



Colchester
City Council

Planning Committee Meeting

**Grand Jury Room, Town Hall, High Street,
Colchester, CO1 1PJ
Thursday, 11 July 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>.

Audio Recording, Streaming, Mobile phones and other devices

The Council audio records and streams public meetings for live broadcast over the internet and the recordings are available to listen to afterwards on the Council's website. Audio recording, photography and filming of meetings by members of the public is also welcomed. Phones, tablets, laptops, cameras and other devices can be used at all meetings of the Council so long as this doesn't cause a disturbance. It is not permitted to use voice or camera flash functions and devices must be set to silent. Councillors can use devices to receive messages, to access meeting papers and information via the internet. Looking at or posting on social media by Committee members is at the discretion of the Chair / Mayor who may choose to require all devices to be switched off at any time.

Access

There is wheelchair access to the Town Hall from St Runwald Street. There is an induction loop in all the meeting rooms. If you need help with reading or understanding this document please take it to the Library and Community Hub, Colchester Central Library, using the contact details below and we will try to provide a reading service, translation or other formats you may need.

Security Procedures

It is a condition of entry that members of the public are searched on arrival. This is conducted by a member of the Council Hall Keeping team. This may include a search of your person and bags with an electronic device or by hand. Please inform the Hall Keeping Team if you have a health condition. The team will always include a female member. The team are Security Industry Authority trained and the searches are conducted in line with the relevant regulations. Please note that placards, large bags, umbrellas, food and items that might disturb the meeting must be left in reception for collection on exit.

Facilities

Toilets with lift access, if required, are on each floor of the Town Hall. A water dispenser is available on the first floor.

Evacuation Procedures

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

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e-mail: democratic.services@colchester.gov.uk
www.colchester.gov.uk

COLCHESTER CITY COUNCIL Planning Committee Thursday, 11 July 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 Chair 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

The Councillors will be invited to confirm that the minutes of the meeting held on 22 May 2024, 23 May 2024 and 13 June 2024 are a correct record.

2024-05-22 CCC Planning Committee Minutes	7 - 8
2024-05-23 CCC Planning Committee Minutes	9 - 16
2024-06-13 CCC Planning Committee Minutes	17 - 20

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 232295 50 London Road, Stanway, Colchester, CO3 0HB 21 - 44

Application for 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).

Planning Committee Information Pages v2	45 - 56
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Part B

(not open to the public including the press)

PLANNING COMMITTEE
22 May 2024

<i>Present:-</i>	Cllrs Arnold, Davidson, Goacher, Law ,MacLean, McCarthy, Ripplingale, C. Spindler, and Tate
<i>Substitute Member:-</i>	Cllr Law for Cllr Warnes
<i>Also in Attendance:-</i>	

1060. Appointment of Chair

RESOLVED that Councillor Warnes be appointed Chair for the forthcoming Municipal Year.

1061. Appointment of Deputy Chair

RESOLVED that Councillor McCarthy be appointed Deputy Chair for the forthcoming Municipal Year.

PLANNING COMMITTEE

23 May 2024

<i>Present:-</i>	Cllrs Warnes (Chair), McCarthy (Deputy Chair), Arnold, Davidson, Law, MacLean, Rippingale, C. Spindler, and Tate
<i>Substitute Member:-</i>	
<i>Also in Attendance:-</i>	Cllr Scott-Boutell

1061. Minutes of Previous Meeting

The minutes of the meeting held on the 18 April 2024 were confirmed as a true record.

1062. 212507 Land north of Wyvern Farm, London Road, Stanway, Colchester

The Committee considered an application for outline planning permission (with all matters reserved except access) for the erection of up to 600 dwellings, land for a co-located 2FE primary school and early years nursery, public open space and associate infrastructure. Vehicular access from London Road, (B1408) and Red Panda Road. The application was referred to the Planning Committee as the application departed from the relevant local plan Site allocation Policy (WC2) by including a spine road through land designated as open space in the Local Plan, as well as slightly exceeding the number of allocated dwellings.

The Committee had before it a report and amendment sheet in which all information was set out.

Prior to the presentation from the Case Officer Councillor Davidson asked that it be noted that the annual meeting had only taken place on the day prior to the meeting to appoint the Committee and did not feel that this was sufficient time for Members to review the information. The Chair noted the comments made.

