken. It is therefore not consistent with NPPF paragraph 23. Land north and south of Tollgate West represents the next most sequentially preferable location for such use and should be allocated accordingly.
  - There is no justification for the de-allocation of existing Urban District Centres in Colchester, and this approach is not consistent with NPPF paragraph 23 which requires LPA's to identify a network and hierarchy of centres. This includes the former Tollgate District Centre which should be identified as such in Policy WC1.
  - The sequential and impact tests at Policy WC1 and SP5 are not consistent with the NPPF.
  - There is no justification for allocating land at north Colchester for leisure use. Land north and south of Tollgate West represents a sequentially preferable location.
40. We trust that these representations will be taken into account and would welcome the opportunity to discuss them with the Council in more detail.

### **BARTON WILLMORE LLP**

**APPENDIX 2**  
**CLP PUBLICATION DRAFT REPRESENTATIONS BY TPL**  
**(11 AUGUST 2017)**



**20638/A5/AI/PN**

**11<sup>th</sup> AUGUST 2017**

**COLCHESTER LOCAL PLAN – PUBLICATION DRAFT (JUNE 2017) CONSULTATION  
REPRESENTATIONS ON BEHALF OF TOLLGATE PARTNERSHIP LIMITED**

1. We act on behalf of Tollgate Partnership Limited (“TPL”) and have been instructed to submit representations in relation to the emerging Local Plan – Publication Draft Consultation.
2. TPL is a key stakeholder in Colchester, being the landowner and developer of land at Tollgate and owner of a number of Town Centre properties. It is also the promoter of the Tollgate Village retail and leisure scheme, which was granted planning permission at Appeal by the Secretary of State on 4<sup>th</sup> August 2017 (Ref: APP/A1530/W/16/3147039).
3. At the outset, it should be noted that this planning permission has not been taken into account by CBC in either its evidence base or the Plan itself. This will necessitate additional work and redrafting as a result. In particular, the Tollgate Village site should be allocated for retail and leisure uses and the site included within the Tollgate District Centre boundary. For this reason alone, the Plan as currently prepared is not sound.
4. In addition to this, we have reviewed the Plan and evidence base and have a number of substantial concerns in relation to the Plan’s soundness. These concerns are set out below, but can be summarised as follows:
  - There is an oversupply of Employment Land and therefore the allocation of employment land at Tollgate is not justified. It does not take into account the Tollgate Village scheme on land south of Tollgate West.
  - The Council’s retail evidence base is not robust and further work is required, including alternative scenario testing. The need for additional retail floorspace has been underestimated. The Tollgate Village scheme will need to be included as a commitment in the quantitative capacity assessment.
  - There is a lack of justification for the Town Centre retail allocations.
  - The alterations to the boundary of Tollgate District Centre are not justified and do not reflect existing conditions on the ground, or the grant of planning permission for the Tollgate Village scheme.
  - There is no justification for the allocation of the former Sainsbury’s site in Tollgate for residential development. This site forms part of the Tollgate Village scheme and should therefore be allocated for retail and leisure uses within an expanded District Centre.
  - The lack of justification for the allocation of land at North Colchester for Main Town Centre Uses, including the lack of an appropriate need assessment and failure to undertake a sequential assessment as required by national policy.

**MEETING THE NEED FOR NEW HOMES**

**Policy SP3 - Meeting Housing Needs**

5. The Policy refers to a minimum housing supply over the Plan period 2013-2033, yet the Plan period is understood to be 2017-2033 as referred to at the front of the document. Clarification and consistency is required and the Plan amended accordingly.

## **PROVIDING FOR EMPLOYMENT**

### **Policy SP4 – Providing for Employment and Retail**

6. The Policy title is confusing as there is no mention of provision for retail floorspace within it. The Policy should be amended accordingly.
7. In addition, (and noting the comments in relation to the Plan Period as set out in respect of Policy SP3), B Class employment land needs are referred to over the period 2016-2033. Again, a consistent basis needs to be adopted, particularly as there can be expected to be an alignment between job and housing growth. We comment on the employment requirement for Colchester in respect of Policy SG3 below. Policy SP4 should then be amended accordingly.

## **ECONOMIC DELIVERY POLICIES**

### **Policy SG3 – Economic Growth Provision**

8. The Plan (paragraph 4.27) refers to the 2015 Employment Land Needs Assessment (ELNA) which identified a requirement between 22ha - 55.8ha of employment land. Policy SG3 then allocates 44.2ha of employment land, of which 4.5ha is to be located within the Garden Communities, with the remaining 39.7ha elsewhere in Colchester.
9. It should however be noted that what the ELNA actually identified was a requirement ranging from -21.0ha (Scenario 2); 22ha (Scenario 4); 29.8ha (Scenario 1); and 55.8ha (Scenario 3). The ELNA raised concern over Scenarios 2 & 3, as these were dependent on the inclusion / exclusion of a single firm's relocation (ELNA paragraph 7.8) and were considered to be less robust. As such the upper requirement of 55.8ha is not robust and should not be relied on. The ELNA is referred to in the Colchester Employment Land Supply Delivery Trajectory (Lichfields, May 2017). This document also includes reference to separate work undertaken by PBA, although it is unclear how that has informed the Plan, if at all. Clarification is required.
10. At an appeal at Stane Park in 2016 (APP/A1530/W/15/313941 & 313942) the Inspector found that, based on the previous 10 years economic cycle, employment land take up equated to circa 1ha per annum. As such, the allocation of 44.2ha of employment land in the Local Plan would equate to a supply of circa 44 years. On this basis and over the Plan period to 2033, there would only be a requirement for circa 16ha of employment land.
11. Arising from this, the employment land requirement is likely to be in the region of 16ha to 29.8ha. The allocation of 44.2ha of land for employment use is clearly not justified.
12. The Plan should therefore be amended accordingly to remove land not required to meet employment needs. We comment in relation to land forming part of the Tollgate Village retail / leisure scheme, but allocated for employment use, at paragraph 49 below.

## **RETAILING**

13. This Section of the Plan will need to be redrafted to reflect the fact that planning permission has been granted for the Tollgate Village scheme.
14. Paragraph 4.49 refers to Tollgate competing with the Town Centre for comparison goods expenditure, which will be exacerbated following a scheme for additional Town Centre uses that was allowed on appeal. This is wholly misleading as that scheme, known as Stane Park, did not comprise any comparison goods floorspace. Such reference should be deleted.
15. Paragraph 4.50 states that Retail Impact Assessments will apply to Proposals within Tollgate District Centre. This approach is wholly inconsistent with the NPPF, which fully supports

development within Centres. For the avoidance of doubt, it should be recognised that NPPF Annex 2 includes District Centres in its definition of Town Centres.

16. Any requirement to undertake retail impact, or sequential assessments for in-centre development is therefore not sound as it is not consistent with NPPF paragraphs 24 and 26.

#### **Policy SG5 – Centre Hierarchy**

17. TPL supports the recognition that the Centres, including Tollgate District Centre, will be the preferred location for Main Town Centre Uses. We comment on Tollgate District Centre and the policy approach to in-centre development in more detail below.
18. However, in relation to District Centres, it is unclear what is meant by the phrase “but not to a level comparable with Colchester Town Centre”. This is confusing and would not appear consistent with the NPPF which does not seek to distinguish between Town and District Centres. This part of the policy should be deleted.

