



Colchester
City Council

Planning Committee Meeting

**Grand Jury Room, Town Hall, High Street,
Colchester, CO1 1PJ
Thursday, 13 June 2024 at 18:00**

The Planning Committee deals with planning applications, planning enforcement, public rights of way and certain highway matters. If you wish to come to the meeting please arrive in good time. Usually, only one person for and one person against each application is permitted.

Information for Members of the Public

Access to information and meetings

You have the right to attend all meetings of the Council, its Committees and Cabinet. You also have the right to see the agenda (the list of items to be discussed at a meeting), which is usually published five working days before the meeting, and minutes once they are published.

Dates of the meetings are available here:

<https://colchester.cmis.uk.com/colchester/MeetingCalendar.aspx>.

Most meetings take place in public. This only changes when certain issues, for instance, commercially sensitive information or details concerning an individual are considered. At this point you will be told whether there are any issues to be discussed in private, if so, you will be asked to leave the meeting.

Have Your Say!

The Council welcomes contributions and representations from members of the public at most public meetings. At Planning Committee meetings, other than in exceptional circumstances, only one person is permitted to speak in support of an application and one person in opposition to an application. If you would like to speak at a meeting and need to find out more, please refer to the Have Your Say! arrangements here:

<https://colchester.cmis.uk.com/colchester/HaveYourSay/HYSPlanning.aspx>.

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www.colchester.gov.uk

COLCHESTER CITY COUNCIL Planning Committee Thursday, 13 June 2024 at 18:00

The Planning Committee Members are:

Cllr Warnes	Chair
Cllr McCarthy	Deputy Chair
Cllr Arnold	
Cllr Davidson	
Cllr Goacher	
Cllr MacLean	
Cllr Rippingale	
Cllr C. Spindler	
Cllr Tate	

The Planning Committee Substitute Members are:

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

Councillors:

Cllr Buston	Cllr Cox	Cllr Çufoğlu	Cllr Dundas
Cllr Ellis	Cllr Hagon	Cllr Harris	Cllr King
Cllr Law	Cllr Laws	Cllr Lilley	Cllr Luxford-Vaughan
Cllr Mannion	Cllr Naylor	Cllr Osborne	Cllr Parsons
Cllr Pearson	Cllr Powling	Cllr Rowe	Cllr Scordis
Cllr Scott-Boutell	Cllr Smalls	Cllr Smith	Cllr Smithson
Cllr Sommers	Cllr M. Spindler	Cllr Sunnucks	Cllr Willetts
Cllr J. Young	Cllr T. Young		

AGENDA

THE LIST OF ITEMS TO BE DISCUSSED AT THE MEETING

(Part A - open to the public)

Please note that Agenda items 1 to 2 are normally dealt with briefly.

An Amendment Sheet is published on the Council's website by 4:30pm on the day before the meeting and is available to view at the bottom of the relevant Planning Committee webpage. Please note that any further information for the Committee to consider must be received no later than 5pm two days before the meeting in order for it to be included on the Amendment Sheet. With the exception of a petition, no written or photographic material can be presented to the Committee during the meeting.

Live Broadcast

Please follow this link to watch the meeting live on YouTube:

[\(107\) ColchesterCBC - YouTube](#)

1 Welcome and Announcements

The Chairman will welcome members of the public and Councillors and remind everyone to use microphones at all times when they are speaking. The Chairman will also explain action in the event of an emergency, mobile phones switched to silent, audio-recording of the meeting. Councillors who are members of the committee will introduce themselves.

2 Substitutions

Councillors will be asked to say if they are attending on behalf of a Committee member who is absent.

3 Declarations of Interest

Councillors will be asked to say if there are any items on the agenda about which they have a disclosable pecuniary interest which would prevent them from participating in any discussion of the item or participating in any vote upon the item, or any other registerable interest or non-registerable interest.

4 Urgent Items

The Chairman will announce if there is any item not on the published agenda which will be considered because it is urgent and will explain the reason for the urgency.

5 Have Your Say(Hybrid Planning Meetings)

At meetings of the Planning Committee, members of the public may make representations to the Committee members. This can be made either in person at the meeting or by joining the meeting remotely and addressing the Council via Zoom. These Have Your Say! arrangements will allow for one person to make representations in opposition and one person to make representations in support of

each planning application. Each representation may be no longer than three minutes(500 words). Members of the public wishing to address the Committee either in person or remotely need to register their wish to address the meeting by e-mailing democratic.services@colchester.gov.uk by 12.00 noon on the working day before the meeting date. In addition for those who wish to address the committee online we advise that a written copy of the representation be supplied for use in the event of unforeseen technical difficulties preventing participation at the meeting itself.

These speaking arrangements do not apply to councillors who are not members of the Committee who may make representations of no longer than five minutes each

6 Minutes of Previous Meeting

No Minutes are before the Committee for confirmation.

7 Planning Applications

When the members of the Committee consider the planning applications listed below, they may decide to agree, all at the same time, the recommendations in the reports for any applications which no member of the Committee or member of the public wishes to address the Committee.

7.1 230625 Land to the east of, Nayland Road, Great Horkesley, Colchester 7 - 42

Outline planning application for 100 no dwellings, new access and A134 crossings, land for allotments, provision of a Scout and Girl Guiding Hut with associated car park, public open space and associated works. All Matter reserved, Except Access.

7.2 232295 50 London Road, Stanway, Colchester, CO3 0HB 43 - 64

Change of use from Post Office delivery office (sui generis) to cafe (Class E). Installation of an extraction system to the rear elevation. 1st floor 1 bed flat. Additional Parking Plan received.

8 Exclusion of the Public (not Scrutiny or Executive)

In accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972).

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Part B (not open to the public including the press)



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Item No: 7.1

Application: 230625

Applicant: Horkesley Health Ltd

Agent: Andrew Ransome

Proposal: Outline planning application for 100 no. dwellings, new access and A134 crossings, land for allotments, provision of a Scout and Girl Guiding Hut with associated car park, public open space and associated works. All Matter Reserved, Except Access.

Location: Land to the east of, Nayland Road, Great Horkesley, Colchester

Ward: Rural North

Officer: Lucy Mondon

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because the proposed development for 100 dwellings exceeds the number of dwellings (80) set out in the Local Plan Site Allocation (policy SS7). The site area also differs to the site allocation policy.

2.0 Synopsis

2.1 The application has been submitted on an Outline basis for 100 no. dwellings, new access and A134 crossings, land for allotments, provision of a Scout and Girl Guiding Hut with associated car park, public open space and associated works. All matters are reserved (meaning detail will be submitted for approval at a later date under 'Reserved Matters' application) except for access which is submitted for approval under the current outline application.

2.2 The application site is allocated for residential development in the Local Plan, although the current planning application seeks permission for a 25% uplift in dwelling numbers over the allocated amount (100 dwellings as opposed to 80 dwellings). The key issues for consideration are the principle of development; flood risk and drainage; impacts on ecology; highway matters; heritage; and landscape and trees. Matters of contamination, amenity, and climate change are also considered, along with other material planning matters.

2.3 The proposed development has been assessed in line with adopted Local Plan Policies, with the benefit of consultee comment and local representations. A consideration of the planning benefits of the proposed development has resulted in a balanced judgement which concludes that the benefits of the scheme outweigh any adverse impacts identified and the application is subsequently recommended for approval subject to a number of planning conditions, as well as s106 obligations.

3.0 Site Description and Context

3.1 The site lies within the settlement boundary for Great Horkesley. It is currently an open field situated off Nayland Road. The boundaries of the site are reasonably well vegetated, although there are gaps in parts of the boundary hedgerows which allow for public views into the site.

3.2 The site wraps around Great Horkesley Manor (not a listed building or heritage asset), a large building that is currently used as a care home. The Manor is largely obscured from view, the main prominent feature being the tree-lined drive from Nayland Road.

3.3 Nayland Road lies to the west of the site and Ivy Lodge Lane lies to the north. The surrounding area is predominantly residential in character, although there are a number of services and facilities in the area such as a public house, shop, dentist, village hall, preschool, and primary school. Existing residential properties adjoin the application site on the northern and southern boundaries. There is a brook that runs along the eastern portion of the site and a sewage pumping station to the north-eastern corner.

3.4 In terms of site constraints, part of the site is within a Flood Zone 2 and 3 (on the eastern edge following the line of the brook that runs through the site). The site is located within a Site of Special Scientific Interest (SSSI) Impact Risk Zone, but the proposed development does not trigger consultation with Natural England as it is for less than 100 units so unlikely to have an impact. There are Grade II listed buildings in the vicinity of the site to the north-west and south. There is also a protected Oak tree within the Great Horkesley Manor grounds, but this is not affected by the proposed development.

4.0 Description of the Proposal

4.1 The application has been submitted on an Outline basis for 100 no. dwellings, new access and A134 crossings, land for allotments, provision of a Scout and Girl Guiding Hut with associated car park, public open space and associated works. All matters are reserved (meaning detail will be submitted for approval at a later date under 'Reserved Matters') except for access which is submitted for approval under the current outline application.

4.2 The application is supported by the following documents:

- Application Form
- Location Plan
- Proposed Site Access Arrangements drawing (revised)
- A134 Pedestrian/Cycle Improvements Feasibility Review
- Arboricultural Report
- Archaeology Evaluation Report
- Archaeological Excavation Report
- Archaeology Written Scheme of Investigation
- Biodiversity Net Gain Calculation
- Contamination Report
- Design and Access Statement
- Ecological Assessment
- Flood Risk Assessment
- Health Impact Assessment
- Illustrative Masterplan drawing
- Landscape and Visual Impact Assessment
- Minerals Assessment
- Pedestrian and Cycle Feasibility Review (revised)
- Planning Statement
- Statement of Development Principles
- Transport Assessment
- Tree Canopy Cover Assessment

5.0 Land Use Allocation

5.1 The application site is currently an open field. It is allocated for development in the adopted Local Plan.

6.0 Relevant Planning History

- 6.1 190302 Outline planning permission granted for 80 no. dwellings, new access and A134 crossings, land for allotments, provision of a Scout and Girl Guiding Hut with associated car park, public open space and associated works.

No reserved matters applications have been submitted in relation to this Outline Permission. The permission therefore expired in April 2023.

- 6.2 213363 A hybrid application (part full permission, part outline) for 100 dwellings, together with new access and crossing points on A134 and Ivy Lodge Road, allotments and associated ancillary building and parking, Scout and Girl Guiding building and associated external areas and parking, public open space, landscaping and other associated infrastructure works.

This application was withdrawn on 16th February 2023.

7.0 Principal Policies

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.

7.2 Local Plan 2017-2033 Section 1

The shared Section 1 of the Colchester Local Plan covers strategic matters with cross-boundary impacts in North Essex. This includes a strategic vision and policy for Colchester. The Section 1 Local Plan was adopted on 1 February 2021. The following policies are considered to be relevant in this case:

- SP1 Presumption in Favour of Sustainable Development
- SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
- SP3 Spatial Strategy for North Essex
- SP4 Meeting Housing Needs
- SP6 Infrastructure & Connectivity
- SP7 Place Shaping Principles

7.3 Local Plan 2017-2033 Section 2

Section 2 of the Colchester Local Plan was adopted in July 2022. The following policies are of relevance to the determination of the current application:

SG1 Colchester's Spatial Strategy
SG2 Housing Delivery
SG7 Infrastructure Delivery and Impact Mitigation
ENV1 Environment
ENV3 Green Infrastructure
ENV5 Pollution and Contaminated Land
CC1 Climate Change

PP1 Generic Infrastructure and Mitigation Requirements
 NC4 Transport in North Colchester
 OV1 Development in Other Villages
 DM1 Health and Wellbeing
 DM2 Community Facilities
 DM3 Education Provision
 DM4 Sports Provision
 DM5 Tourism, leisure, Culture and Heritage
 DM8 Affordable Housing
 DM9 Development Density
 DM10 Housing Diversity
 DM12 Housing Standards
 DM15 Design and Amenity
 DM16 Historic Environment
 DM18 Provision of Open Space and Recreation Facilities
 DM19 Private Amenity Space
 DM20 Promoting Sustainable Transport and Changing Travel Behaviour
 DM21 Sustainable Access to development
 DM22 Parking
 DM23 Flood Risk and Water Management
 DM24 Sustainable Urban Drainage Systems
 DM25 Renewable Energy, Water Waste and Recycling

7.4 Some “allocated sites” also have specific policies applicable to them. The adopted local plan policies set out below are of direct relevance to the decision making process:

SS7 Great Horkesley

Great Horkesley Manor

In addition to the infrastructure and mitigation requirements identified in policy PP1, development will be supported on land within the area identified on the policies map which provides:

- i. 80 new dwellings of a mix and type of housing for which there is a demonstrated need;*
- ii. Provision of allotments;*
- iii. Contributions to enhancing community buildings;*
- iv. Provision of a scout hut with parking;*
- v. Retention of the belt of trees to the east of the site;*
- vi. Access from Nayland Road;*
- vii. Contributions towards improving walking and cycling facilities along the A134; and*
- viii. Provision of footways and suitable traffic management and crossing opportunities on Nayland Road.*

Any proposals will also take into account the Essex Minerals Local Plan and the developer will be required to submit a Minerals Resource Assessment as part of any planning application. Should the viability of extraction be proven, the mineral shall be worked in accordance with a scheme/masterplan as part of the phased delivery of the non-mineral development.