Lucy Mondon, Planning Manager presented the application to the Committee and assisted them in their deliberations. The Committee were shown the proposed plans for the application which included public rights of way, access to the site via vehicle and pedestrian means as well as the existing permissions surrounding the site. The Committee heard that the principle of development had already been agreed through the site's allocation in the Local Plan. Members were shown the proposed spine road and open space areas of the site before being shown photographs from different areas of the site. It was noted that a connection point had already been prepared from Red Panda Road as well as the site for the proposed school. The Committee heard that the proposal included a 10% increase in canopy cover/BNG and were shown the density of development on different areas of the site. The presentation concluded with the Planning Manager detailing the cycle routes on site, the illustrative design of how the proposal could look when completed and that there were some

amendments to conditions within the Amendment sheet but confirmed that the officer recommendation was for approval.

Steve Hatton addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The Committee heard that the application had been under consideration since 2021 and that there had been close scrutiny of the highways impacts of the proposal and that it had been allocated for development as part of the Local Plan. The speaker detailed that the allocation formed part of the Council's 5-year land supply if approved and could be delivered in 2025/2026 and that there was confidence that this could be achieved if it was agreed at this meeting. The Committee heard that they had liaised with officers and the Parish Council and that there were issues that could be addressed in the reserved matters application. The speaker concluded by detailing that there were no technical objections to the proposal, very few public objections and that the site would provide 30% affordable housing as well as generous public open space as well as cycle links.

Councillor Scott-Boutell addressed the Committee as a visiting Councillor. The Committee heard that the proposed Section 106 benefits from the proposal needed to go to Community facilities and that there had been no consultation on this matter. Concern was raised regarding the footpath to Villa Road and Tollgate with a request for further information on the Section 106 monies to ensure that this development was not subsidising the Tollgate Hall development which had already been financed. The Committee heard that the visiting Councillor was pleased with the financial contributions for Healthcare and that the new school but asked that the developers put down the enforcement markers to protect the school and asked that the allocated spaces for this be put in advance to ensure that bus route was not impeded. The visiting Councillor raised a question regarding the acoustic barrier on site of the bund and trees and asked what protection there would be for people not to go onto the A12. It was detailed that this concern had been raised as there were currently fences falling to pieces and that no ownership of them was being claimed. The visiting Councillor welcomed the contributions towards the bus service and asked whether this would link up to Marks Tey railway station. The speaker concluded by outlining that they were pleased to see the widening of the of the walking and cycling links.

At the request of the Chair the Planning Manager responded to the points raised by the Have Your Say Speakers. The Committee heard that there were a large number of projects in the Section 106 and confirmed that what was proposed was not a cascading list but an either-or scenario in which certainty could be secured when the projects from the Parish Council had been finalised. It was detailed that the development needed to mitigate its own impact and it was noted that Copford Village Hall was currently oversubscribed and would need more facilities such as car park, toilet, and sports facilities. The Planning Manager concluded by explaining that there was also a condition included regarding the details of the spine road and to ensure that the bus route would be accessible.

At the request of the Chair, Martin Mason, Strategic Development Engineer for Essex County Council's Highways Department, detailed that the bus service contribution was for a new service to Marks Tey Railway Station to the City Centre and confirmed that the London Road Stanway Western Bypass was an either / or in the section 106 agreement and that crossing requirements would be covered by a Section 278 Agreement and that if these were not provided then a contribution would be made instead.

In response to a question from the Committee the Strategic Development Engineer detailed that the bus route would be funded by the development and that this would go through the site and that the intention was that it would also traverse the other nearby developments. It

was also confirmed that there would be pedestrian and cycle access to Turkey Cock Lane.

In response to a question from the Committee the Planning Manager detailed that conditions had been included to secure the Sustainable Urban Drainage Scheme (SUDS) and that there was a central ditch on site that would infiltrate west.

The Committee debated the proposal with some Members raising concern regarding the access to the site and that there was no green heart to the development as all the open space had been included next to Turkey Cock Lane. Further questions were raised from the Committee as to whether there would be a 20MPH speed limit throughout the site and that some Members wanted to see a more substantial Section 106 agreement.

At the request of the Chair the Planning Manager responded that the landscaped area would be 7 hectares of open space and confirmed that 10% of the developable area would be open space. Further to this the Planning Manager confirmed that the Section 106 Agreement was designed to mitigate the impacts of the development.

At the request of the Chair the Strategic Development Engineer detailed that the main spine road would be limited to 30MPH and that it would be 20 MPH on the offshoots from the spine road. The Planning Manager also confirmed that there would not be any vehicular access to the allocated primary school as this had been secured through a separate application.