#### **Policy SG6 – Town Centre Uses**

19. As clarified in the first line of the Policy, this relates to development that is not within a defined centre. It then sets out a number of criteria that such proposals should comply with.
20. We have particular concerns in relation to this Policy, which as it stands is wholly inconsistent with the NPPF, is confusing and poorly drafted. Our concerns in relation to the criteria are set out below.
  - i) this should be deleted as it will be impossible for an edge or out-of-centre scheme (i.e. outside of a centre) to demonstrate that it is appropriate to a particular centre. Any such application would fail this test. Where a scheme complies with the sequential and impact tests, it would be acceptable in national policy terms (subject to other development management considerations). Seeking to apply additional criteria that can never be met is wholly inconsistent with the NPPF and simply cannot be found sound.
  - ii) for the same reasons set out above, it will be impossible for an edge or out-of-centre scheme to demonstrate suitability to a town / district centre function, or to maintain / enhance a centre’s vitality and viability, diversity, or position in the hierarchy. This criterion is unsound and should be deleted.
  - vi) despite the first line of the policy clearly stating that it relates to town centre uses outside of a defined centre, this criterion now seeks to apply the impact test to in-centre development. Aside from the internal inconsistencies of the Policy itself, this approach is completely opposed to that taken by the NPPF which seeks to support and promote town centre uses within town centres. This criterion cannot be found sound and should be deleted, along with accompanying Table SG6 thresholds.

### **COLCHESTER**

#### **TOWN CENTRE**

#### **Policy TC1 – Town Centre Policy and Hierarchy**

21. We have a number of concerns with the drafting of this policy. In particular it is unclear what is meant by ‘larger scale’ development and why there is a reference to ‘particularly comparison’. If this is meant to exclude additional convenience goods floorspace in the centre

then this would not be consistent with the NPPF. If that is not intended then the reference should be deleted to avoid any confusion.

## **TOWN CENTRE ALLOCATIONS**

22. This section of the Plan seeks to set out how the 'need' for additional retail floorspace identified in the Council's 2016 Retail and Town Centre Study will be accommodated. In this respect it is important to recognise that the NPPF requires the need for Main Town Centre Uses over the Plan Period to be assessed and for that need to be met in full, in accordance with the sequential approach.
23. Our comments in relation to the Council's retail evidence base are provided below, but it is clear that it does not provide a robust basis against which the Plan can be found sound. We then comment on the specific allocations.

### *Retail and Town Centre Study 2016*

24. The Council's retail evidence base comprises the Retail and Town Centre Study 2016 prepared by Cushman & Wakefield (December 2016). This identifies a quantitative need for additional convenience goods floorspace of 4,250 sq m net sales, and comparison goods floorspace of 17,950 sq m net sales, over the Plan period to 2033.
25. The Study then goes on to consider a further scenario for comparison goods (Scenario 2), whereby it seeks to redistribute floorspace away from Tollgate towards Colchester Town Centre. This leaves capacity of 18,750 sq m net in the Town Centre and 1,350 sq m net in Tollgate.
26. Following the grant of planning permission for Tollgate Village, it is clear that the evidence base will need to be updated, to include Tollgate Village as a commitment and to reconsider the capacity position as a result. On this basis alone the Plan is not sound as it has not been prepared, and therefore justified, on the basis of a robust evidence base.
27. Notwithstanding this, we have a number of further concerns with the Study, which in turn undermine the robustness of the Plan. Our concerns are as follows, but it should be noted that the Tollgate Village Inspector found that addressing one of these points would increase capacity, whilst all might demonstrate significant additional capacity:
  - No specific allowance has been made for the additional population arising from the new Garden Communities which will arise during the Plan Period. These are not taken into account by the standard population projections in the Study. Cushman & Wakefield themselves recognise (paragraph 5.13) that further work will need to be undertaken to understand the implications for the Garden Communities on retail capacity. We cannot find any evidence that this work has been undertaken. This alone undermines the robustness of the capacity assessment.
  - The Study derives market shares from a household survey, but then reduces the comparison goods turnover of Colchester Town Centre by 10% and Tollgate by 25%. There is no evidence or justification that this approach "represent reality more accurately" as suggested by C&W.
  - The Study entirely omits two District Centres at Wivenhoe and West Mersea from the capacity modelling exercise.
  - A low level of inflow has been adopted at 1%. This is not considered realistic (a view supported by the Tollgate Village Inspector) and is substantially below the 5% adopted by NLP in the Council's previous Retail Study.
  - The Study assumes a very high net to gross ratio of 90% for all non-Colchester Town Centre floorspace, which in turn has the effect of reducing the capacity available to support new floorspace.

- A 2.5% p.a. growth to sales densities is considered to falsely inflate turnovers of existing and new floorspace. An appropriate growth would be circa 1.5% for existing floorspace. No growth should be applied to new floorspace as it cannot benefit from improvements in efficiency.
- The comparison goods sales density adopted at the base year, of £6,000 per sq m is considered to be too high for new floorspace. A lower sales density should be tested.
- The Study adopts an 'equilibrium' trading position at 2016 (i.e. zero capacity at the base year) and therefore does not take into account any pre-existing capacity that remains unmet. This is particularly relevant as NLP previously identified capacity of 9,839 sq m in 2016.

28. In addition to the above, no justification has been provided for adopting a Scenario which seeks to redistribute identified need from one Centre (Tollgate District Centre) to another (Colchester Town Centre). The starting point for capacity should be to understand the Borough wide need and seek to allocate sites to meet that need in accordance with the sequential approach. This has not been undertaken.
29. Arising from this, we have substantial concerns in relation to the approach taken to assessing retail capacity by Cushman & Wakefield. It is clear that, and even by their own admission, further work is required in order for the evidence base to be robust and therefore the Plan to be found sound.

#### *Vineyard Gate*

30. Paragraph 6.11 of the Plan sets out that the site can accommodate between 10-15,000 sq m net comparison goods floorspace. At the Tollgate Village Inquiry held earlier this year, the 'promoters' of the 'scheme' suggested that the upper limit of comparison goods floorspace that could be accommodated would be circa 10,000 sq m net, a figure referred to in the Tollgate Village Inspector's Report (paragraph 12.3.25). Reference to 15,000 sq m should therefore be deleted as it is not justified.
31. Notwithstanding the need for the retail evidence base to be updated, it should also be recognised that the Tollgate Village Inspector found that the site was in multiple ownerships and would need a CPO; there was no viability evidence in relation to retail development at the site; and there were likely to be difficulties with delivery of a 'scheme'. Further work and detailed justification is therefore required by the Council in order for an allocation of this site to be found sound.

#### *Priory Walk*

32. Priory Walk is not being promoted by the land owner for development and there is no evidence that the owner is seeking any form of development on the site or that development would be viable. This view was supported by the Tollgate Village Inspector.
33. Further, as the site already comprises retail development, there is very limited opportunity for additional floorspace to be created on the site, even if it were to be developed. As such there is no justification for the allocation of the site and no evidence that any allocation would be deliverable.

#### *St Botolphs*

34. As set out in paragraph 6.12, this site is being progressed for a leisure-led scheme. As an edge-of-centre site, in order for the site to be allocated for retail use, the retail evidence base will need to be updated and a sequential assessment undertaken of all in-centre opportunities as required by the NPPF. As it stands, an allocation for comparison goods development on this site would not be found sound.

### **Policy TC3 – Town Centre Allocations**

35. For the reasons set out above, we do not consider that there is sufficient justification for the allocation of the Town Centre sites identified in Policy TC3 for retail use.
36. In addition to this, we are concerned with the reference to any new convenience goods proposals in the Town Centre being subject to sequential and impacts assessments. Such reference is not consistent with the Town Centre first approach set out in the NPPF and should be deleted.