7.5 5 Year Housing Land Supply

Section 1 of the Colchester Local Plan 2017-2033 was adopted by the Council on the 1 February 2021, with Section 2 being adopted in July 2022. The complete Local Plan carries full statutory weight as the development plan.

Section 1 includes strategic policies covering housing and employment, as well as infrastructure, place shaping and the allocation of a Garden Community. Policy SP4 sets out the annual housing requirement, which for Colchester is 920 units. This equates to a minimum housing requirement across the plan period to 2033 of 18,400 new homes.

The Tendring Colchester Borders Garden Community is allocated in Section 1, all other site allocations are made within Section 2 of the Plan. Within Section 2 the Council has allocated adequate sites to deliver against the requirements set out in the strategic policy within the adopted Section 1. All allocated sites are considered to be deliverable and developable.

In addition, and in accordance with the NPPF, the Council maintains a sufficient supply of deliverable sites to provide for at least five years' worth of housing, plus an appropriate buffer and will work proactively with applicants to bring forward sites that accord with the overall spatial strategy. The Council has consistently delivered against its requirements that has been demonstrated through the Housing Delivery Test. It is therefore appropriate to add a 5% buffer to the 5-year requirement. This results in a 5-year target of 4,830 dwellings (5 x 920 + 5%).

The Council's latest published Housing Land Supply Annual Position Statement (2023) represents the current housing land supply position as of 1st April 2023. The Position Statement demonstrates a housing supply of 4,996 dwellings which equates to 5.17 years based on an annual target of 920 dwellings (966 dwellings with 5% buffer applied). This relates to the monitoring period 1st April 2023 to 31st March 2028.

9. Five Year Supply Calculation

9.1 The table below illustrates the 5-year supply calculation for the district during the period between 2023/2024 through to 2027/2028.

Housing Need OAHN	
Annualised objectively assessed housing need (OAHN)	920
5 year housing requirement (5x920)	4600
5 year housing requirement and 5% buffer	4830
Supply	
Permissioned sites, existing allocations and windfall allowance	4996
Total number of years' worth of housing supply including emerging allocations	
Supply against OAN with permissioned sites, existing allocations and windfall	5.17

9.2 The calculation above demonstrates that the Council has a sufficient supply of deliverable housing to meet the 5-year requirement. A total of 5.17 years is deliverable within this period.

Given the above, it is therefore considered that the Council can demonstrate a five-year housing land supply.

- 7.6 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):
- The Essex Design Guide
 - External Materials in New Developments
 - EPOA Vehicle Parking Standards
 - Backland and Infill
 - Affordable Housing
 - Community Facilities
 - Open Space, Sport and Recreation
 - Sustainable Construction
 - Cycling Delivery Strategy
 - Urban Place Supplement
 - Sustainable Drainage Systems Design Guide
 - Street Services Delivery Strategy
 - Planning for Broadband 2016
 - Managing Archaeology in Development.
 - Developing a Landscape for the Future
 - ECC's Development & Public Rights of Way
 - Planning Out Crime

8.0 Consultations

8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.

Active Environment:

Comments regarding layout and accessibility to active spaces. *Case Officer Note: The comments relate to the layout and design of the development, which would not be assessed at Outline stage (further details would be required under Reserved Matters should Outline permission be approved).*

Anglian Water:

Comment that foul drainage from the development would be in the catchment of West Bergholt Water Recycling Centre which currently does not have capacity to treat the flows from the development site. Confirmation that Anglian Water are obligated to accept the foul flows from development with planning permission so would therefore take the necessary steps to ensure that there is sufficient treatment capacity should planning permission be granted. Recommended condition for details of foul water drainage works to be submitted for approval. General comments regarding Anglian Water assets and surface water drainage.

Arboricultural Officer:

In agreement with the submitted tree report. The report details that 1 no. Category B Sycamore tree would need to be felled and part of a hedge (H1) would need to be removed; compensatory landscaping would need to be secured as part of Reserved Matters.

Archaeological Adviser:

Confirmation that the application site has been fully excavated and subject to archaeological excavation (under the previous permission 190302). No requirement for further archaeological investigation.

Building Control:

No comments received.

Cadent Gas:

No comments received.

Contaminated Land Officer:

The submitted report is acceptable. Recommended condition to secure the procedure should any unexpected contamination be found at any time when carrying out the development.

Environment Agency:

No objections.

Environmental Protection:

No objections subject to conditions regarding hours of working, construction method statement, communal storage areas, electric vehicle charging point, and site boundary noise levels.

Essex County Council Minerals and Waste:

No objections subject to condition to secure appropriate site waste management plan.

Fire County Fire and Rescue:
General comments relating to Building Regulations.

Essex Partnership for Flood Protection:
No comments received.

Essex Police:
Comments to emphasise the importance of safety and security being 'designed in' at the earliest planning stages. Offer to provide advice to the developer.

Essex Wildlife Trust:
No comments received.

Highway Authority:
The proposal is acceptable from a highway and transportation perspective subject to conditions to secure construction traffic management plan, highway works (site access, upgrade bus stops, pedestrian and cycle improvements, crossing on Ivy Lodge Road), travel plan, an residential information packs.

Landscape Officer:
Confirmation that the outline proposals appear satisfactory in principle in landscape terms. Recommended conditions to secure detailed landscape proposals. *Case Officer Note: Landscape details will need to be provided as part of Reserved Matters. An informative is recommended to set out requirements as per the Landscape Officer advice.*

Lead Local Flood Authority (SUDs):
No objection subject to conditions to secure detailed surface water drainage scheme, drainage scheme during construction period, and management/maintenance measures.

Natural England:
No objection subject to securing appropriate mitigation.

National Highways:
No objection.

North Essex Badger Group:
No comments received.

Place Services Ecology:
No objections subject to securing biodiversity mitigation and enhancement measures.

Private Sector Housing:
No comments received.

Transport and Sustainability:
No comments received.

Urban Design:
No objections.

9.0 Parish Council Response

9.1 Great Horkesley Parish Council have commented throughout the application process. The Parish Council has confirmed in their most recent correspondence that they are supportive of the proposals, with general comments being provided to recommend separation distances as per the Essex Design Guide, consultation to take place with the Parish Council and local residents in respect of the design framework, and that the existing bus shelter be clear of the crossing.

10.0 Representations from Notified Parties

10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. The full text of all of the representations received is available to view on the Council's website. However, a summary of the material considerations is given below.

- Technical Matters:
 - Inconsistencies between parts of land proposed for development between location plan and master plan (some areas identified to be included in the development in some documents and not in others)
 - There is an area of land (north?) that is not owned by the developer
 - Health impact assessment inaccurate as it states that the dentist is accepting new patients which isn't the case.
- Objections in principle to further development.
- Great Horkesley should be kept separate from Colchester. No assurances that there will be no further housing developments in the village that would reduce greenfield further. The development could serve as a gateway to larger scale developments deeper into the countryside.
- Planning Policy:
 - The site allocation is for 80 dwellings not 100
 - Should be reduced to 60 dwelling with 20% affordable
 - Is policy ENV1 being used consistently? Adjacent householder development deemed to have a detrimental impact on the surrounding area vs this proposal for 100 dwellings.
- Flood Risk/Drainage issues:
 - There are 'lakes' to the rear of properties on Ivy Lodge Road and new development could cause flooding or divert water which would have a detrimental impact on wildlife.
 - Impact on water provision and sewerage
- Highway Matters:
 - Poor access
 - The roads cannot support extra traffic (already too much traffic)
 - Pavements are not safe
 - Issues with the proposed crossings have not been addressed
 - Crossings required for children to get to school (suggestions of underpass or bridge)
 - Access/egress will be dangerous
 - 60mph speed limit should be reduced

- Cycle lane to Mile End is not feasible due to the width of the road
- Pedestrian/cycle path would be in close proximity to traffic and not continuous to other adjacent cycle routes so risk of incident will increase
- There should be road narrowing and traffic lights to reduce the amount of large lorries using the route
- Pedestrian and cycle path should be provided to Chesterwell development
- Parking during construction period must not be on existing residential roads.
- Services/Facilities:
 - Insufficient accessible health facilities
 - Unlikely that Scout Hut would be provided
 - Lacking in school services
- Ecology/Biodiversity:
 - Loss of wildlife and farmland
 - Sufficient contribution needs to be made for RAMS
 - Ecology survey mentions bats and other wildlife on boundaries but no detail of any boundary preservation
 - RAMS mitigation should be a significant reduction in the number of units and a larger green corridor adjacent to residents.
 - The Ecology Report states that there are no otters, but this is not the case.
 - Lighting for housing will be detrimental to the green areas shown on the plans
- Landscape Impact:
 - The visual impact assessment does not include pictures taken towards the residents on the northern side of the development
 - Poor use of greenfield space – the areas closest to existing residential will have new housing, whilst areas that would have limited impact would remain open (for drainage)
 - The area is green belt land
- Design:
 - The development is too dense
 - Too close to Horkesley Manor
 - If the previous scheme for 100 dwellings was unsuccessful (withdrawn) how can a new application for 100 dwellings be acceptable?
 - Willow Wood is not included as POS which is detrimental
 - Open space should be to the north of the site rather than along Nayland Road
 - Do not consider that the proposed landscaping can be achieved due to the number of dwellings proposed.
- Amenity:
 - Impact on privacy of existing residents to the north and south
 - Close proximity to house to south (70% of boundary)
 - Light and noise pollution
 - Should be a corridor of green space between existing and new development
 - Modular off-site fabrication should be used to limit disturbance to residents.
 - Change to living environment as bought property in order to live in a quiet and dark area not an estate

- Concern regarding security – require 6m buffer of hedging and trees plus high fence to secure rear of properties on Ivy Lodge Road.
- Scout Hut:
 - Scout hut unnecessary given new village hall
 - Should be at rear of site adjacent woodland as would be useful for activities (allotments as well)
 - Should be provided early in the development.
- Viability:
 - The costings being used are 6 months old which questions the validity of the report.
 - Inconsistencies with regards to costings for elements of the proposal (e.g. road crossings)

Some of the comments received refer to matters of detail, which would be considered at Reserved Matters rather than under the current Outline application. The points raised are summarised as follows:

- Roads should be wide enough for emergency vehicles
- Access for cars and pedestrians required
- The Essex Way would be better going through woodland than the housing estate
- There will not be enough parking for 100 units (need at least 5 spaces per dwelling). Will lead to parking on the road.
- Electrical charging points should be required.

11.0 Parking Provision

11.1 The details submitted under Reserved Matters will need to include parking in accordance with Local Plan policy.

12.0 Accessibility

12.1 The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. The proposed development is in outline so has minimal detail in terms of site layout and design, but the submitted details are not considered to present a development that would result in any discrimination.

Colchester City Council Local Plan DM12 vi sets out that 10% of market housing and 95% of affordable housing will need to meet Building Regulations Part M4 Cat 2 (accessible and adaptable). In addition, 5% of affordable housing should meet Part M4 Cat 3 (2) (b) (wheelchair user). These requirements will be secured either as part of the legal agreement or planning conditions as appropriate.

13.0 Open Space Provisions

13.1 The site allocation includes a proportion of the site frontage as open space. The Reserved Matters application will need to include policy compliant open space.

14.0 Air Quality

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

15.0 Planning Obligations

15.1 As a “Major” application, there was a requirement for this proposal to be considered by the Development Team. It was considered that Planning Obligations should be sought. The Obligations that would be agreed as part of any planning permission would be:

- Affordable Housing: 30% with a tenure split of no less than 80% affordable housing for rent and no more than 20% Other Affordable Routes to Home Ownership as defined in Annex 2 of National Planning Policy Framework.
- Allotments: to secure specification and provision.
- Car Club: To secure on-site space for car club, car club scheme, and car club operator.
- Community Facilities: To secure on-site Scout and Girl Guide Hut (detailed proposals and provision).
- Education: Financial contribution for Early Years and Childcare.
- Healthcare: Financial contribution to mitigate impact on GP practices.
- Libraries: Financial contribution to upgrade facilities.
- Open Space and Amenity Areas: to secure management of these areas (including the eastern tree belt as shown on submitted drawings).
- Parks and Recreation: Financial contribution to mitigate impact (sum will be based upon adopted SPD). Projects: improvements to Jubilee Green, Great Horkesley; improvements to Highwoods Country Park; and/or improvements to Mile End Sports Ground.
- RAMS financial contribution (as per SPD).
- Travel Plan Fees

16.0 Report

16.1 The main issues in this case are principle of development; flood risk and drainage; impacts on ecology, highways, heritage, landscape and trees; and design. Matters of contamination, amenity, and climate change are also considered, along with other material planning matters.

16.2 Principle of Development

The application site is allocated for residential development under policy SS7 in the adopted Local Plan. The development of the site as proposed is therefore acceptable in principle subject to it meeting the requirements of the site allocation. A number of local representations have objected to the application on matters of principle, but given the site allocation, it would be unreasonable to reject the application on these grounds. The application does, however, diverge from the site allocation policy in two key areas: the maximum number of dwellings, and the site area.