### **NORTH COLCHESTER**

37. Policy NC1 identifies Zone 2 at North Colchester for a mixed leisure and commercial scheme. Zone 3 includes reference to Class D uses.
38. As defined in the NPPF, leisure uses constitute a Main Town Centre Use. Whilst it is unclear what is meant by 'commercial uses', which should be clarified, it is expected that these are intended to comprise cafés / restaurants, which are again Main Town Centre Uses.
39. The NPPF is clear that LPA's should assess the need for Main Town Centre Uses. We can find no detailed evidence of an up-to-date need assessment for non-retail main town centre uses, in particular leisure. The very limited commentary in the 2016 Retail and Town Centre Study does not constitute an appropriate assessment.
40. If need is identified, the NPPF requires a sequential assessment of in-centre and then edge-of-centre sites to be assessed in order to meet the need. The North Colchester site is out-of-centre in policy terms. We cannot find any evidence that the Council has undertaken a sequential assessment of alternative sequential preferable sites, and in the absence of such assessment the allocation of any Main Town Centre Uses in this location is unsound. When the Council undertakes its need and sequential assessment, the sequentially preferable Tollgate Village site will need to be taken into account.

### **WEST COLCHESTER**

41. We do not consider that the approach taken to development at West Colchester can be found sound. Our concerns are detailed below.

#### **Policy WC1**

42. We have a number of significant concerns relating to the following:
  - The identification of Zones 1 & 2.
  - The extent of Tollgate District Centre and approach to development within the centre.
  - The allocation of land south of Tollgate West / West of the Tollgate Centre for employment use.

43. We detail our concerns below:

#### *Zones 1 and 2*

44. The Policy refers to Zones 1 & 2, yet these are not clearly identified on the West Colchester Policies Map. Notwithstanding the approach set out to these Zones, as below, the Plan / Map will need to be amended accordingly to ensure there is no confusion.



### *Tollgate District Centre*

45. The Plan proposes to remove land east of Tollgate Road from the District Centre designation. This land comprises existing town centre uses, which provide a range of unit sizes contributing towards the overall diversity of the District Centre. There is no justification for their removal and they should be re-instated as part of the District Centre.
46. The District Centre boundary should also include the new Costa and the Tollgate Village site, which will provide a range of uses / unit sizes, which will improve the overall diversity within the Centre. This will still result in Tollgate being at a level below Colchester Town Centre in the retail hierarchy. It would also be anomalous to include the recently permitted Stane Park scheme within the Centre (on its north-west periphery), but not Tollgate Village, which physically lies at the heart of the existing Tollgate District Centre. The Plan at **Appendix 1** identifies our recommended District Centre Boundary.
47. The Plan is misleading at paragraph 6.96, which refers to retail / leisure uses at Stane Park following the grant of planning permission at Appeal. However, this scheme only permitted a pub, cafes / restaurants and no retail or leisure uses. The Plan should be amended accordingly.
48. Further, we are concerned that the Plan (paragraph 6.97) seeks to restrict any new town centre uses within the Centre. Such an approach is wholly inconsistent with the Town Centre first approach in the NPPF (paragraphs 23, 24, and 26), has not been justified, and cannot therefore be found sound. Paragraphs 6.98 & 6.99 should be amended following the grant of planning permission for the Tollgate Village scheme.

### *Land South of Tollgate West / West of the Tollgate Centre*

49. It should be noted that this site forms part of the permitted Tollgate Village scheme and will not be brought forward for B Class employment use. Paragraphs 8-12 above detail the substantial oversupply of employment land in the Colchester. Taking account of this and the permitted Tollgate Village scheme, there is clearly no justification for the employment allocation of the site. The site should instead form part of an expanded District Centre and also be allocated for retail / leisure use in line with the permitted Tollgate Village scheme.
50. The Policies Map shows this site forming part of a Local Wildlife Site. This should be removed following the Tollgate Village permission.
51. Paragraph 6.96 (in relation to the wider Stanway Strategic Economic Area) refers to the resistance to proposals to change employment land to retail / leisure on the basis of concerns relating to Town Centre impact. However, Town Centre impact issues are not justification for an employment allocation and any proposals for retail development outside of defined Centres will be subject to sequential and impact assessments in accordance with Policy SG6 (with amendments as required to make the Plan sound).

### **Policy WC2 (Former Sainsbury's Site)**

52. Despite forming part of the Tollgate Village site, the former Sainsbury's site is identified for residential development of up to 200 dwellings. This allocation should be deleted.
53. The site benefits from planning permission for retail and leisure uses; is not considered to be suitable for residential development; and TPL has no intention of bringing forward such a scheme on the site. As it stands, the Plan is not deliverable on this basis. It should instead form part of an expanded District Centre and also be allocated for retail / leisure use in line with the permitted Tollgate Village scheme. The Economic Area boundary should then include this site.

54. The reference to provision of a north-south pedestrian and cycle link should be amended to reflect the proposed links as part of the Tollgate Village scheme. Due to the substantial change in levels at the north of the site, it is not considered appropriate to specifically refer to a cycle link.

### **Summary and Conclusions**

55. Based on the above findings, it is clear that there are several substantial failings in relation to the Council's evidence base and the Plan itself, which do not meet the tests of soundness.
56. The Council will therefore need to undertake further evidence base work, and amend the Plan accordingly to take into account the key issues raised in these representations. Until such time as this work has been undertaken, the Plan cannot be found sound.

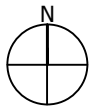


## APPENDIX 1



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Revision	Date	Drn	Ckd
-	-	-	-



Project  
**Tollgate District Centre,  
 Colchester**

Drawing Title  
**Recommended District Centre  
 Boundary**

Date 11.08.2017	Scale 1:5,000 @A4	Drawn by MN	Check by AI
Project No 20638	Drawing No R005	Revision -	

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**BARTON  
WILLMORE**

Planning • Master Planning & Urban Design • Architecture •  
 Landscape Planning & Design • Environmental Planning •  
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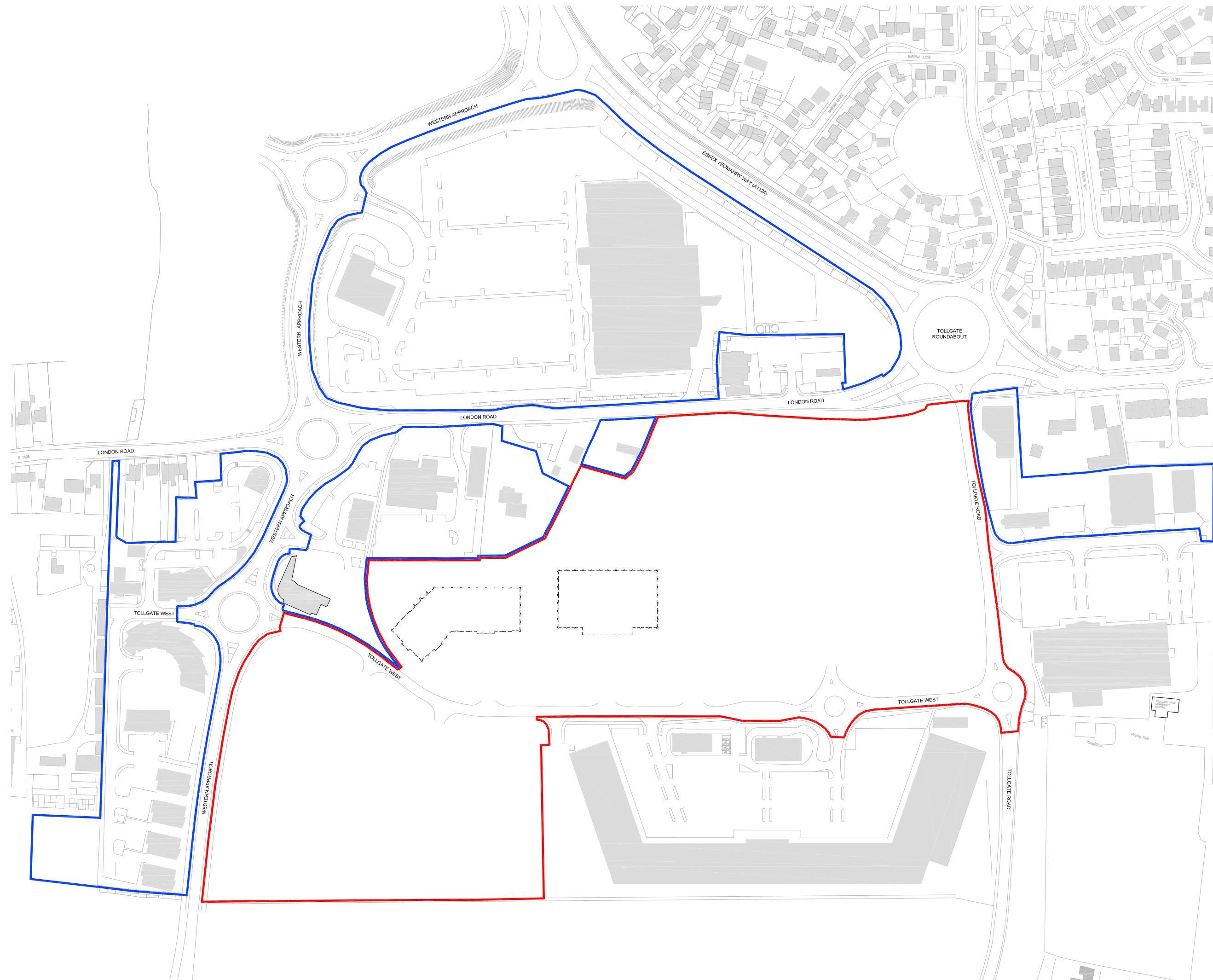
bartonwillmore.co.uk

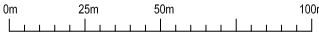




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**APPENDIX 3**  
**TOLLGATE VILLAGE SITE LOCATION PLAN**







 Application Site Boundary

 Other Land within Applicants Ownership

Revisions

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All construction to be carried out in accordance with all relevant British Standards and Codes of Practice  
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ProjectTollgate Master Plan  
The Tollgate Partnership  
Tollgate, Stanway

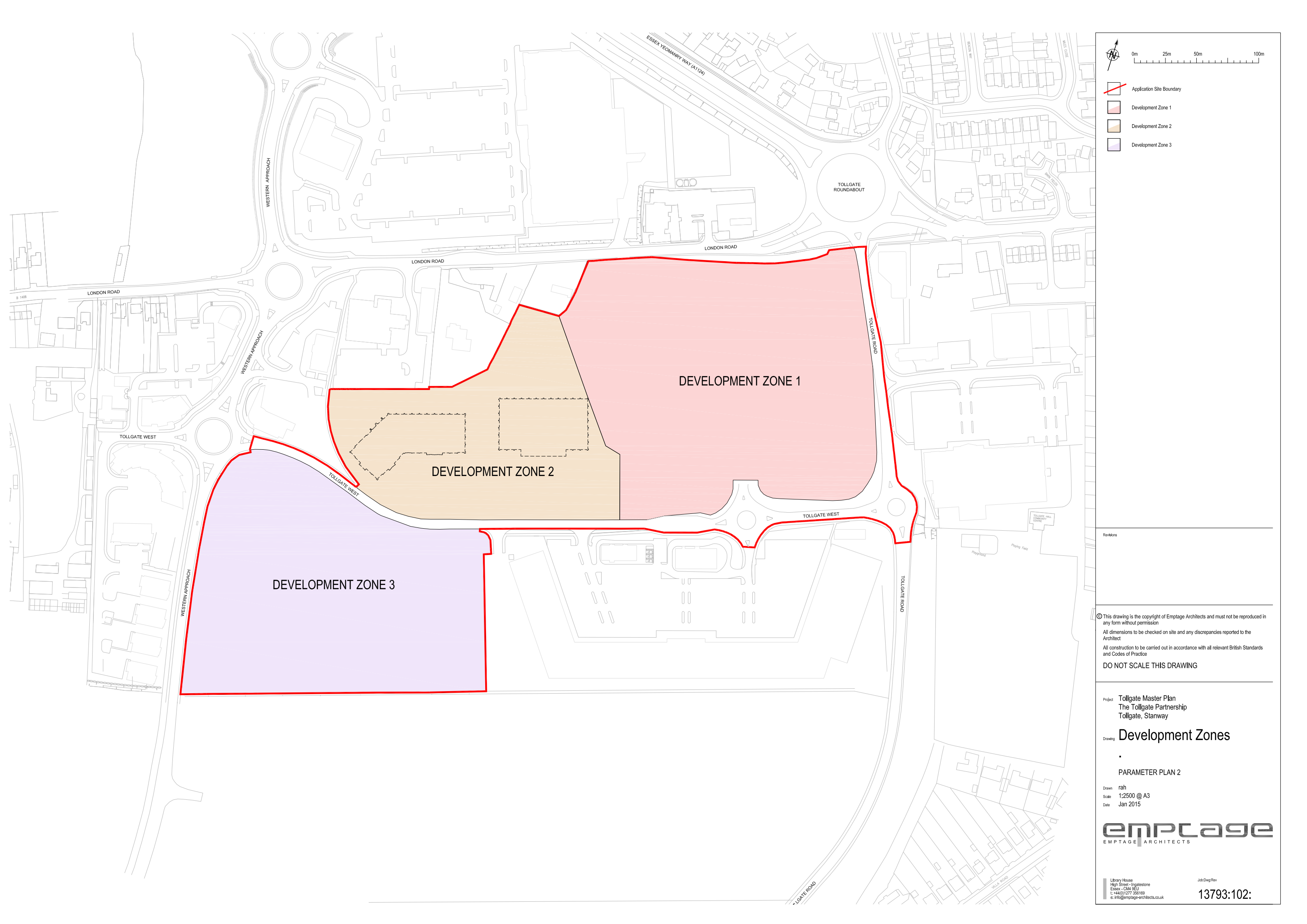
DrawingApplication Site Boundary

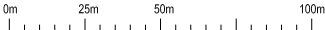

PARAMETER PLAN 1


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**APPENDIX 4**  
**TOLLGATE VILLAGE DEVELOPMENT ZONES**









Application Site Boundary



Development Zone 1



Development Zone 2



Development Zone 3

Revisions

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All dimensions to be checked on site and any discrepancies reported to the Architect

All construction to be carried out in accordance with all relevant British Standards and Codes of Practice

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Project

Tollgate Master Plan  
The Tollgate Partnership  
Tollgate, Stanway

Drawing

Development Zones

PARAMETER PLAN 2

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Date

Jan 2015



**APPENDIX 5**  
**TOLLGATE VILLAGE DECISION NOTICE (REF: 193133)**



## Notice of Planning Decision

TOWN AND COUNTRY PLANNING ACT 1990  
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) ORDER  
(ENGLAND) ORDER 2015

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In pursuance of the powers exercised by it as District Planning Authority this Council, having considered your application to carry out the development detailed below in accordance with the plan(s) accompanying the said application, DOES HEREBY GIVE NOTICE of its decision to GRANT PERMISSION for the said development subject to additional condition(s) set out below.