16.3 The application site differs to the Local Plan Policy Map for SS7. Whereas the Policy Map shows a larger site that incorporates Great Horkesley Manor, the planning application does not include the Manor site for development. The Planning Policy team has confirmed, however, that the Great Horkesley Manor site itself has never been promoted for development through the Local Plan so its inclusion in the mapping is somewhat unsubstantiated in the Case Officer’s view. Further, the site allocation policy does not require any specific

requirements for the development of Great Horkesley Manor. The supporting text does request that the setting of the Manor and its tree-lined approach is preserved given that it is a visually prominent local building, although this tends to suggest that the Manor is a constraint on surrounding development rather than part of the site to be developed. It is concluded that there is very limited justification for a refusal of planning permission based upon the Great Horkesley Manor site being excluded from the proposed development.

16.4 The application site also differs from the policy mapping by excluding land to the north (west of the pumping station on Ivy Lodge Road) and by including an area of land to the south, east, and north-east, these additional areas extending beyond the settlement boundary. An area of land immediately east of the site (used as a willow plantation), as well as a small piece of land extending north to Ivy Lodge Road (between existing dwellings) is shown as being in the applicant's ownership but do not form part of the development proposals as such. The divergence from the allocated site area is considered relatively modest and would not justify a refusal of planning permission.

16.5 Turning to the requirements of the site allocation policy:

i. 80 new dwellings of a mix and type of housing for which there is a demonstrated need:

The proposed development provides 100 dwellings and so exceeds the site allocation figure. It is however necessary to establish whether the uplift in dwelling numbers would result in any harmful impacts. An assessment of the impacts that would arise from the development, taking into account the uplift in dwelling numbers, is necessary in order to determine whether this is a significant and harmful departure from the site allocation. These matters are considered in the remainder of this report.

ii. Provision of allotments:

The proposed development includes the provision of allotments as part of the outline element of the scheme. The provision of allotments would be secured via s106 and would require subsequent reserved matters. The application therefore complies with this requirement.

iii. Contributions to enhancing community buildings:

No contribution has been requested by the Council's Community Facilities team given that the development of the site would provide for an on-site Scout/Girl Guide hut.

iv. Provision of a scout hut with parking:

The proposed development includes an area for the Scout/Girl Guide hut as part of the outline element of the scheme. The provision of the Scout/Girl Guide hut would be secured via s106. The application therefore complies with this requirement.

v. Retention of the belt of trees to the east of the site:

These trees are shown to be retained, and can be conditioned to be maintained, so the application complies with this requirement.

vi. Access from Nayland Road:

The proposed development would be accessed from Nayland Road so the application complies with this requirement.

vii. Contributions towards improving walking and cycling facilities along the A134:

The application includes improved walking and cycling facilities which would provide a route along the A134 between Coach Road and the Chesterwell development, as per Highway Authority requirements. The Highway Authority have confirmed that the land required would be highway land and the necessary works can therefore be secured by condition.

viii. Provision of footways and suitable traffic management and crossing opportunities on Nayland Road:

The application includes footways, traffic management, and crossing points on Nayland Road in accordance with Highway Authority recommendations. Further details are set out in the Highway Matters section below.

16.6 The site allocation policy also requires the consideration of minerals resource at this site. The planning application included a Minerals Resource Assessment which was considered by Essex County Council Minerals and Waste team who concluded that there were no objections to the development of the site subject to conditions for a Minerals Supply Audit and a Site Waste Management Plan. It is considered appropriate and necessary to apply these conditions.

16.7 The site allocation policy also refers to requirements of policy PP1 which will be considered as part of the material planning considerations set out in the remainder of this report.

16.8 Climate Change

Matters of climate change and environmental impact have been considered in line with the NPPF and planning policy, particularly that of policies CC1 and PP1. Matters of flood risk, biodiversity, tree canopy cover, sustainable transport, and green infrastructure have been assessed in the above sections and the proposed development has been considered to be acceptable in these matters, subject to mitigation and enhancement as appropriate and necessary.

16.9 Policy DM25 is also relevant and confirms the Local Planning Authority's commitment to carbon reduction, which includes the promotion of efficient use of energy and resources alongside waste minimisation and recycling. In the interests of carbon reduction and improving air quality, it is considered appropriate to condition the provision of electric vehicle charging points throughout the scheme. In terms of the buildings themselves, these will need to meet Building Regulations requirements in terms of insulation and energy efficiency; planning policy seeks to encourage the use of the 'Home Quality Mark' so this can be promoted by way of an informative (it is not considered reasonable to impose a condition covering this point as the Home Quality Mark is not a planning policy requirement as such).

16.10 Contamination

Section 2 Policy ENV5 (Pollution and Contaminated Land) supports proposals that will not result in an unacceptable risk to public health or safety, the environment, general amenity or existing uses due to land pollution.

16.11 The submitted contamination report confirms that no potential sources of contamination have been identified. The Council's Contaminated Land Officer agrees with the findings of the report and it is therefore considered that the site is capable of suitable for the development, subject to a condition that would secure the appropriate procedure should any unexpected contamination be found during development.

16.12 Flood Risk and Drainage

Local Plan Policies CC1 (Climate Change) and DM23 (Flood Risk and Water Management) state that development will be directed to locations with the least impact on flooding or water resources. Major development proposals required to reduce post development runoff rate back to the greenfield 1 in 1 year rate, with an allowance for climate change. On brownfield sites where this is not achievable, then a minimum betterment of 50% should be demonstrated for all flood events.

16.13 The Environment Agency confirm that the application demonstrates that the development is sequentially sited within Flood Zone 1 (this remains the case when a climate change allowance is applied), meaning there is a low probability of flooding. The site eastern boundary lies within fluvial Flood Zone 3a (defined by the 'Planning Practice Guide: Flood Risk and Coastal Change' as having a high probability of flooding), although it is confirmed that the access and egress route travels through flood zones 1 (as opposed to flood zone 3) and there is therefore a safe route of access/egress.

16.14 The proposed development will increase the impermeable area on site which would increase surface water run-off. This is mitigated as part of the proposals with SuDS features being included as part of the submitted Flood Risk Assessment which allows for surface water run-off to be attenuated and discharged to a nearby watercourse in a managed way. The submitted Flood Risk Assessment has been assessed and deemed to be acceptable by Essex County Council SuDS team, as Lead Local Flood Authority, subject to conditions to confirm the final strategy and maintenance arrangements, as well as a strategy for minimising surface water run-off during construction. These conditions are considered necessary and appropriate.

16.15 In terms of foul water, Anglian Water have confirmed that the West Bergholt Water Recycling Centre would not currently have capacity for the flows from the proposed development, but that they are obligated to accept the flows so will need to ensure capacity following a grant of planning permission. It is recommended that a condition be imposed to require that sufficient treatment capacity is made available at West Bergholt Water Recycling in order to prevent pollution and protect the water environment. This condition would include the requirement for information to be submitted and agreed pre-commencement, and for the approved details to be carried out pre-occupation of any dwelling, in order to ensure that there is sufficient capacity at the time of occupation. This is

consistent with the approach taken for other allocated sites where there has been lack of capacity at the relevant water recycling centre.

16.16 Ecology

Section 40 of the Natural Environment and rural Communities Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity and a core principle of the NPPF is that planning should contribute to conserving and enhancing the natural environment. Development Plan policy DP21 seeks to conserve or enhance biodiversity and geodiversity in the Borough. New developments are required to be supported by ecological surveys where appropriate, minimise the fragmentation of habitats, and maximise opportunities for the restoration, enhancement and connection of natural habitats.

16.17 Various policies seek opportunities to safeguard and enhance biodiversity throughout the Borough. ENV1 (Environment) requires development proposals to be supported by appropriate ecological surveys where necessary; conserve or enhance the biodiversity value of greenfield and brownfield sites (minimising fragmentation of habitats); maximise opportunities for preservation, restoration, enhancement, and connection of natural habitats; and incorporate biodiversity net gain of at least 10% in line with principles outlined in the Natural England Biodiversity Metric (please note that, whilst BNG is now a national statutory requirement, the application was submitted prior to legislation so does not fall under those requirements; the provisions of the adopted Local Plan remain relevant however).

16.18 In addition to the above, policy DM15 (Design and Amenity) Provide a network of green infrastructure, open space and landscape as part of the design of the development to reflect the importance of these networks to biodiversity, climate change mitigation, healthy living and creating beautiful places.

16.19 ECC Place Services have considered the application on behalf of the Local Planning Authority and have confirmed that the submitted documents are sufficient with which to determine the application in respect of ecology (e.g. the likely impacts on designated sites, protected and priority species, and habitats). Subject to appropriate mitigation and enhancement measures being secured (including 10% BNG), the proposed development is considered to be acceptable. The key points from the submitted ecology report are as follows:

- No part of the proposed development site has any type of statutory or non-statutory conservation designation.
- The Willow plantation, along the eastern boundary continues to be listed as a Priority Habitat Woodland despite its non-native commercial stand type. The proposed development will not reduce the size, ecological value, or existing management of this area. As identified previously future management of this area could be changed to follow native broadleaf woodland silvicultural principles as part of a possible post approval wider site Ecological Design Scheme (E.D.S) and Ecological Management Plan (E.M.P)

- The wider site continues to be 2 x intensive arable agricultural fields that have been managed with the pesticides and herbicides associated with modern farming practices. There has been very little successional development on the two fields since their last cultivation and they continue to have low conservation and biodiversity value.
- There continues to be no water body within the proposed development area – there continues to be 5 x off-site water bodies that could not be accessed/surveyed in relation to any Great Crested Newt presence or absence. All ponds are off-site, the proposed revised development will not directly impact upon any pond, its size, location, management, use or existing condition. The proposed development will not directly prevent any amphibian access to or from any of the ponds.
- The proposed development will not fragment or exclude any suitable amphibian terrestrial habitat associated with any pond Great Crested Newt population. The continued wider intensive arable agricultural field cannot be considered as suitable terrestrial habitat. The boundary habitats and Willow plantation are suitable habitat – these habitats will be retained, protected and indeed enhanced as part of the proposed revised development and will be part of any post approval E.D.S. and E.M.P.
- The possibility of any Great Crested Newt (G.C.N.) terrestrial resting place being disturbed by the proposed revised development of the intensive arable agricultural is negligible. These fields continue to contain no suitable resting features for an amphibian - apart from a possible occasional field crack. As in the first planning application any works to field boundaries or associated habitats can be carefully completed during September – November when the possibility of disturbing a relevant G.C.N. resting place will be significantly reduced.
- A reptile presence – Common Lizard and Grass Snake was identified in the 2019 reptile survey efforts - within localised boundary hedge habitats and restricted field margins, Willow plantation/agricultural field boundary, the small area of rank grassland/scrub to the rear of the central Manor. With no change in the site's wider habitats, it is expected that the reptile population will still be present and within the same localised habitats as identified in the earlier survey efforts. Habitat protection / enhancement / creation / mitigation will be required to retain these animals on site in viable and sustainable numbers.
- Any need to close or disturb badger setts as part of the approved revised development would require the relevant licence from Natural England.
- The wider site continues to have very little invertebrate value, no further invertebrate survey efforts or mitigation is required.
- There continues to be no indicative field sign of any existing or past Otter use of the Black Brook. No further Otter survey efforts are required.
- There continues to be no indicative field sign of any existing or past use of the Black Brook by Water Voles. No further Water Vole survey efforts are required.
- The original extensive spring summer nesting bird survey identified that avian activity/presence was very much associated with the boundary habitat features –hedgerows, scrub, and Willow plantation. With almost no bird activity recorded in the open intensive arable agricultural fields of the wider site. There has been no significant change of habitats present on site or their ecological value since the 2019 survey efforts. It is therefore expected that there will have been no change in avian presence abundance or location since the original avian

surveys. Furthermore, the important avian boundary habitat features are again being retained in the current application.

- The 2019 survey static bat detectors and transect bat surveys confirmed that almost all bat activity was confined to the boundary features, with the greatest activity being associated with the tree lined avenue to the Manor, the Willow plantation, and the water bodies adjacent to the northern boundary. There was a key commuting route ran through the centre of the site - tree lined avenue - the Manor and gardens - down through hedge H3 into the Willow plantation. The current application continues to be restricted to the arable land area which has negligible potential for foraging and commuting, with the boundary and central habitat features being retained, protected and enhanced. Illumination design across the site, especially along/adjacent to any boundary/retained habitats, must be minimal bat friendly and follow all relevant guidelines. Further bat provision – roost boxes etc must be part of any post approval Ecological Design/Management Plan for the whole site.

16.20 In respect of Recreational disturbance Avoidance Mitigation (RAMS), information has been submitted as part of the application to inform the necessary Habitat Regulations Assessment. An Appropriate Assessment has been carried out in consideration of this information and in accordance with the Habitat Regulations and the RAMS SPD, the assessment being as follows:

16.21 The whole of Colchester Borough is within the zone of influence (Zoi) for the Essex Coast RAMS. The proposal is for 100 dwellings and it is anticipated that such development is likely to have a significant effect upon the interest features of Habitat sites [Colne Estuary SPA and Ramsar site, Blackwater Estuary SPA and Ramsar site, Dengie SPA and Ramsar site, Stour and Orwell Estuaries SPA and Ramsar site (south shore) and Essex Estuaries SAC] through increased recreational pressure, when considered either alone or in-combination with other plans and projects. A financial contribution towards off-site mitigation measures (in line with the SPD), as well as an on-site mitigation package is considered to address likely effects in-combination.