**APPLICATION NO:** 193133

**APPLICATION DATE:** 9 January 2020

**PROPOSAL:** Application for variation of conditions 4 and 9 following grant of planning permission APP/A1530/W/16/3147039 and 150239.

**LOCATION:** Land to north/south of, Tollgate West, Stanway, Essex

**APPLICANT:** Tollgate Partnership Ltd

### Condition(s)

1. Details of the appearance, landscaping, layout, and scale, hereinafter called the reserved matters shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.  
Reason: The application as submitted does not provide sufficient particulars for consideration of these details.
2. Application for approval of the reserved matters shall be made to the local planning authority prior to 4th August 2020.  
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. 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.

**IMPORTANT – ATTENTION IS DRAWN TO THE NOTES ATTACHED**



4. Details of Reserved Matters shall generally accord with the Tollgate Master Plan (as amended December 2019) as shown on page 24 of the Design & Access Statement (Section 4.0; 4.1.11) as supported by the Parameter Plans (as amended December 2019), Design Principles (as amended December 2019) and section 4 of the Planning Statement (as amended December 2019) hereby approved insofar as these are in conformity with all of the restrictions contained in conditions 9, 10, 11, 12, 13 and 14 below. In the event that the Parameter Plans, the Design Principles or section 4 of the Planning Statement are not in conformity with any of condition 9, 10, 11, 12, 13 or 14 then the condition will take precedence. Without prejudice to the generality of the foregoing, the gross area, use classes, maximum developable commercial floorspace and building heights in each Development Zone shall be in accordance with the table in paragraph 4.7 of the Design Principles (as amended December 2019).  
Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.
5. The development shall be carried out in accordance with a phasing plan and no development shall commence until a phasing plan has been submitted to, and approved in writing by, the local planning authority.  
Reason: To enable the development to proceed in a timely manner.
6. No demolition or construction work shall take place outside of the following times;  
Weekdays: 08.00 to 18.00hrs  
Saturdays: 09.00 to 13.00hrs  
Sundays and Bank Holidays: none  
Reason: To ensure that the construction phase of the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise at unreasonable hours.
7. The use hereby permitted shall not be open to customers outside of the following times:  
Weekdays: 07.00-23.00  
Saturdays: 07.00-23.00  
Sundays and Public Holidays: 09.00-23.00 With the exception of the Class A3, A4, A5 and D2 uses which can open until 01:00 7 days a week.  
Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise including from people entering or leaving the site and for the avoidance of doubt as to the scope of this permission.
8. No deliveries shall be received at, or despatched from, the site outside of the following times:  
Weekdays: 07.00 to 22.00  
Saturdays: 07.00 to 22.00  
Sundays and Public Holidays: 09.00 to 22.00  
Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise including from delivery vehicles entering or leaving the site and for the avoidance of doubt as to the scope of this permission.
9. The Class A1, A2, A3, A4 and A5 floorspace hereby permitted shall not exceed 24,122 sq.m. gross. Notwithstanding this, the maximum floorspace within individual use classes shall not exceed:-
  - Class A1 comparison goods: 21,314 sq.m. gross, of which no more than 14,920sq.m

net shall be sales area.

- Class A1 convenience goods: 1,858sq.m. gross, of which no more than 1,394sq.m. net shall be sales area
- Class A3, A4 and A5 floorspace shall not exceed 2,100 sq.m gross
- The Class D2 floorspace hereby permitted shall not exceed 6,690sq.m and any floorspace within Class D2 used for the purposes of a cinema shall in aggregate be of no more than 3,450 sq.m. gross, and have no more than 1,300 cinema seats.  
Reason: For the avoidance of doubt as to the scope of the permission and because the impacts of the proposal, along with necessary forms and levels of mitigation, have been assessed on this basis.

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10. The net retail sales area defined as the area within the walls of the shop or store to which the public has access or from which sales are made, including display areas, fitting rooms, checkouts, the area in front of checkouts, serving counters and the area behind used by serving staff, areas occupied by retail concessionaires, customer service areas, and internal lobbies in which goods are displayed; but not including cafes and customer toilets, in the development hereby permitted shall not exceed the net floorspace levels permitted and identified in Condition 9.

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

11. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995 (as amended), or in any amending Order, the floorspace hereby approved shall be limited in accordance with the following schedule; a) The A1 convenience goods floorspace hereby approved shall not be used for any other purpose whatsoever, including for the sale of comparison goods b) The Class A3, A4 and A5 floorspace hereby approved shall not be used for any other purpose whatsoever c) The Class D2 floorspace hereby approved shall not be used for any other purpose whatsoever

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

12. Development of Development Zone 1 and Development Zone 2 shall include the completion to core and shell of the three small freestanding buildings shown in the East Plaza prior to any other part of development on Development Zone 1 or Development Zone 2 coming into beneficial use.

Reason: In order to ensure that a minimum number of comparatively smaller units are available to service a local need; to add townscape interest to the Tollgate West frontage of the site; to encourage shoppers to use the proposed green corridor for walking; and to enhance the public realm.

13. All Class A1 retail units hereby permitted shall have a minimum unit size of 500 sq m gross, with the exception of a maximum of 10 units which shall have no minimum unit size and a maximum unit size of 500 sq m gross.

Reason: In the interests of safeguarding the vitality and viability of the town centre.

14. Notwithstanding the definition of development the creation of any mezzanine level or intermediate floorspace within any building or part of a building within this development which would (when taken cumulatively across the site) exceed the maximum floorspace allowance set out in condition 9 (excluding the existing retail floorspace on site) is not permitted without the further grant of planning permission for an expansion of floorspace from the local planning authority.  
Reason: For the avoidance of doubt as to the scope of the permission and because the impacts of the proposal, along with necessary forms and levels of mitigation, have been assessed on this basis.
15. 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 construction programme;
  - the parking of vehicles of site operatives and visitors;
  - 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.
  - routing for vehicles delivering construction materials
  - location of compounds
  - health & safety measures to protect the public during construction
  - methodology for breaking up concrete slab and crushing
  - noise suppression measures
  - arrangements for exceptional events
  - arrangements for the display of contact details on site in prominent locations for the public to report issues to the site manager
- 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.
16. No works shall take place in any Development Zone until an investigation and risk assessment, in addition to any assessment provided with the planning application, has been completed for that Zone 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, 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.

17. No works shall take place in any Development Zone until a detailed remediation scheme to bring that Zone 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.

18. The local planning authority must be given two weeks written notification of commencement of the remediation scheme works and the approved remediation scheme must be carried out in accordance with the details approved before the development is first occupied/brought into use. 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 before the development is occupied/brought into use.

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.

19. No works shall take place in any Development Zone until detailed scale drawings by cross section and elevation that show the development of that zone in relation to adjacent property, and illustrating the existing and proposed levels of the site, finished floor levels and identifying all areas of cut or fill, have been submitted to and agreed, in writing, by the local planning authority. The development shall thereafter be completed in accordance with the agreed scheme before each of the relevant Development Zones is first occupied.