16.22 The on-site mitigation measures would include:

- Provision, and long-term maintenance, of Public Open Space;
- 1.3km circular walk (with opportunities to connect with off-site public rights of way, including the Essex Way which would provide in excess of 2.7km walking opportunities);
- Provision of at least 3. No dog waste bins within the public open space areas; and
- Provision of informational leaflets to new residents to set out the importance of designated areas and indicate local walks.

16.23 Both the financial contribution and on-site mitigation measures can be secured as part of the s106 agreement.

16.24 Highway Matters

Highway requirements as part of the site allocation policy (SS7) are that access should be from Nayland Road, there should be contributions towards improving walking and cycling facilities along the A134, and that footways and suitable

traffic management and crossing opportunities on Nayland Road should be provided. These matters have been considered above in terms of the principle of development.

16.25 In addition to the site allocation requirements, policy PP1 sets out standard mitigation requirements for all development proposals. In respect of highway matters, the policy requires safe pedestrian access from the site to existing footways to ensure connectivity, as well as proportionate mitigation for area-wide transport issues as identified in relevant transport policies. The relevant policy for transport in North Colchester is policy NC4 which expects development to contribute to a package of sustainable transport measures including walking, cycling, public transport, travel planning, and the promotion of sustainable travel. Proposals that impact on the highway network will be required to provide contributions towards mitigation and improvements to identified highway projects. In addition to this, policies DM21 and DM15 require all new developments to enhance accessibility for sustainable modes of transport and to incorporate any necessary infrastructure and services including highways and parking.

16.26 In terms of the strategic network, National Highways have commented that, given the distance from the strategic road network, as well as the number of dwellings proposed, the effect on the Strategic Road Network is unlikely to be severe as traffic will be diluted by the time it reaches any junctions of the A12.

16.27 The Highway Authority have considered the submitted information and do not have any objections subject to conditions, including conditions to secure necessary pedestrian and cycle infrastructure along Nayland Road to provide connection to Colchester and the nearest secondary school (within the Chesterwell development). Conditions would also secure appropriate access point from Nayland Road, upgrading of nearby bus stops, crossing points on Nayland Road, and a crossing point on Ivy Lodge Road to connect to the Public Right of Way 135_32 (on the northern side of Ivy Lodge Road). On this basis, the proposed development is considered to meet the requirements of the site allocation policy as well as policies NC4, DM21, and DM15 in respect of sustainable transport measures.

16.28 Heritage

Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act (1990), requires that the decision to grant planning permission for development which affects a listed building, or its setting shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

16.29 Paragraph 205 of the NPPF determines that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

16.30 Local Plan Policies ENV1 and DM16 seek to conserve and enhance Colchester's historic Environment. In line with the NPPF, development that will

lead to substantial harm to or total loss of significance of a listed building, conservation area, historic park or garden or important archaeological remains (including the setting of heritage assets) will only be permitted in exceptional circumstances where the harm or loss is necessary to achieve substantial public benefits that outweigh the harm or loss. Where development will lead to less than substantial harm this harm should be weighed against the public benefits of the proposal. In addition, policy PP1 requires development proposals to be supported by archaeological evaluation, with mitigation strategy as necessary.

16.31 In terms of archaeology, the application is supported by archaeological investigation, excavation, and evaluation reports. These reports detail that the site was thoroughly evaluated via trial trenching as part of the 2019 Outline permission, with areas where significant archaeology could be impacted being subject to full excavation. The Council Archaeological Adviser has confirmed that no new areas of archaeological potential would be impacted by the current proposals so there is no requirement for further evaluation and no mitigation measures necessary.

16.32 The application has been considered in terms of its potential impact on the setting of designated heritage assets in accordance with Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. There are three Grade II listed buildings (“The Mascot”, List UID 122847, “Roundhouse” List UID 1267587 and “Church of All Saints with St John”, List IUD 1267664) located approximately 50-100m from the north-western corner of the site. “Terrace Hall” (List UID 1222839) and the “Lodge to Terrace Hall” (List UID 1222841), both listed at Grade II, are situated approximately 250m to the south of the application site.

16.33 The Council’s Historic Buildings and Areas Officer has, as part of previous assessment of residential proposals at this site, commented that the post-war development of Horkesley Heath has altered the context of the listed buildings to the north-west of the site which are now experienced amongst development to the west side of Nayland Road. The proposed development would include a meaningful area of open space to the western side of the application site along Nayland Road so built development would be set back towards the centre of the site. By virtue of this configuration, the proposed development would have a limited impact on the manner in which the heritage assets are experienced as the viewer moves along Nayland Road. Although a development of this scale has the potential to alter the character of the wider area through the urbanisation of the semi-rural context to the east of the listed buildings, the change to their immediate setting and how they are experienced would be limited.

16.34 Similarly, by virtue of the degree of separation, existing development, trees and vegetation, as well as the retained green space along Black Brook, the proposed development would not have a notable impact on the setting of the listed buildings at Terrace Hall Chase to the south of the site.

16.35 The proposed development is not therefore considered to conflict with the relevant legislation and local planning policies for the protection of designated heritage assets and their setting.

16.36 Landscape and Trees

Policy ENV1 seeks to conserve and enhance Colchester's natural and historic environment, countryside and coastline, with Development Plan Policy DM15 requiring development proposals to demonstrate that they, and any ancillary activities associated with them, will respect and enhance the character of the site, context and surroundings in terms of (inter alia) its landscape setting. Policy PP1 requires suitable design and screening/landscaping to minimise any negative impact on the surrounding landscape and/or heritage assets.

16.37 Given that the application site is allocated for development it is accepted that there would be some impact on the landscape setting, and it would be unreasonable to object to landscape impact as a matter of principle. The site allocation policy does require the retention of the belt of trees to the east of the site (shown as land within the applicant's ownership on the submitted site location plan) and it is therefore considered appropriate and necessary to secure this (as part of the s106).

16.38 An important matter to consider is to ensure that the proposed development is compatible with the wider landscape structure, particularly in relation to tree cover, external works and enclosure. The application submission includes a Statement of Development Principles which sets out certain development principles, one of which being 'bringing the countryside into the community' so there is an expectation that this would be incorporated into detailed proposals. Matters of detailed landscape proposals would be considered at Reserved Matters stage; advice from the Council's Landscape Officer will be provided as an informative so that this can be taken into account as part of the preparation of Reserved Matters.

16.39 Design Matters

Policies SP7 and DM15 are relevant. These policies seek to secure high quality and inclusive design in all developments, respecting and enhancing the characteristics of the site, its context and surroundings. Policy SP7 states in particular that all new development must meet high standards of urban and architectural design.

16.40 As the application seeks Outline Permission only there are limited details in terms of layout and design (as would be expected for this type of application). A Statement of Development Principles has been submitted with the application as follows:

1. Bringing the countryside into the community. This will be achieved by retaining the landscape character of the site and the settlement edge of Great Horkesley and developing long vistas towards the countryside beyond.
2. To maintain and enhance the ecological corridors that exist within the established landscaping and explore opportunities to enhance and create net ecological habitats.
3. Residential areas should include areas of informal/incidental green/open space. This should include both green and blue infrastructure, which should consist of a network of integrated features.

4. Take opportunities to incorporate tree-lined streets and to incorporate trees elsewhere in the development, with appropriate measures to secure the long-term maintenance of newly planted trees and that existing trees are retained wherever possible.
5. Built form should establish a site wide positive and coherent identity that residents and local communities can identify with. This identity should respond to the sites context and reinforce/enhance the local vernacular.
6. The scout hut and allotment should be co-located close to Nayland Road where they can conveniently benefit both existing residents of Great Horkesley and the development's residents.
7. The layout of the development and positioning of elements of landscape/built form should create a series of distinct spaces and take the opportunity to create character areas within the development.
8. Areas of public open space should be fronted by units in order to ensure good levels of activity and natural surveillance.
9. The children's play area to be sited within the site where the need is likely to be greatest.
10. The provision of outdoor fitness equipment and a fitness trail should be incorporated within the development.
11. To incorporate a cycle lane access to Ivy Lodge Road that links to cycle routes within the site and beyond.
12. To provide leisure routes within the development itself to aid dog and recreational walking and encourage localised physical activity and healthy lifestyles.
13. Pedestrian link to be delivered between the development site and the southbound A134 bus-stop north of Coach Road.
14. A clear road hierarchy should be established and reinforced by adopting a varied surface material for shared surfaces and utilising a variety of frontage treatments for plots.
15. Ensuring the privacy and security of Ivy Lodge Road residents, and other existing dwellings that border the site through appropriate boundary treatment and separation distances, using the separation distances set out in the Essex Design Guide as minimum figures.
16. Focal/nodal buildings should be included to enhance legibility within the site.
17. Consideration should be given to the proposals carbon footprint, for both the long and short term. This should include consideration of energy consumption and energy generation, e.g. construction methods, materials, building orientation and openings, utilities, renewables, etc.

16.41 The Council's Urban Designer has considered the proposed development and has not raised any objections. No concerns have been raised (in design terms) with regards to the uplift in dwelling numbers. The Urban Designer has considered the Statement of Development Principles and, whilst there are some queries as to how some of the principles would be satisfactorily achieved, these would be assessed as part of the Reserved Matters.

16.42 Neighbouring Amenity

Section 2 Policy DM15 requires all development to be designed to a high standard that protects and promotes both public and residential amenity,

particularly with regard to privacy, overlooking, security, noise and disturbance, and daylight and sunlight.

16.43 The submissions made under this Outline application do not raise any concerns regarding neighbouring amenity. Subsequent Reserved Matters application(s) that include detailed layout and design would need to be assessed in terms of impact on neighbouring amenity (particularly in respect of the neighbouring properties immediately adjacent the site on the northern and southern boundaries).

16.44 Other Matters

All pre-commencement conditions will be subject to agreement with the Developer in accordance with the Town and Country Planning (Pre-commencement Conditions) Regulations 2018.

17.0 Planning Balance and Conclusion

17.1 National policy requires planning to be genuinely plan-led. The proposal is considered to accord with the adopted Local Plan. The National Planning Policy Framework (the Framework) makes it plain that the purpose of the planning system is to contribute to the achievement of sustainable development and identifies three dimensions to sustainable development: economic, social and environmental. In respect of the first of these, the current proposal would provide **economic** benefits, for example in respect of employment during the construction phase, as well as support for existing and future businesses, services, and facilities by introducing additional residents that would make use of them and provide future spend in the local economy.

17.2 The **social** role of sustainable development is described as supporting strong, vibrant and healthy communities by providing the supply of housing required to meet the needs of present and future generations and by creating a high-quality built environment with accessible local services that reflect the community's needs and support its health, social and cultural well-being. The proposal is considered to meet these objectives as it would contribute towards the number of dwellings required to support growth in Colchester, including balanced communities through the delivery of 30% affordable housing, and is located within walking distance of a number of key local services and facilities required for day-to-day living.

17.3 In respect of the third dimension (**environmental**), the proposal will provide housing in a sustainable location so that future residents would not be wholly reliant on private car, being able to walk, cycle or use public transport to access necessary services and facilities, thereby minimising environmental impacts; enhancements to pedestrian/cycle infrastructure form part of the development, as well as improvements to bus stops in the vicinity of the application site which will provide for means of transport other than private car for trips further afield. Ecological enhancements can also be secured as part of the development through enhanced habitats.

17.4 There is also sufficient evidence to be confident that overall, the development would not have a *severe* impact upon the highway network. The planning

application exceeds the number of dwellings allocated in the Local Plan and the development would have an impact on the existing character of the site (i.e., by introducing built development where there is none currently) through a general suburbanising effect on the wider setting, both of which carries some weight against the proposal, but the positive economic and social effects, as well as the sustainability of the proposal would weigh in favour of this scheme as does the significant weight afforded to the supply of new homes in the Framework.

17.5 In conclusion, it is considered that the benefits of the scheme outweigh any adverse impacts and, as such, a recommendation of approval can be put forward, subject to conditions and s106 requirements.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990, within 6 months from the date of the Committee meeting. In the event that the legal agreement is not signed within 6 months, to delegate authority to the Head of Service to refuse the application, or otherwise to be authorised to complete the agreement. Delegated authority to make non-material amendments to planning conditions as necessary. The Permission will also be subject to the following conditions:

1. Time Limit for Outline Permissions Part 1 of 3

No development shall be commenced until plans and particulars of "the reserved matters" referred to in the below conditions relating to the APPEARANCE, LANDSCAPING, LAYOUT AND SCALE have been submitted to and agreed, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

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

2. Time Limit for Outline Permissions Part 2 of 3

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

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

3. Time Limit for Outline Permissions Part 3 of 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.

4. Approved Drawings

The drawings hereby approved as part of this application are Site Location Plan 1112.L.001.

Reason: For the avoidance of doubt as to the scope of this permission.

5. Reserved Matters

Any reserved matters proposals shall demonstrate compliance with the following documents hereby approved:

- TPS Arboricultural Constraints Assessment dated 26th January 2019 and TPS Arboricultural Constraints Assessment for Highway Improvement of A134 dated 26th January 2019
- Section 15 of the Eco-Planning UK Ecological Assessment and Faunal Surveys (Ref 011/19)
- Ardent Flood Risk Assessment and Drainage Strategy (Report Ref: 180890-01) and Ardent Flood Risk Assessment Addendum (Report Ref: 180890-04)
- Landscape Strategy as described in section 8 of the James Blake Associated Landscape and Visual Impact Assessment dated January 2019 (Revised July 2019).

Reason: To ensure that the detailed proposals follow the principles that formed the basis on which the application was submitted, considered, and approved by the Local Planning Authority having had regard to the context of the site and surrounding area.

6. Further information

The following shall be submitted concurrent with the Reserved Matters application(s):

- Statement of Design Principles (to include building forms, building lines, and set-backs; public realm; private spaces; and character areas);
- Ecological Design Scheme
- Full Arboricultural Impact Assessment, Arboricultural Method Statement, and Tree Protection Plan
- Details to demonstrate a 10% uplift in on-site tree canopy cover, based on the James Blake Associates letter ref: JBA 22/441 ECO01a AW REV A.
- Details to demonstrate that all dwellings are sited in Flood Zone 1 only
- Details to demonstrate that 10% of market housing and 95% of affordable housing meet Building Regulations Part M4 Cat 2 (accessible and adaptable) standards, and that a further 5% of affordable housing meet Part M4 Cat 3 (2) (b) (wheelchair user) standards.
- Details of the shared foot/cycle way (including associated arboricultural impact assessment, method statement, and tree protection plan) as shown in principle on drawing 180892-002 Rev G.

Reason: To ensure high standards of urban design and that the development is comprehensively planned in keeping with surrounding context and that there is appropriate mitigation in respect of the natural environment; and in the interests of sustainable development.

7. SUDs

Concurrent with the reserved matters, a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, shall be submitted. The scheme should include but not be limited to:

- Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure and the infiltration testing methods found in chapter 25.3 of The CIRIA SuDS Manual C753.
- Subject to demonstrating that flow matching produces a more conservative solution than a single 1 in 1 year discharge, matching discharge rates to existing calculated 1 in 1 year, 1 in 30 year and 1 in 100 year +45% CC allowance, and providing the appropriate long term storage. All relevant permissions to discharge from the site into any outfall should be demonstrated.
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 45% climate change event,
- Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 45% climate change critical storm event, OR, if impracticable
- Demonstrate that features are able to accommodate a 1 in 10 year storm event within 24 hours of a 1 in 30 year event plus 45% climate change allowance.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented as approved prior to any occupation of the development.

Reason: To ensure that flood risk is not increased elsewhere by development.

8. Limits to Hours of Work

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

Weekdays: 08.00 – 18.00

Saturdays: 08.00 – 13.00

Sundays and Bank Holidays: 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.

9. Action Required in Accordance with Ecological Appraisal Recommendations

All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Revised Ecological Assessment Faunal Surveys (Eco-Planning UK, January 2023) and James Blake Associates letter (ref: JBA 22/441 ECO01a AW Rev A, June 2023) as submitted with the planning application.

This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out in accordance with the approved details.

Reason: To conserve and enhance protected and Priority species and allow the Local Planning Authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and section 40 of the NERC Act 2006 (Priority habitats & species).

10. Electric Charging Points

The development hereby approved shall be provided with at least 1 No. electric vehicle (EV) charging point per dwelling that has dedicated parking and at a rate of at least 10% provision for unallocated parking spaces. The EV charging points shall be installed prior to the first occupation of their respective dwellings.

Reason: In the interests of sustainability and air quality by encouraging the use of ultra-low emission vehicles.

11. Construction Method Statement and Construction Traffic Management Plan

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

the parking of vehicles of site operatives and visitors;

hours of deliveries and hours of work;

loading and unloading of plant and materials;

storage of plant and materials used in constructing the development;

the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;

vehicle/wheel washing facilities (within the site and adjacent to the the egress onto the highway);

measures to control the emission of dust and dirt during construction; and

a scheme for recycling/disposing of waste resulting from construction works.

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

12. Site Waste Management Plan

No works shall take place until a waste management strategy as part of a Site Waste Management Plan has been submitted to and agreed in writing by the Local Planning Authority. The Site Waste Management Plan shall include a site wide approach to:

- Address the key issues associated with sustainable management of waste, throughout the stages of site clearance, design, construction and operation;
- Establish strategic forecasts in relation to expected waste arisings for construction;
- Include waste reduction/recycling/diversion targets and monitoring;
- Advise on how materials are to be managed efficiently and disposed of legally during the construction phase of development, including their segregation and the identification of available capacity across an appropriate study area.

The Site Waste Management Plan shall thereafter be implemented as approved.

Reason: In order to minimise waste and efficient use of natural resources to ensure the protection and enhancement of the natural environment and to achieve sustainable development in the interests of climate change and a low carbon economy.

13. Scheme to Minimise Offsite Flooding during Construction

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

Reason: To ensure that the development does not increase flood risk elsewhere and does not contribute to water pollution as construction may lead to excess water being discharged from the site.

14. SUDs Maintenance and Management

No works shall take place until a Maintenance and Management Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long-term funding arrangements should be provided.

Reason: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk and to ensure that the SUDs are maintained for the lifetime of the development.

15. Flood Resistance/Resilience

No works shall take place until full details of the flood proofing, resilience and resistance techniques to be used in the construction of the residential dwellings hereby approved are submitted to, and approved in writing by, the Local Planning Authority. The approved flood proofing, resilience and resistance techniques shall then be implemented as approved and thereafter retained.

Reason: In the interests of ensuring that the approved development is sufficiently resilient to the effects of flooding.

16. Biodiversity Enhancement Strategy

No works shall take place above ground floor slab level until a Biodiversity Enhancement Strategy for protected and Priority species has been submitted to and approved in writing by the Local Planning Authority. The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures (to include 10% biodiversity net gain in accordance with the James Blake Associates Net Gain Calculation report ref: JBA 22/441 ECO01a AW Rev A, dated 3rd June 2023);
- b) Details designs to achieve stated objectives;
- c) Locations of proposed enhancement measures by appropriate maps and plans;
- d) Persons responsible for implementing the enhancement measures;
- e) Details of initial aftercare and long-term maintenance (where relevant).

The works shall then be implemented in accordance with the approved details prior to occupation of the development and shall be retained in that manner thereafter.

Reason: To conserve and enhance protected and Priority species and allow the Local Planning Authority to discharge its duties under section 40 of the NERC Act 2006 (Priority habitats & species).

17. Used Water Sewerage Network

No works shall take place above damp-proof course level until a scheme for on-site foul water drainage works, including connection point and discharge rate, has been submitted to and approved in writing by the Local Planning Authority. Prior to the occupation of any phase, the foul water drainage works relating to that phase must have been carried out in complete accordance with the approved scheme.

Reason To prevent environmental and amenity problems arising from flooding.

18. Highway Works

No occupation of the development shall take place until the following has been provided or completed:

- a) A vehicular access to the proposal site, being a priority junction off off the A134 Nayland Road as shown in principle on planning application drawing number 180892-002 Rev. G produced by Ardent Consulting Engineers
- b) Upgrade to Essex County Council specification the two bus stops which would best serve the proposal site (details shall be agreed with the Local Planning Authority prior to commencement of the development)
- c) Pedestrian and cycle improvements as shown in principle on planning application drawing number 180892-003 Rev. H and 180892-004 Rev. C produced by Ardent Consulting Engineers
- d) Improvements to aid pedestrians to cross Ivy Lodge Road between the proposal site and Footpath 32 in Great Horkesley (details shall be agreed with the Local Planning Authority prior to commencement of the development)
- e) A travel plan in accordance with Essex County Council guidance (to be submitted to and agreed in writing by the Local Planning Authority)
- f) Residential Travel Information Packs (in accordance with Essex County Council guidance) being provided to first residents.

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.

19. Site Boundary Noise Levels

Prior to first occupation of the development as hereby permitted, a competent person shall have ensured that the rating level of noise emitted from the site's plant, equipment and machinery shall not exceed 0dB(A) above the background levels determined at all facades of [or boundaries near to] noise sensitive premises. The assessment shall have been made in accordance with the current version of British Standard 4142 and confirmation of the findings of the assessment shall have been submitted to, and agreed in writing by, the Local Planning Authority and shall be adhered to thereafter.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue noise emission and/or unacceptable disturbance, as there is insufficient information within the submitted application.

20. Landscape Management Plan

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

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

21. Communal Storage Areas

Prior to the first occupation of any dwellings served by communal storage areas, details of the management company responsible for the maintenance of communal storage areas and for their maintenance of such areas, shall be submitted to, and agreed in writing by, the Local Planning Authority. Such detail as shall have been agreed shall thereafter continue unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

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

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

22. Reporting of Unexpected Contamination

In the event that historic land contamination is found at any time when carrying out works in relation to the development, it must be reported in writing immediately to the Local Planning Authority and all development shall cease immediately. Development shall not re-commence until such times as an investigation and risk assessment has been submitted to and approved in writing by the Local Planning Authority, and where remediation is necessary, a remediation scheme has been submitted to and approved in writing by the Local Planning Authority. Development shall only re-commence thereafter following completion of measures identified in the approved remediation scheme, and the submission to and approval in writing of a verification report. This must be conducted in accordance with all relevant, current, best practice guidance, including the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

Reason: The site lies on or in the vicinity of filled land where there is the possibility of contamination.

19.1 Informatives

19.1 The following informatives are also recommended:

1. Informative on Conditions Stating Prior to Commencement/Occupation

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 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.

2. Informative on Any Application With a Site Notice

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.

3. Anglian Water Informative:

Anglian Water has assets close to or crossing this site or there are assets subject to an adoption agreement. Therefore the site layout should take this into account and accommodate those assets within either prospectively adoptable highways or public open space. If this is not practicable then the sewers will need to be diverted at the developers cost under Section 185 of the Water Industry Act 1991. or, in the case of apparatus under an adoption agreement, liaise with the owners of the apparatus. It should be noted that the diversion works should normally be completed before development can commence.

The development site is within 15 metres of a sewage pumping station. This asset requires access for maintenance and will have sewerage infrastructure leading to it. For practical reasons therefore it cannot be easily relocated. Anglian Water consider that dwellings located within 15 metres of the pumping station would place them at risk of nuisance in the form of noise, odour or the general disruption from maintenance work caused by the normal operation of the pumping station.

The site layout should take this into account and accommodate this infrastructure type through a necessary cordon sanitaire, through public space or highway infrastructure to ensure that no development within 15 metres from the boundary of a sewage pumping station if the development is potentially sensitive to noise or other disturbance or to ensure future amenity issues are not created.

4. Public Sewer Informatives:

(1) Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.

(2) Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.

(3) Protection of existing assets - A public sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers will not be permitted (without agreement) from Anglian Water.

(4) Building near to a public sewer - No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087.

(5) The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under

Sections 104 of the Water Industry Act 1991), they should contact our Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements.

5.NOTE: Demolition and Construction

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

6. Secured by Design

Essex Police would like to see this developer seek to achieve a nationally accredited Secured by Design award in respect of this development.

From experience pre-planning consultation is always preferable in order that crime prevention through environmental design is incorporated into the proposed design to ensure that the security and lighting considerations are met for the benefit of the intended residents and those neighbouring the development, prior to a full planning application.

Essex Police, provide a free, impartial advice service to any applicant who request this service; we are able to support the applicant to achieve the requirements to gain Secured by Design accreditation and would invite the them to contact Essex Police via designingoutcrime@essex.pnn.police.uk

7.Highway Informatives:

- The Highway Authority notes all matters are reserved however the applicant has provided sufficient information to demonstrate an access could be provided to the required highway design standards.
- The above requirements should be imposed by way of negative planning conditions or planning obligation agreements as appropriate.
- In making this recommendation the Highway Authority has treated all planning application drawings relating to the internal layout of the proposal site as illustrative only.
- All residential developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to the Advance Payments Code, Highways Act 1980. The developer will be served with an appropriate notice within 6 weeks of building regulations approval being granted and prior to commencement of the development must provide guaranteed deposits, which will ensure the new street is constructed in accordance with a specification sufficient to ensure future maintenance as highway by the Highway Authority.
- Prior to any works taking place in the highway the developer should enter into an agreement with the Highway Authority under the Highways Act 1980 to regulate the construction of the highway works.
- All or some of the above requirements may attract the need for a commuted sum towards their future maintenance (details should be agreed with the Highway Authority as soon as possible).

- The proposal should be in accordance with the Parking Standards Design and Good Practice Supplementary Planning Document dated September 2009.
- All work within or affecting the highway should be laid out and constructed by prior arrangement with and to the requirements and satisfaction of the Highway Authority, details to be agreed before commencement of the works. An application for the necessary works should be made to development.management@essexhighways.org or SMO1 – Essex Highways, 653, The Crescent, Colchester Business Park, Colchester, CO4 9YQ

8.Landscape Informative:

Detailed landscape proposals, if/when submitted in order to discharge landscape conditions should first be cross-checked against the Council's Landscape Guidance Note LIS/C (this available on this CBC landscape webpage under Landscape Consultancy).