Reason: In order to allow more detailed consideration of any changes in site levels where it is possible that these may be uncertain and open to interpretation at present and where there is scope that any difference in such interpretation could have an adverse impact of the surrounding area.

20. Notwithstanding any details shown on the illustrative elevations, no works shall take place in any Development Zone until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction for that Zone have submitted to, and approved in writing by, the local planning authority.

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

21. No works shall take place within any Development Zone until full details of all landscape works in that Zone have been submitted to and agreed, in writing, by the local planning authority and the works shall be carried out prior to the occupation of any part of that Zone unless an alternative implementation programme is subsequently agreed, in writing, by the local planning authority. The submitted landscape details shall include:
- Proposed finished levels or contours;
  - Means of enclosure;
  - Car parking layouts;
  - Other vehicle and pedestrian access and circulation areas;
  - Hard surfacing materials;
  - Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc);
  - Planting plans;
  - Written specifications (including cultivations 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.

Any planting plan submitted and agreed must include provision that any tree, shrub or hedge plant (including replacement plants) removed, uprooted, destroyed, or caused to die, or which become seriously damaged or defective, within five years of planting, shall be replaced by the developer or their successors in title, with species of the same type, size and in the same location as those removed, in the first available planting season following removal.

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.

22. Prior to the commencement of the development within any Development Zone, details of the number, location and design of cycle parking facilities for that Zone shall be submitted to and approved, in writing, by the local planning authority. The approved facility shall be secure, convenient and covered and shall be provided prior to occupation within that Zone (including those located within other zones but serving the Zone in question) and retained for that purpose at all times thereafter.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety.

23. Prior to the commencement of development within any Development Zone the areas within that Zone for the purpose of loading, unloading and manoeuvring of all vehicles including construction traffic, as well as a timetable for their implementation, (including those located within other zones but serving the Zone in question) shall have been submitted to and approved, in writing, by the local planning authority. The areas for loading, unloading and manoeuvring shall then be provided in accordance with the agreed details for that Zone and shall be retained at all times for that sole purpose.

Reason: To ensure that appropriate loading, unloading and maneuvering facilities are available in the interest of highway safety.

24. No work shall commence until the following design details relating to improvements to the A12 Eight Ash Green (Junction 26) have been submitted to, and approved in writing by, the local planning authority. The scheme shall generally conform to the arrangements shown in outline (including the signals to be provided by others) on drawing IT698/SK/09 Improvements at A12 Eight Ash Green Interchange, dated June 2015. Scheme details shall include drawings and documents showing:

- How the improvement interfaces with the existing highway alignment and carriageway markings including lane destinations;
- Full construction details relating to the highway improvement. This should include any modification to existing structures or proposed structures, with supporting analysis;
- Full signing and lighting details where applicable; and
- Confirmation of full compliance with Departmental Standards (DMRB) and policies (or approved relaxations/departures from standards from the local planning authority). The scheme shall be implemented and completed as approved. No beneficial occupation shall take place unless and until the junction improvements (including the signalisation of both the Ipswich bound and London bound off slips of the A12) have been delivered and are fully operational.

Reason: to ensure that the A12/A1124 Eight Ash Green Junction (A12 Junction 26) will continue to fulfil its purpose as part of the Strategic Road Network.

25. No occupation of the development shall take place until the following have been fully completed and made available for use:
- a) Signalisation of the A12 Trunk Road Junction 26 as shown in principle on planning application drawing number IT698/SK/09
  - b) The road markings amended at the Stanway Western Bypass/Sainsbury's access roundabout as shown in principle on planning application drawing number IT698/SK/10. Works to include "Get in lane" road signs
  - c) The road markings amended at the Stanway Western Bypass/London Road roundabout as shown in principle on planning application drawing number IT698/SK/11. Works to include "Get in lane" road signs
  - d) Widening of and the road markings amended at the Tollgate West (East) arm at the Stanway Western Bypass/Tollgate West roundabout as shown in principle on planning application drawing number IT698/SK/12
  - e) The repositioning and enlargement of the Tollgate Road/Tollgate West roundabout, widening of Tollgate Road north arm, enlargement of the Tollgate West/Tollgate Retail Park access/site access roundabout and widening of Tollgate West between the two roundabouts to provide two full width running lanes in both directions as shown in principle on planning application drawing number IT698/TA/03A
  - f) An egress from the proposal site car park onto Tollgate Road, widening of Tollgate Road and a central island in Tollgate Road as shown in principle on planning application drawing number IT698/SK/13A
  - g) A minimum 3 metre wide shared footway/cycleway from the toucan crossing in Essex Yeomanry Way to Cherry Tree Farm in London Road with a minimum 2 metre wide uncontrolled crossing point within the existing London Road splitter island
  - h) A minimum 3 metre wide shared footway/cycleway along the proposal site's London Road and Tollgate Road frontage
  - i) Upgrade the zebra crossing in Tollgate Road south of its junction with Tollgate East to a toucan crossing unless otherwise agreed in writing by the local planning authority.
  - j) A toucan crossing in Tollgate West
  - k) A minimum 3 metre wide shared footway/cycleway along the proposal site's eastern frontage adjacent the Tollgate Retail Park. Footway/cycleway shall be open to the proposal on its western side
  - k) A minimum 3 metre wide shared footway/cycleway along the proposal site's northern frontage onto Tollgate West
  - l) An uncontrolled pedestrian crossing (with central refuge) in Tollgate West in the vicinity of the footpath which runs behind Chiquito and Frankie & Benny's
  - m) Upgrade the two bus stops in Tollgate West to current Essex County Council specification
  - n) Real Time Passenger Information in two prominent locations within the proposal site, one

in that part of the site to the north of Tollgate West and one in that part of the site to the south.

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

26. No part of the development hereby approved shall be brought into use until a Travel Plan has been submitted to and approved, in writing, by the local planning authority. The Travel Plan shall include, as a minimum a five year commitment to:

- The identification of targets for trip reduction and modal shift and the methods to be employed to meet these targets;
- The mechanisms for monitoring and review;
- The mechanisms for reporting;
- The mechanisms for mitigation;
- Implementation of the travel plan to an agreed timescale or timetable and its operation thereafter;
- Mechanisms to secure variations to the travel plan following monitoring and reviews.

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

27. Prior to the first occupation of the development within any Development Zone, the vehicle parking area indicated on the approved plans for that Zone (including those located within other zones but serving the Zone in question) including any parking spaces for the mobility impaired, shall have been hard surfaced, sealed, marked out in parking bays and made available for use. The vehicle parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles that are related to the use of the development.

Reason: To ensure that there is adequate parking provision to avoid on-street parking of vehicles in the adjoining streets in the interests of highway safety.

28. No part of the development hereby permitted shall be brought into beneficial use until an entire application site wide Management and Security Plan has been agreed in writing with the local planning authority. This plan shall include a description of:-

- CCTV coverage and monitoring arrangements
- On-site security presence
- Methods for securing the site (particularly the car parking areas) outside of business hours
- Litter control and site cleaning
- Public realm maintenance
- Full hoarding details
- Hostile Vehicle Mitigation Measures

Reason: In the interests of public safety and in order to ensure that the development will not pose a risk to community safety or result in unacceptable anti-social behaviour. Both during opening hours and when the site is not in use.