Please note that the landscape details submitted under Reserved Matters shall be in full compliance with the Councils Landscape Guidance Note LIS/C and include:

- Updated Landscape and Visual Appraisal, to include Type 2 photomontaged visualisations with year 1 & 15 mitigation from viewpoints 2, 3, 4, 6, 10 & 11.
- Finished levels or contours, where notable changes are proposed.
- Means of enclosure.
- Car parking layouts and other vehicle and pedestrian access and circulation areas.
- Hard surfacing materials.
- Play areas (1 no. LAP and 1 no. LEAP minimum)
- Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.).
- Proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. Indicating lines, manholes, supports etc.).
- Earthworks (including the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform)
- Retained historic landscape features and any proposals for restoration.
- Planting plans (drainage and building foundation detailing shall take account of the position of the trees as so indicated).
- Written specifications.
- Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.
- Implementation timetables and monitoring programs.

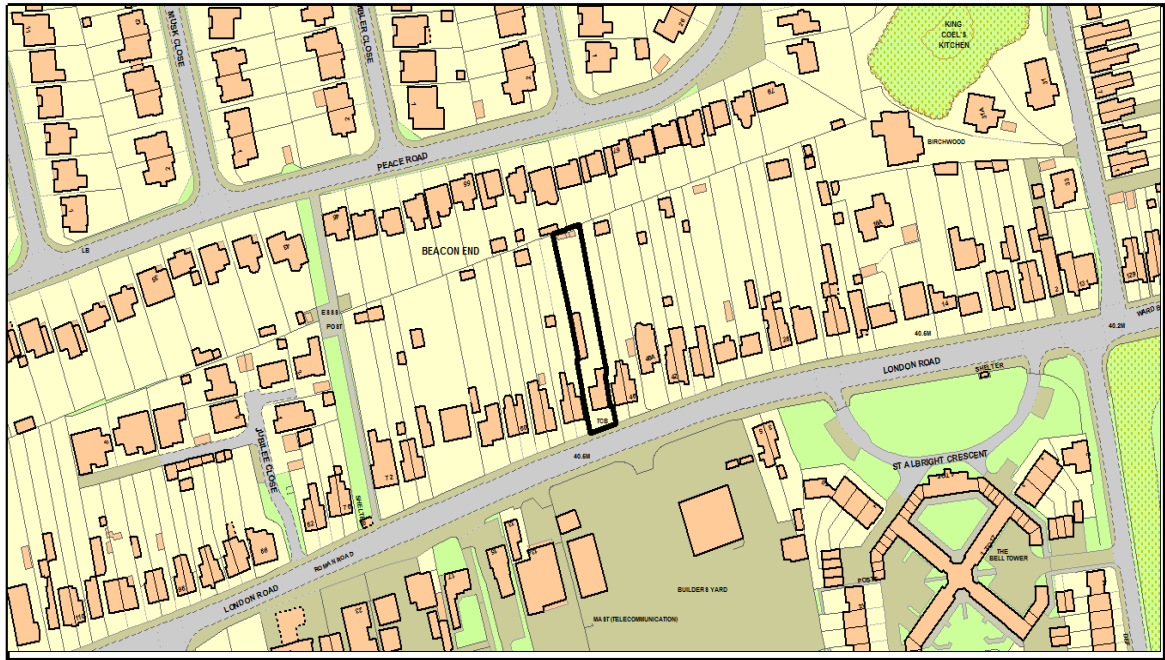
9. Environmental Permit for Flood Risk Activities

The applicant may need an environmental permit for flood risk activities if they want to do work in, under, over or within 8 metres (m) from a fluvial main river and from any flood defence structure or culvert or 16m from a tidal main river and

from any flood defence structure or culvert. The St Botolphs Brook, is designated a 'main river'. Application forms and further information can be found at: <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>. Anyone carrying out these activities without a permit where one is required, is breaking the law.

10. Home Quality Mark

The Developer is encouraged to register the development under the Home Quality Mark (HQM). The HQM has been developed by BRE and enables developers to showcase the quality of their new homes, and identify them as having the added benefits of being likely to need less maintenance, cheaper to run, better located, and more able to cope with the demands of a changing climate. The HQM demonstrates a home's environmental footprint and its resilience to flooding and overheating in a changing climate, highlights the impact of a home on the occupant's health and wellbeing, and evaluates the digital connectivity and performance of the home.



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Item No: 7.2

Application: 232295

Applicant: Mr. Gezim Aliaj

Agent: Ada Group

Proposal: Change of use from Post Office delivery office (sui generis) to cafe (Class E). Installation of an extraction system to the rear elevation. 1st floor 1 bed flat. Additional Parking Plan Received.

Location: 50 London Road, Stanway, Colchester, CO3 0HB

Ward: Stanway

Officer: Chris Harden

Recommendation: Approval

This application was deferred from the Planning Committee of 23.5.24 to enable Committee members to visit the site. Additional conditions suggested at the Committee meeting have been added.

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because it has been called in by Cllr Scott-Boutell who states: "The application states that work has not started but the flue has been installed and appears to be a different design to the plans submitted. Inadequate parking for 5 staff and customers. At best there are 3 spaces at the front of the building. No cycle storage and no disabled bays. There is only one toilet shown on the plan. Is that to be used by clients and staff? There's no disabled toilet shown. Clarification needed on where the foul sewage goes and how is the applicant going to dispose of foul sewage as the application states unknown.

Stairs are shown as going upstairs but no first floor plans have been submitted. What is upstairs? No detail. Is this accessible to the public? Has the use of the first floor changed. What was it and what is intended for future use?

No to the question "Does the proposed development require any materials to be used externally?" The installed flue is external materials and is installed. No detail on how waste will be stored and disposed of, and no plans of storage and disposal of recyclables.

Hours of opening are relevant to the scheme as drawing shows a planned bar. 38 covers are shown on the plan downstairs. No details on plans/use for upstairs as none submitted although plans show stairs. No parking listed for the covers shown. The kitchen and prep area appears too small for the cover area with the bar area of nearly equal size.

There is not enough detail and too much detail is missing for an informed decision to be made. As submitted, and as a retrospective application, it is already having a negative impact on neighbour's amenity and well being."

2.0 Synopsis

2.1 The key issues for consideration are the principle of the proposal for the café and flat and other material planning issues including impact upon neighbouring residential amenity and highway safety.

2.2 The application is subsequently recommended for Approval and the Unilateral Undertaking incorporating community facilities provision and a RAMs wildlife payment has been finalised. The site lies within a sustainable location and is economically beneficial, securing the reuse of a vacant building. It is considered that any impact upon neighbouring residential amenity and highway safety can be mitigated through the use of planning conditions. Adequate parking provision is deemed to be available and the Highway Authority and Environmental Protection have raised no objections subject to detailed conditions.

3.0 Site Description and Context

3.1 The main site lies within the City limits and is the former Post Office delivery office is deemed to be a sui generis use, (i.e. a use that does not fall into any specific category.) There are 2 parking spaces available in front of the Old Post

Office, one for the flat and one for a member of staff/dropping off stock. In addition the forecourt of an MOT garage situated nearby in London Road, number 29, on the opposite side of the road is included in an additional red line site area and this would provide around 10 customer parking spaces to serve the café when it is open under a 10 year lease. There is a pedestrian crossing in front of this forecourt. A copy of the Sub-Tenancy Agreement for the parking with a duration: from 1st May 2024 to 1st May 2034 has been submitted.

4.0 Description of the Proposal

4.1 The proposal is for the change of use of the former Post Office delivery office (sui generis) to a café (Use Class E). The conversion works have already commenced. The proposal also includes the installation of an extraction system to the rear elevation. The first floor is proposed to be used as a 1 bed flat. An additional parking area for customer parking on the forecourt of a nearby MOT garage is also proposed.

5.0 Land Use Allocation

5.1 Former Post Office delivery office and MOT garage.

6.0 Relevant Planning History

6.1 94/1375
07/11/1994 - Full
Extension to post office sorting office
Approve Conditional - 05/01/1995

76/1324
Full
Enlargement of front shop window.
Approve Conditional - 13/12/1976

79/0843
Full
Demolition of garage and conservatory and erection of garage/sorting office and two storey rear extension.
Approve Conditional - 25/06/1979

7.0 Principal Policies

7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of two sections as follows below.

7.2 Local Plan 2017-2033 Section 1

The shared Section 1 of the Colchester Local Plan covers strategic matters with cross-boundary impacts in North Essex. This includes a strategic vision and policy for Colchester. The Section 1 Local Plan was adopted on 1

February 2021. The following policies are considered to be relevant in this case:

- SP1 Presumption in Favour of Sustainable Development
- SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
- SP3 Spatial Strategy for North Essex
- SP4 Meeting Housing Needs
- SP5 Employment
- SP6 Infrastructure & Connectivity
- SP7 Place Shaping Principles

7.3 Local Plan 2017-2033 Section 2

Section 2 of the Colchester Local Plan was adopted in July 2022. The following policies are of relevance to the determination of the current application:

SG1 Colchester's Spatial Strategy
SG2 Housing Delivery
SG3 Economic Growth Provision
SG4 Local Economic Areas
SG5 Centre Hierarchy
SG6 Town Centre Uses
SG6a Local Centres
SG7 Infrastructure Delivery and Impact Mitigation
SG8 Neighbourhood Plan
ENV1 Environment
ENV3 Green Infrastructure
ENV5 Pollution and Contaminated Land
CC1 Climate Change
PP1 Generic Infrastructure and Mitigation Requirements
TC1 Town Centre Policy and Hierarchy
TC2 Retail Frontages
TC4 Transport in Colchester Town centre
NC4 Transport in North Colchester
DM1 Health and Wellbeing
DM2 Community Facilities
DM3 Education Provision
DM4 Sports Provision
DM9 Development Density
DM10 Housing Diversity
DM12 Housing Standards
DM13 Domestic Development
DM15 Design and Amenity
DM16 Historic Environment
DM17 Retention of Open Space
DM18 Provision of Open Space and Recreation Facilities
DM19 Private Amenity Space
DM20 Promoting Sustainable Transport and Changing Travel Behaviour
DM21 Sustainable Access to development
DM22 Parking

DM23 Flood Risk and Water Management
DM24 Sustainable Urban Drainage Systems

- 7.5 Some “allocated sites” also have specific policies applicable to them. The adopted local plan policies set out below are of direct relevance to the decision making process:

N/A

- 7.6 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):
- The Essex Design Guide
 - External Materials in New Developments
 - EPOA Vehicle Parking Standards
 - Community Facilities
 - Open Space, Sport and Recreation
 - Sustainable Construction
 - Shopfront Design Guide
 - Cycling Delivery Strategy
 - Urban Place Supplement
 - Sustainable Drainage Systems Design Guide
 - Street Services Delivery Strategy
 - Stanway Joint Design Statement and Parish Plan

7.7 5 Year Housing Land Supply

Section 1 of the Colchester Local Plan 2017-2033 was adopted by the Council on the 1 February 2021, with Section 2 being adopted in July 2022. The complete Local Plan carries full statutory weight as the development plan.

Section 1 includes strategic policies covering housing and employment, as well as infrastructure, place shaping and the allocation of a Garden Community. Policy SP4 sets out the annual housing requirement, which for Colchester is 920 units. This equates to a minimum housing requirement across the plan period to 2033 of 18,400 new homes.

The Tendring Colchester Borders Garden Community is allocated in Section 1, all other site allocations are made within Section 2 of the Plan. Within Section 2 the Council has allocated adequate sites to deliver against the requirements set out in the strategic policy within the adopted Section 1. All allocated sites are considered to be deliverable and developable.

In addition, and in accordance with the NPPF, the Council maintains a sufficient supply of deliverable sites to provide for at least five years’ worth of housing, plus an appropriate buffer and will work proactively with applicants to bring forward sites that accord with the overall spatial strategy. The Council has consistently delivered against its requirements that has been demonstrated through the Housing Delivery Test. It is therefore appropriate to add a 5% buffer to the 5-year requirement. This results in a 5-year target of 4,830 dwellings (5 x 920 + 5%).

The Council’s latest published Housing Land Supply Annual Position Statement (2023) represents the current housing land supply position as of 1st April 2023.

The Position Statement demonstrates a housing supply of 4,996 dwellings which equates to 5.17 years based on an annual target of 920 dwellings (966 dwellings with 5% buffer applied). This relates to the monitoring period 1st April 2023 to 31st March 2028.

8. Five Year Supply Calculation

8.1 The table below illustrates the 5-year supply calculation for the district during the period between 2022/2023 through to 2026/2027.

Housing Need OAHN	
Annualised objectively assessed housing need (OAHN)	920
5 year housing requirement (5x920)	4600
5 year housing requirement and 5% buffer	4830
Supply	
Permissioned sites, existing allocations and windfall allowance	5074
Total number of years' worth of housing supply including emerging allocations	
Supply against OAN with permissioned sites, existing allocations and windfall	5.25

8.2 The calculation above demonstrates that the Council has a sufficient supply of deliverable housing to meet the 5-year requirement. A total of 5.25 years is deliverable within this period.

Given the above, it is therefore considered that the Council can demonstrate a five-year housing land supply.

8.0 Consultations

8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.

8.2 Highway Authority: 30.4.24

“Having reviewed the submitted information, I confirm from a highway and transportation perspective the Highway Authority has no further comments to make on the proposal, from our previous response dated 10th April 2024.

Note: The proposal is in accordance with the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.”

10.4.24:

“Thank you for your re-consultation on the above planning application which includes a revised parking plan. It is noted that vehicle parking for the proposed development is now shown to be remote from the site and utilises an existing forecourt requiring customers to walk approximately 135 metres via the existing zebra crossing and footway in London Road. I understand the previously proposed parking arrangement to the rear of the site is not acceptable to the Local Planning Authority.

London Road is a Main Distributor route with parking restrictions in the form of double yellow lines (No Waiting at Any Time) for most of its length. Any parking associated with the development, as is the case with other existing businesses in the area, is therefore not permitted on this route.

Were it not possible to secure the proposed remote parking area via a planning permission, there are potential opportunities for vehicles to park in roads off London Road in the vicinity of the proposal site and were this to occur it would be unlikely to be detrimental to highway capacity and safety. For non-residential land uses, the current parking standards require vehicle parking provision as a maximum, to encourage and with the expectation that some trips will be made via more sustainable travel modes, such as walking, cycling and public transport. The standards also confirm that a lower provision of vehicle parking may be appropriate in urban areas where good access to alternative forms of transport exist. Given the nature of the proposal and its location, it would seem reasonable to assume that it would attract customers from the local area, and they could walk to cycle to the proposal site.

If it is possible to secure the proposed remote parking area via a planning permission, this would be beneficial but if not given the above comments, I remain content the proposal would not be detrimental to highway capacity or safety.

Further to our initial objection to the planning application, we have given the proposal further careful consideration and do not consider our objection could be sustained were planning permission to be refused and an appeal lodged. To act unreasonably could risk costs being awarded against the Local Planning Authority and Highway Authority.

Therefore, having taken the above comments into account, from a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to the following requirements:

1. Cycle parking shall be provided onsite in accordance with current parking standards. The cycle parking shall be secure, convenient, covered and provided prior to occupation and retained at all times Reason: To encourage use of sustainable transport in accordance with Policy DM8 of the Highway Authority’s Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.
2. Areas within the curtilage of the site shall be allocated for the purpose of the safe reception and storage of building materials prior to the commencement of further development. Reason: In order to protect

highway efficiency of movement and safety in accordance with policy DM1 of the Highway Authority's Development Management Policies as adopted as County Council Supplementary Guidance in February 2011."

8.3 Environmental Protection:

Should planning permission be granted Environmental Protection wish to make the following comments:-

The premises is located adjacent to and just a few metres from residential properties and has the potential to adversely impact the amenity from odour and noise as there is often a residual odour in close proximity to such premises regardless of the odour abatement equipment installed.

With use restricted to café only (not takeaway), restricted hours and the high spec. odour control submitted I don't think we'd have sufficient grounds to refuse and win a subsequent appeal.

If permission is granted, we recommend the following conditions:

Use shall be restricted to a café only and no takeaway.

ZGA - *Restriction of Hours of Operation*

The use hereby permitted shall not OPERATE/BE OPEN TO CUSTOMERS outside of the following times:

Weekdays: 08:00-18:00

Saturdays: 08:00-18:00

Sundays and Public Holidays: No operation.

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, as there is insufficient information within the submitted application, and for the avoidance of doubt as to the scope of this permission.

ZGB - *Restricted Hours of Delivery* & waste collection.

No deliveries shall be received at, or despatched from, the site outside of the following times:

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Public Holidays: No deliveries.

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, as there is insufficient information within the submitted application, and for the avoidance of doubt as to the scope of this permission.

ZGF - Self-Closing Doors

Prior to the first use or occupation of the development hereby permitted, all doors allowing access and egress to the premises shall be self-closing and shall be maintained as such, and kept free from obstruction, at all times thereafter.

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 and odour including from people entering or leaving the site, as there is insufficient information within the submitted application, and for the avoidance of doubt as to the scope of this permission.

ZGG - Site Boundary Noise Levels

Prior to the first use or occupation of the development as hereby permitted, a competent person shall have ensured that the rating level of noise emitted from the site's plant, equipment and machinery shall not exceed -5dB(A) above the background levels determined at all facades of noise-sensitive premises. The assessment shall have been made in accordance with the current version of British Standard 4142 and confirmation of the findings of the assessment shall have been submitted to, and agreed in writing by, the Local Planning Authority and shall be adhered to thereafter.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue noise emission and/or unacceptable disturbance, as there is insufficient information within the submitted application.

ZGO - Food Premises (Control of Fumes and Odours)

Prior to the first use of the development hereby permitted, control measures shall be installed in accordance with a scheme for the control of fumes, smells and odours that shall have been previously submitted to, and agreed in writing by, the Local Planning Authority. This scheme shall be in accordance with Colchester City Council's Guidance Note for Odour Extraction and Control Systems and current EMAQ guidance. The scheme shall include the components specified in the submitted Purified Air report, the duct terminal height above eaves and terminal discharge velocity. It shall also include a maintenance schedule in accordance with manufacturer's specifications. 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.

ZHA - Grease Traps Required

Prior to the first use of the development hereby permitted, any foul water drains serving the kitchen shall be fitted with grease traps that shall at all times thereafter be retained and maintained in good working order in accordance with the manufacturer's instructions.

Reason: To prevent unnecessary pollution of the groundwater environment quality in the area and/or blocking of the drainage system.

ZPD - Limits to Hours of Work

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

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No operation.

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.

ZCE - Refuse and Recycling Facilities

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

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

ZGE - Restriction of Amplified Music

Amplified music shall be restricted to low background levels only.

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 and disturbance from amplified noise, as there is insufficient information within the submitted application.

Contaminated Land officer:

There does not appear to be any changes to the footprint of the building. However the applicant is reminded of their duties under the Control of Asbestos Regulations 2012. It is recommended if internal alterations are to be made, an asbestos survey is undertaken prior to these works.

9.0 Parish Council Response

9.1 The Stanway Parish Council OBJECTS to this proposal as per the 3 previous objections.

Stanway Parish Council OBJECTS to this proposal and strongly supports the Call-In comments made by City Councillor L Scott-Boutell as well as the numerous objections raised by residents as well as the one made by Highways.

There is inadequate staff and customer parking with only 3 spaces being shown, plus no designated disabled parking or cycle stands. There is only one toilet for both staff and customers and no disabled toilet facilities but there is seating for 38 customers. The use of the upstairs area has not been explained.

The application is retrospective, and the information supplied is insufficient to make an informed decision.

10.0 Representations from Notified Parties

10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. The full text of all of the representations received is available to view on the Council's website. However, a summary of the material considerations is given below.

18 letters of objection have been received which raise concern about the following points:

- In a residential area with private properties immediately adjacent to the site.
- Concerns regarding possible noise, odours from commercial use, footfall and associated parking facilities.
- Has it been ascertained what type of food to be cooked?
- Works have commenced ahead of planning application, in particular the kitchen extract has been poorly installed. It is clearly not vertical and creates eyesore.
- Extract fan is also not the same as the drawing.
- Other works already been undertaken with little consideration given to quality, detail or health and safety.
- No attempt made to liaise with local residents.
- The proposed seating arrangement looks to be in excess of the kitchen and WC facilities and inclusion of a bar area suggests late opening.
- Have suspicions regarding the future purpose and suggest scheme is objectionable.
- No plans for waste collection.
- No plans for any vehicle parking. Double yellow lines. Increased traffic congestion. Highway and pedestrian safety issues. Where will resident park?
- Suspect café vehicles will park on pavements and across driveways.
- No idea of opening times.
- Garden surface scraped away. All trees removed.
- Outbuilding has new window and door fitted for intended Barber's use.

- Inadequate toilets.
- Effect on public health and obesity due to the proliferation of too many food outlets.
- Food waste and litter from the business and vegetation will attract foraging animals and pest species.
- No privacy for ourselves and other residents.
- Risk of flooding – There are no suitable plans for surface water and if the rear is changed into a car park.
- No parking for barbers. No disabled parking.
- Currently people living in flat above.
- Location of delivery zone is another concern- how will a lorry or van be able to safely unload.
- A previous owner had planning permission for two dwellings in the garden denied on the grounds of unsuitable access and egress.
- Paving already laid for parking.
- Proposed hours are unacceptable.
- Correct times for the businesses mentioned in the statement operating on the opposite side of London Road are as follows:
Builders Merchants - CLOSE AT 5pm Saturday 8am – 12 (mid-day)
Sunday CLOSED
Tool Hire Merchants – CLOSE AT 5pm Saturday 8am – 12 (mid-day)
Sunday CLOSED
Garden Centre – OPENS 9am CLOSED WEDNESDAY.
- Garage only converted into sorting office towards the end of the Post Offices tenure.
- Previous post office operation only occupied the plot of number 50 London Rd.
- Fail to see how some timber screen partially covering bottom half of flue will improve look.
- Staff will need to arrive before opening and staff staying to close up the businesses.
- Works are continuing without any planning permission.
- Customers are not going to walk across the road and down, quite some distance, to use a cafe.
- Pedestrian Crossing is regularly ignored by traffic and there have been numerous near misses without additional footfall.
- Garage used on a daily and regular basis whereby front access is required for access into the working bays.
- Having proposed car park for up to 12 vehicles will hinder the day to day movements for the working garage.
- Believe someone living in outbuilding.
- Plot should not be a business.

11.0 Parking Provision

11.1 2 on the site of the Old Post Office plus additional 10 parking spaces at 29 Old London Road (Garage).

12.0 Accessibility

12.1 The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. The proposed development does not raise any issues of discrimination; the site is accessible by a number of modes of transport (cycle, wheelchair, foot). Building Regulations will need to be complied with in terms of access into café.

13.0 Open Space Provisions

13.1 N/A

14.0 Air Quality

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

15.0 Planning Obligations

15.1 This application is not classed as a “Major” application and therefore there was no requirement for it to be considered by the Development Team. It is considered that Planning contributions for RAMs and community/leisure facilities should be sought via Section 106 (s.106) of the Town and Country Planning Act 1990 under a Unilateral Undertaking.

16.0 Report

Principle:

16.1 In terms of the principle of the development the site lies within the settlement limits and was formerly in a commercial use. Local Plan policies SP5 and SG3 aim to encourage and retain economic uses. The NPPF has similar provisions. Accordingly, there is general support for economic development including this proposed cafe, particularly in a sustainable location such as this site.

16.2 With regard to the principle of the first floor flat, as the site lies within the City settlement limits, the creation of new residential units should be judged on the planning merits in accordance with settlement policies SP1, SP3, SP4 which aim to steer such development to the most sustainable locations such as this site. Settlement policies and the NPPF indicate a presumption in favour of sustainable development.

16.3 Accordingly the proposals for the café and flat should be judged on their planning merits, including impact upon neighbouring residential amenity and highway safety.

Impact on Residential Amenity and Visual Impact:

16.4 With regard to potential impact upon neighbouring residential amenity, careful consideration needs to be given to any potential impacts relating to issues such as noise, disturbance and odour. Local Plan policy DM15 provides that all development should protect public and residential amenity particularly with regard to privacy, noise and disturbance and pollution (including light and odour pollution.)

16.5 Environmental Protection have raised no objections and have suggested a number of detailed conditions. It should be noted that the flue installed differs from the details initially submitted so a revised drawing and technical details have been submitted and it will be the flue that is installed that the applicant proposes to use. Environmental Protection have confirmed no objections to the installed flue, but the detailed conditions will be applied to cover noise and odour controls. The flue itself is considered visually acceptable. Whilst it is not an attractive feature, it is positioned on the rear of the building and is not prominent in the public realm so there is no impact of significance on the street scene. A condition can also be applied to help screen the flue, potentially with lightweight brick slips for example.

16.6 Given the nature of the proposal (i.e, Café) and its location close to residential properties the conditions recommended by Environmental Protection cover the following:

- Commercial use restricted to café only (not takeaway).
- Restriction of hours of operation to : Weekdays: 08:00-18:00, Saturdays: 08:00-18:00, Sundays and Public Holidays: No operation.
- ZGB - *Restricted Hours of Delivery* & waste collection.
- No deliveries shall be received at, or despatched from, the site outside of the following times:
Weekdays: 08:00-18:00
Saturdays: 08:00-13:00
Sundays and Public Holidays: No deliveries.
- Self-Closing Doors
- Site Boundary Noise Levels
- Food Premises (Control of Fumes and Odours)
- Grease Traps
- Limits to Hours of Work i.e.:
No demolition or construction work shall take outside of the following times;
Weekdays: 08:00-18:00
Saturdays: 08:00-13:00
Sundays and Bank Holidays: No operation.
- Refuse and Recycling Facilities
- Restriction of Amplified Music

16.7 Subject to the above conditions, it is therefore considered that there would not be any significant or unacceptable impact upon neighbouring residential amenity from noise, disturbance and odours. Local Plan policy DM15 would therefore be complied with in this respect.

16.8 It is not considered there would be any additional overlooking from the premises, including from the residential use as the building exists and there are no additional first floor openings proposed. Whilst some vegetation has been removed from the rear of the site, this would not justify a refusal on overlooking grounds. The proposal therefore does not conflict with Policy DM15 in this respect.