29. No works shall commence within any Development Zone until a scheme to deter the removal of trolleys from the site has been submitted to and approved, in writing, by the local planning authority. The scheme shall then be implemented as approved prior to the commencement of the first use of the development hereby permitted within that Zone (including those located within other zones but serving the Zone in question) and retained as such thereafter.  
Reason: To retain trolleys on site and deter the unnecessary displacement of any trolley from the site that may lead to abandonment elsewhere, in order to avoid any detrimental impacts on the neighbouring areas.
30. Prior to the first occupation of the development hereby permitted in any Development Zone, refuse and recycling storage facilities for that Zone (including those located within other zones but serving the Zone in question) 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 at all times.  
Reason: To ensure that adequate facilities are provided for refuse and recycling storage and collection.
31. Prior to the first occupation of the development hereby permitted in any Development Zone, equipment, facilities and other appropriate arrangements for the disposal and collection of litter for that Zone (including those located within other zones but serving the Zone in question) shall be provided in accordance with details that shall have previously been submitted to, and agreed in writing by, the local planning Authority for that Zone. Any such equipment, facilities and arrangements as shall have been agreed shall thereafter be retained and maintained in good order.  
Reason: To ensure that there is satisfactory provision in place for the storage and collection of litter within the public environment.
32. Prior to the first use of the development hereby permitted in any Development Zone, control measures shall be installed in accordance with a scheme for the control of fumes, smells and odours and noise attenuation to external plant shall have been previously submitted to, and agreed in writing by, the local planning authority for that Zone. Where appropriate this scheme shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems. Such control measures as shall have been agreed shall thereafter be retained and maintained to the agreed specification and working order.  
Reason: To ensure that there is a scheme for the control of fumes and odours in place so as to avoid unnecessary detrimental impacts on the surrounding area and/or neighbouring properties, as there is insufficient detail within the submitted application.
33. Prior to the first occupation of the development within any Development Zone, a landscape management plan including long term design objectives, management responsibilities and maintenance schedules for all landscape areas for that Zone 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.



34. 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 13, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 14, 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 17.  
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.
35. None of the approved retail or cinema floorspace should be occupied by any retailer or cinema operator (as relevant) who at the date of such occupation, or within a period of 12 months immediately prior to occupation, occupies retail or cinema floorspace within the Inner or Outer Core of Colchester Town Centre (as defined on the Colchester Central Area Inset Proposals Map, October 2010) unless a scheme which commits the retailer or cinema operator to retaining their presence as a retailer or cinema operator within that Town Centre, for a minimum period of 5 years following the date of their occupation of retail or cinema floorspace within the development, or until such time as they cease to occupy retail or cinema floorspace within the development, whichever is sooner, has been submitted to and approved in writing by the local planning authority.  
Reason: In the interests of the vitality and viability of the Town Centre.
36. No occupation of the proposed units within Development Zones 1 and 2 or Development Zone 3 shall take place until the service access roads for the respective Development Zone are provided and made available for use in accordance with precise details that will have been submitted to and approved in writing by the Local Planning Authority as part of the Reserved Matters. The service access roads shall be generally in accordance with drawings "Proposed Service Access Road" IT698/SK/16 Rev F in respect of Development Zones 1 and 2; and "Proposed Service Vehicle Access to the Rear of Units 1-7" IT698/S73/TN/03 in respect of Development Zone 3.  
Reason: To protect highway efficiency of movement and safety.
37. The multi-storey car park hereby approved shall have two vehicle egress points which shall be retained at all times following occupation of any part of the development. Such egress points may not be located on the same side of the multi-storey car park. R  
Reason: To protect highway efficiency of movement and safety.

## **Informatives**

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

- (2) PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either before you commence the development or before you occupy the development. This is of critical importance. If you do not comply with the condition precedent you may invalidate this permission and be investigated by our enforcement team. Please pay particular attention to these requirements. To discharge the conditions and lawfully comply with your conditions you should make an application online via [www.colchester.gov.uk/planning](http://www.colchester.gov.uk/planning) or by using the application form entitled "Application for approval of details reserved by a condition following full permission or listed building consent" (currently form 12 on the planning application forms section of our website). A fee is also payable, with the relevant fees set out on our website.
- (3) PLEASE NOTE that a site notice was erected in a publicly visible location at the site. Colchester Borough Council would appreciate your co-operation in taking the site notice down and disposing of it properly, in the interests of the environment.
- (4) PLEASE NOTE: This application is the subject of a Section 106 legal agreement and this decision should only be read in conjunction with this agreement.

Date: 9 April 2020

Signed:



Karen Syrett  
**Place and Client Manager**

## **Positivity Statement**

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

## **NOTES ON YOUR DECISION NOTICE – PLEASE READ THE BELOW IN FULL**

### **Building in Accordance with the Plans**

Planning permissions are given on the basis of the details submitted. If you plan to make any changes whatsoever to deviate from the approved plans then you are strongly advised to liaise with Colchester Borough Council Planning Services prior to undertaking any works. You may require a new planning application or a variation to your existing permission. Failure to construct in accordance with the plans could lead to potential Enforcement Action.

### **Requirement to Comply With Your Conditions**

Please read all of your conditions carefully. All of your conditions must be complied with. Failure to comply in full with a planning condition placed upon your permission may result in potential Enforcement Action. Planning conditions require certain things to be done at certain times, often prior to the commencement of any works. If you are in any doubt as to the requirements of your conditions please liaise with Colchester Borough Council Planning Services.

### **Building Regulations**

Did you know that this permission may require Building Regulations approval? For further information please contact the building control team on 01206 282436, or by emailing [building.control@colchester.gov.uk](mailto:building.control@colchester.gov.uk) or by visiting our website [www.colchester.gov.uk/buildingcontrol](http://www.colchester.gov.uk/buildingcontrol)

### **Archaeological Advice**

Did you know that Colchester enjoys a significant rich and diverse archaeological heritage? To read how we aim to protect our wonderful heritage please visit our website <http://www.colchester.gov.uk/article/13595/Archaeology-and-the-planning-process>

### **Appeals to the Secretary of State**

If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

If you want to appeal against your local planning authority's decision then you must do so within the timescales listed below:

- For Householder Appeals – within 12 weeks of the date of the decision notice
- For Minor Commercial Appeals – within 12 weeks of the date of the decision notice
- For Advertisement Appeals – within 8 weeks of the date of the decision notice
- For all other appeal types – within 6 months of the date of the decision

Notwithstanding the above, if the planning application relates to the same (or substantially the same) land and development as is already the subject of an enforcement notice the appeal must be made within 28 days of the date of this notice and not the period set out above.

If an enforcement notice is served relating to the same (or substantially the same) land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of service of the enforcement notice, or within the relevant period set out above, from the date of this notice, whichever period expires earlier.

Appeals can be made online at: <https://www.gov.uk/planning-inspectorate>.

If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.

If you intend to submit an appeal that you would like examined by public inquiry, then you must notify the Local Planning Authority and Planning Inspectorate ([inquiryappeals@planninginspectorate.gov.uk](mailto:inquiryappeals@planninginspectorate.gov.uk)) at least 10 days before submitting the appeal. Further details are on GOV.UK.

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

### **Rights of Way**

The applicant is reminded that the grant of planning permission does not entitle them to obstruct a Right of Way. If it is necessary to stop up or divert a footpath or bridleway in order to enable the development to be carried out, they should, on the receipt of planning permission, apply without delay to the Local Planning Authority for an order under section 257 of the Town and Country Planning Act 1990. In the case of any other right of way, application should be made to the Secretary of State for an order under section 247 of the Act. In either case development shall not be started until a decision has been taken on the application.