Access, Parking and Highway Safety:

- 16.9 Local Plan Policy DM22 covers the provision of parking and refers to the adopted County Council parking standards. These are maximum standards for commercial uses. Policy DM15 states that all development should create a safe environment and Policy DM21 provides that all development should be safely accessible. With regard to parking provision, two spaces are provided in front of the former Post Office, one to serve the one bedroom flat and one for café staff/stock delivery. There are also approximately 10 spaces to be made available under a 10 year lease at number 29 on the opposite side of the road approximately 135 metres along the street to the west. The adopted parking standards state that one space should be provided for a one-bedroom flat and there are only maximum standards for parking provision for a Café.
- 16.10 Parking provision on site therefore meets the adopted standard for the one-bedroom flat. The Highway Authority have raised no objection to overall parking provision, including for the Café. The Highway Authority concludes that there are double yellow lines on London Road which prevents waiting at any times and, even if parking could not be provided on the garage forecourt, “there are potential opportunities for vehicles to park in roads off London Road in the vicinity of the proposal site and were this to occur it would be unlikely to be detrimental to highway capacity and safety.”
- 16.11 As emphasised by the Highway Authority, for non-residential land uses, the current parking standards require vehicle parking provision for a Cafe as a maximum, to encourage and with the expectation that some trips will be made via more sustainable travel modes, such as walking, cycling and public transport. The standards also confirm that a lower provision of vehicle parking may be appropriate in urban areas such as this site where good access to alternative forms of transport exist. The Highway Authority concludes “Given the nature of the proposal and its location, it would seem reasonable to assume that it would attract customers from the local area, and they could walk to cycle to the proposal site. If it is possible to secure the proposed remote parking area via a planning permission, this would be beneficial but if not, given the above comments, I remain content the proposal would not be detrimental to highway capacity or safety.”
- 16.12 Accordingly it is considered that two on site spaces plus the 10 spaces available on the garage forecourt (for a minimum of 10 years on the forecourt), is an acceptable level of parking provision. Even if the garage forecourt was not available, it is not considered the proposal should be refused on parking provision grounds for the above reasons. Given that the Highway Authority has not raised an objection, that this is a sustainable location and has good access to public transport, it is therefore considered an adequate level of parking provision would be provided for the one-bedroom flat and café.
- 16.13 Overall, it is not considered the proposal conflicts with Paragraph 115 of the NPPF which confirms development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. It is not

considered the impact upon the road network would be severe. Accordingly it is considered the proposal accords with Local Plan Policies DM21,DM22 and DM15.

16.14 There would be room to provide cycle parking within the site.

Amenity space:

16.15 As a one bedroom flat, Local Plan Policy DM19 provides that a minimum of 50 sqm of private amenity space. This is achievable on site and can be conditioned.

European Designated Sites/RAMs:

16.16 Under the Conservation of Habitats and Species Regulations 2017 (commonly referred to as the Habitat Regulations) a Habitat Regulations Assessment (HRA) is required for land use plans and for planning applications, which are likely to have significant effects on a Habitat Site, including a new residential unit. An HRA has been undertaken for the flat. This stance is reflected in policy SP2 of the adopted local plan.

16.17 It is anticipated that, without mitigation, new residential development in this area could have a significant effect on the sensitive interest features of these European designated sites, through increased recreational pressure, particularly when considered 'in combination' with other plans and projects. Accordingly, a RAMs payment is required and this is included in a Unilateral Undertaking which has been finalised.

UU Contributions

16.18 A Unilateral Undertaking is also required to secure community and leisure provisions which would be triggered by the grant of planning permission for the one-bedroom flat. This has been finalised.

Trees and Vegetation:

16.19 No trees or vegetation of significance would be affected by the proposal itself. The proposal will therefore not conflict with Policy DM15 which provides that development should integrate positively with arboricultural assets. Whilst some vegetation has been removed from within the curtilage to the rear, this could be done without any permission.

Wildlife Impact:

16.20 There would be no wildlife impact from the proposal itself so the proposal therefore does not conflict with Policy ENV1 which cover impacts upon wildlife.

Other:

16.21 Objectors have made reference to the garage being potentially converted into a Barbers shop. However, this is not part of this planning application and if a

Barbers is proposed, this would require the submission of a further planning application for assessment. If a Barber's is opened without planning permission then the Council has an Enforcement Team that can address the issue.

16.22 Objector's have raised the issue about a lack of toilet facilities. However, this would be a Building Regulation issue rather than planning.

16.23 It is not considered there are any surface water drainage issues. (Policy DM23).

17.0 Planning Balance and Conclusion

17.1 The National Planning Policy Framework (NPPF) makes it clear that the purpose of the planning system is to contribute to the achievement of sustainable development and identifies three dimensions to sustainable development: economic, social and environmental. In this respect the site lies within a sustainable location and is economically beneficial, with a reuse of a vacant building. It is considered any impact upon neighbouring residential amenity and highway safety can be effectively mitigated through planning conditions. Accordingly, the planning balance weighs in favour of the proposal.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1. ZAM Development In Accordance with Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers: Ground floor plan only Rec'd 13.10.23, Location of parking plan Rec'd 18.4.24, Extractor fan Rec'd 18.4.24, Parking off-site 21.3.24, Block Plan and Sites Plan Rec'd 9.5.24, 100A first floor Rec'd 26.1.24.

Reason: For the avoidance of doubt and to ensure that the proposed development is carried out as approved.

2. Z00- Restriction of Use.

The use of the ground floor hereby approved shall be restricted to a café only (as defined in Class E of the Use Classes Order 2015) and there shall be no takeaway activity

Reason: In the interests of residential amenity.

3. ZGA - *Restriction of Hours of Operation*

The use hereby permitted shall not OPERATE/BE OPEN TO CUSTOMERS outside of the following times:

Weekdays: 08:00-18:00

Saturdays: 08:00-18:00

Sundays and Public Holidays: No operation.

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, as there is insufficient information within the submitted application, and for the avoidance of doubt as to the scope of this permission.

4. ZGB - *Restricted Hours of Delivery* & waste collection.

No deliveries shall be received at, or despatched from, the site outside of the following times:

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Public Holidays: No deliveries.

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, as there is insufficient information within the submitted application, and for the avoidance of doubt as to the scope of this permission.

5. ZGF - Self-Closing Doors Prior to the first use or occupation of the development hereby permitted, all doors allowing access and egress to the premises shall be self-closing and shall be maintained as such, and kept free from obstruction, at all times thereafter.

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 and odour including from people entering or leaving the site, as there is insufficient information within the submitted application, and for the avoidance of doubt as to the scope of this permission.

6. ZGG - Site Boundary Noise Levels

Prior to the first use or occupation of the development as hereby permitted, a competent person shall have ensured that the rating level of noise emitted from the site's plant, equipment and machinery shall not exceed -5dB(A) above the background levels determined at all facades of noise-sensitive premises. The assessment shall have been made in accordance with the current version of British Standard 4142 and confirmation of the findings of the assessment shall have been submitted to, and agreed in writing by, the Local Planning Authority and shall be adhered to thereafter.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue noise emission and/or

unacceptable disturbance, as there is insufficient information within the submitted application.

7. ZGO - Food Premises (Control of Fumes and Odours)

Prior to the first use of the development hereby permitted, control measures shall be installed in accordance with a scheme for the control of fumes, smells and odours that shall have been previously submitted to, and agreed in writing by, the Local Planning Authority. This scheme shall be in accordance with Colchester City Council's Guidance Note for Odour Extraction and Control Systems and current EMAQ guidance. The scheme shall include the components specified in the submitted Purified Air report, the duct terminal height above eaves and terminal discharge velocity. It shall also include a maintenance schedule in accordance with manufacturer's specifications. 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.

8. ZHA - Grease Traps Required

Prior to the first use of the development hereby permitted, any foul water drains serving the kitchen shall be fitted with grease traps that shall at all times thereafter be retained and maintained in good working order in accordance with the manufacturer's instructions.

Reason: To prevent unnecessary pollution of the groundwater environment quality in the area and/or blocking of the drainage system.

9. ZPD - Limits to Hours of Work

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

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No operation.

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

10. ZCE - Refuse and Recycling Facilities

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

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

11. ZGE - Restriction of Amplified Music

Amplified music shall be restricted to low background levels only.

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 and disturbance from amplified noise, as there is insufficient information within the submitted application.

12. Z00- Cycle Parking

Cycle parking shall be provided on site in accordance with current parking standards. The cycle parking shall be secure, convenient, covered and provided prior to occupation and retained at all times.

Reason: To encourage use of sustainable transport.

13. Z00 – Building Materials

Areas within the curtilage of the site for the purpose of reception and storage of Building materials shall be provided clear of highway.

Reason: To protect highway efficiency of movement and safety.

14. Z00 – Parking Provision

Prior to the first occupation of the development hereby permitted, the parking spaces in front of 50 London Road and 29 London Road as shown in the approved drawings shall have been laid out within the site in accordance with the approved drawings. The spaces in front of the 50 London Road shall thereafter be maintained free from obstruction and available for parking use at all times and the spaces at 29 London Road shall be available for parking in association with the Café whilst the Café is open to customers and for a minimum of 10 years from 1.5.24.

Reason: To ensure that there is satisfactory parking provision at the site at the time when the development becomes occupied.

15. Z00 – No Parking

There shall be no vehicular parking or manoeuvring to the rear of No.50 in association with the approved uses.

Reason: In the interests of neighbouring residential amenity and for the avoidance of doubt as to what has been considered and approved.

16. Z00 – Private Amenity Space

Within two months of the date of this approval, precise details of the area to be provided for private amenity space to serve the first floor flat shall be submitted to and agreed in writing by the Local Planning Authority. The approved area shall be provided within two months of its approval and shall thereafter be retained as such.

Reason: To ensure the adequate private amenity space in the interests of residential amenity.

17. Z00 – No External Café Use

There shall be no use of the outdoor area to the rear of the premises by Café customers. This area shall solely be used as private amenity space ancillary to the residential flat hereby approved.

Reason: In the interests of neighbouring residential amenity and for the avoidance of doubt as to what has been considered and approved.

18.Z00 – Flue mitigation

Prior to first use of the Café hereby approved, precise details of a scheme of works to mitigate the visual impact of the flue installed on the rear of the premises shall be submitted to and agreed in writing by the Local Planning Authority. The approved scheme of mitigation works shall be installed prior to first use of the Café and thereafter retained as such.

Reason: In the interests of the visual amenity of the area.

19.Z00 – Directional Signage

Prior to first use of the Café hereby approved, precise details of signage to direct customers to parking provision at the garage at No.29 London Rd shall be submitted to and agreed in writing by the Local Planning Authority. The approved signage shall be installed prior to first use of the Café and thereafter retained as such (whilst the lease is in place).

Reason: In the interests of directing customers to parking provision for the Café to ensure that there is satisfactory parking provision.

19.1 Informatives

19.1 The following informatives are also recommended:

The applicant is reminded of their duties under the Control of Asbestos Regulations 2012. It is recommended if internal alterations are to be made, an asbestos survey is undertaken prior to these works.

The applicant is advised that Building Regulations will need to be complied with including adequate provision of toilet facilities.

The applicant should note that Advertisement Consent may be required for any proposed advertisements on the premises. Any advertisements should be in keeping with and sympathetic to the character of the building.

WA2 Positivity Statement

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

ZT0 – Advisory Note on Construction & Demolition

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.

Material Planning Considerations

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

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

The following approach should be taken in all planning decisions:

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

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

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

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

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

The above list is not exhaustive

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

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

- matters specifically controlled through other legislation

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

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

Planning Obligations

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

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

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

Human Rights, Community Safety and Equality and Diversity Implications

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

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

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

Using Planning Conditions or Refusing Planning Applications

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

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

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

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

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

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

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

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



Colchester Borough Council Development Management

Highway Safety Issues

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

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

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

Parking Standards

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

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

For residential schemes:

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

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



Colchester Borough Council Environmental Control

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

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

Best Practice for Construction Sites

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

Noise Control

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

Emission Control

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

Best Practice for Demolition Sites

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

Noise Control

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

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

Emission Control

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

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

Class A1. Shops

Use for all or any of the following purposes—

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

Class A2. Financial and professional services

Use for the provision of —

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

Class A3. Restaurants and cafes

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

Class A4. Drinking establishments

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

Class A5. Hot food takeaways

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

Class B1. Business

Use for all or any of the following purposes—

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

Class B2. General industrial

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

Class B8. Storage or distribution

Use for storage or as a distribution centre.

Class C1. Hotels

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

Class C2. Residential institutions

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

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

Class C2A. Secure residential institutions

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

Class C3. Dwellinghouses

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

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

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

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

Class C4. Houses in multiple occupation

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

Class D1. Non-residential institutions

Any use not including a residential use —

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

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

(c) for the provision of education,

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

(e) as a museum,

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

(g) as a public hall or exhibition hall,

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

Class D2. Assembly and leisure

Use as —

(a) a cinema,

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

(d) a dance hall,

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

Sui Generis Uses

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

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

Interpretation of Class C3

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

Interpretation of Class C4

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

Supreme Court Decision 16 October 2017

CPRE Kent (Respondent) v China Gateway International Limited (Appellant).

This decision affects the Planning Committee process and needs to be acknowledged for future reference when making decisions to approve permission contrary to the officer recommendations.

For formal recording in the minutes of the meeting, when the Committee comes to a decision contrary to the officer recommendation, the Committee must specify:

- Full reasons for concluding its view,
- The various issues considered,
- The weight given to each factor and
- The logic for reaching the conclusion.

Deferral and Recommendation Overturn Procedure (DROP) Flowchart

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

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