### **Purchase Notice**

If either the Local Planning Authority or the Secretary of State refuses permission to develop land, or grants it subject to conditions, the owner may claim that they can neither put the land to a reasonable beneficial use in its existing state, nor can they render the land capable of a reasonably beneficial use by the carrying out of any development which has been, or would be, permitted.

In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Planning Act 1990, or section 32 of the Planning (Listed Buildings and Conservation Areas) Act 1990, as appropriate.

You are advised to seek professional advice before embarking on the serving of a purchase notice.

### **Compensation**

In certain circumstances compensation may be claimed from the Local Planning Authority if permission is refused, or granted subject to conditions, by the Secretary of State on appeal or on reference of the application to him.

**APPENDIX 6**  
**PROPOSED MODIFICAITONS**

## Proposed Modifications (shown in red)

### *Publication Draft Local Plan (p. 80-81)*

#### **District Centres**

- 12.46 Colchester Borough has a number of district centres, each with their own characteristics and functions but each serving the day-to-day needs of their local populations as well as providing access to shops and services for neighbouring areas across and beyond the Borough, ~~but not to a level comparable with Colchester Town Centre~~. Further district centres will be planned within the new garden communities to serve their populations as the master planning for these areas progresses.
- 12.47 The evidence indicates that the overall strategy for the Borough's district centres should focus on the appropriate diversification of the non-retail offer, including services and community facilities, to better serve the day-to-day needs of their local communities. They do not require substantial new retail development to ensure their vitality and viability over the plan period. Instead, larger scale retail development should be focused on Colchester Town Centre in accordance with the hierarchy to help strengthen its primary role as a sub-regional shopping destination.

#### **District Centres within Colchester Urban Area**

##### Tollgate

- 12.48 Tollgate is located in Stanway (approximately 4.8 km) to the west of Colchester Town Centre) and is the largest of Colchester's district centres. It has evolved from a predominantly 'bulky' retail park into an established shopping destination with a substantial range of multiple comparison goods retailers (such as Next, Argos, Sport Direct, Boots, Currys and PC World), a Sainsbury's food / non-food superstore, and a number of food and drink uses.
- 12.49 Tollgate competes with Colchester Town Centre for comparison goods expenditure. This is likely to be further exacerbated as work has commenced to implement a scheme for additional development of town centre uses allowed on appeal. Another proposal for a large retail led expansion is currently the subject of an appeal. Accordingly it is important that planning policy for Tollgate District Centre ensures that it enables it to fulfil a subsidiary position to the Town Centre in the centre hierarchy as set out in Policy SG5 and Table SG5a. Its role and function as a district centre would be enhanced through the introduction of new services and/or community facilities, ~~as opposed to further new retail development~~.
- 12.50 To help protect the Centre Hierarchy with Colchester Town Centre at the apex and to manage the potential impacts of any further retail and leisure growth at Tollgate on the Town Centre, the local impact thresholds set out in the 'Impact Assessments Thresholds' table below and the requirement for a Retail Impact Assessment will also apply to proposals within the Tollgate District Centre (including changing of use or variation of conditions). This will need to demonstrate that there will not be any significant adverse impacts on the Town Centre (and /or any other defined centre) as a result of proposals within the Tollgate District Centre.

*Topic Paper 4 (Appendix 1, p. 11-12) (NB: includes CBC proposed modifications shown in **black**)*

## Policy SG5: Centre Hierarchy

In accordance with the NPPF the centres identified in the following hierarchy will be the preferred location for main town centre uses such as retail, office, leisure and entertainment.

Definitions of centres;

**Town Centre:** the Borough's principal **centre** and **also** a sub-regional centre for comparison goods shopping, services, culture, leisure, with 'regional' aspirations

**District centre:** **centres which have an** important role serving the day-to-day needs of their local populations as well as providing access to shops and services for neighbouring areas across and beyond the Borough, ~~but not to a level comparable with Colchester Town Centre.~~

**Local centre:** **centres which have an** essential role providing a range of small shops and services to meet the basic needs of local communities, serving a small catchment.

**Table SG5a: Colchester Borough's Hierarchy of Centres**

<b>Town Centre</b> Colchester Town Centre	
<b>District Centres</b> Tiptree West Mersea Wivenhoe Tollgate Peartree Road Turner Rise Highwoods	<b>Proposed District Centres</b> New Garden Community East Colchester <del>New Garden Community West Colchester</del>
<b>Local Centres:</b> St Christopher Road, St Johns Hawthorne Avenue, Greenstead Iceni Way, Shrub End William Harris Way, Garrison Homefield Road, Garrison Monkwick and Mersea Road The Willows Old Heath Road Hythe Quay London Road, Stanway Villa Road, Stanway Blackberry Road, Stanway The Commons, Prettygate Dedham London Road, Marks Tey Vine Road, Wivenhoe  The new Garden Communities will include a local centres to compliment District Centres and build on the network of centres in the hierarchy.	

*Publication Draft Local Plan (p. 85)*

12.70 In order to manage appropriate growth within the Town and District Centres and to help safeguard the current hierarchy and the role and function of each of the centres, planning applications for town centre uses which are not in an existing centre or allocated in this Plan will be required to address the provisions in the National Planning Policy Framework concerning the sequential test and retail impact assessment.

*Topic Paper 4 (Appendix 1, p. 13-14) (NB: includes CBC proposed modifications shown in black)*

**Policy SG6: Town Centre Uses**

Proposals for town centre uses that are not within a defined centre and are not in accordance with ~~the Local~~ this Plan, including proposals for a change or intensification of use, or variation of a planning condition, will need to demonstrate ~~compliance with the that a sequential test approach has been undertaken to site selection as required by set out in national policy.~~

**Applicants should demonstrate flexibility on issues such as format and scale.** ~~in terms of their availability, suitability and viability for the broad scale and type of development proposed; and o~~ Only ~~when alternative sites have been discounted if suitable sites are not available~~ should less sequentially preferable sites be considered. In cases where the Local Planning Authority are satisfied that the sequential test has been met, proposals will be supported where they also comply with the requirements set out in criteria (i- vii below).

i) ~~The p~~Proposals for main town centre uses ~~in or on the edge of centres are~~ is of a type, proportion and scale appropriate to the role and function of the centre and would not threaten the primacy of Colchester Town Centre at the apex of the centre hierarchy, either individually or cumulatively with other committed proposals, and;

ii) ~~The p~~Proposals for main town centre uses ~~in or on the edge of centres are~~ is suitable to the town / district centre function and maintains or adds to its viability and vitality and enhances the diversity of the centre without changing the position of the centre within the overall hierarchy and;

iii) Proposals would not give rise to a detrimental effect, individually or cumulatively, on the character or amenity of the area through smell, litter, noise or traffic problems and

iv) The proposal would not have a significant adverse impact on the vitality and viability of Colchester Town Centre and/or any other ~~defined~~ centre either individually or cumulatively with other committed proposals and;

v) The proposal would not have a significant adverse impact on committed and / planned public or private investment in Colchester Town Centre and /or any other centre either individually or cumulatively with other committed proposals and;

vi) In relation to criteria (iv) and (v) above an Impact Assessment must be provided where the proposal;

a. ~~In any centre e~~Exceeds the thresholds set out in table SG6 below, or;

b. ~~Where the proposal is within Tollgate District Centre and exceeds the thresholds set out in table SG6 below or;~~

c. Where the Council considers that there are potential impacts arising from the proposal cumulatively with other committed development.

~~vii) The proposal protects and enhances the special historic character of the town centre.~~