Committee members continued to debate the proposal on issues including additional cycle storage on site or a cycling hub to promote active travel on site.

It was proposed and seconded that the application be approved as detailed in the officer recommendation and amendment sheet with the additional condition:

- Section 106 Clause to include e-bike hub provision.

RESOLVED (UNANIMOUSLY) That the application is approved as detailed in the officer recommendation and amendment sheet with the additional condition as follows:

- Section 106 Clause to include e-bike hub provision.

1063. 232295 50 London Road, Stanway, Colchester, CO3 0HB

The Committee considered an application for the change of use from Post Office delivery office (sui generis) to café (Class E) together with the installation of an extraction system to the rear elevation and conversion of the 1st Floor to a one bed flat. Additional Parking Plan Received. The application was referred to the Planning Committee as the application had been called in by Councillor Scott-Boutell who stated:

“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 plan 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 developed 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 detail 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 neighbours amenity and well being."

The Committee had before it a report in which all information was set out.

Chris Harden, Senior Planning Officer presented the application and assisted them in their deliberations. The Committee were shown that the site had two elements with the first being the former post office site and the second being the forecourt of an existing MOT garage along London Road which would add additional parking to the proposal. It was detailed that the additional parking would be secured under a 10-year lease if agreed. The Committee heard that there had been allegations that a barbers would be operating from the rear of the proposal and confirmed that this was not a matter that was before the Committee for determination. The Committee were shown the proposed parking arrangements and that a more accurate drawing of the flue had been received and was presented to the Committee and detailed that a further recommendation was proposed to screen the flue. The Committee were shown photos of the site and the interior of the proposed café and were informed that an extra objection had been received that someone was already living in the flat. It was detailed that the site was situated within the settlement boundary and was formerly a commercial and residential use and confirmed that the environmental protection team had assessed the proposal with regards to odour control and that there would be no takeaway available from the site. It was detailed that there had not been an objection from Essex County Council's Highways department and detailed that the proposal was acceptable without the additional parking on the garage forecourt, that the site was in a sustainable location and that there were double yellow lines in front of the proposal. The Senior Planning Officer concluded by detailing that there were no conflicts with policy and the National Planning Policy Framework (NPPF) and that the recommendation was for approval as detailed in the officer recommendation with the additional conditions regarding the screening of the built flue.

Andrew Feasey addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The Committee heard that the applicant had apologised for starting works without planning permission, that works were for the conversion from a commercial use to a new commercial use with local staff lined up to work and operate in the café and detailed that extractor would be noiseless and odourless and that the unilateral undertaking would be paid upon approval.

Councillor Lesley Scott-Boutell addressed the Committee as a visiting Councillor. The Committee heard that there were issues with bonfires on site and that when the flue appeared on site enforcement action was taken and a stop notice was issued on site as well as allegations that waste was being buried on site. The Committee heard that there were no plans for the flat and that the prior approval plans had not been followed and was noted that

the parking had been resolved to the satisfaction of Highways but there was concern on how the customers would know that the parking was available as well as concerns regarding the kitchen space being large enough to provide for the premises. It was noted that the visiting Councillor did have concerns regarding the parking in the immediate area and the ability for disabled persons to park on site as well as where the staff would park. The Committee heard that there was a concern regarding the lack of disabled toilets shown in the proposal and detailed that the storage area had been converted into a barbers area. The Ward Member concluded by detailing that the retrospective elements on site had not been overcome and that the application had taken up a lot of officer time and that the application should be refused.

At the request of the Chair the Senior Planning Officer responded to the points raised by the Have Your Say Speakers. The Committee heard that evidence would need to be provided to substantiate the claims of waste being buried on site and detailed that signage could be conditioned on site and that the highways issues had been overcome but the issue of location and advertisement of the parking could be conditioned by additional signage at the cafe. The Committee heard that the building regulations would come into effect for the provision of toilet facilities on site, that the site was in a sustainable location and that commercial vehicles had previously accessed the site, and that although the flue for the kitchen was unattractive it did not impact the street scene. Further to this it was noted that the garden area had been allocated as amenity space and detailed that the outbuilding did not appear to be used as a residence or as a separate business, but that if this was happening it would be subject to planning enforcement action.

Members debated the proposal on issues including: that the parking on the garage forecourt was unrealistic, that the capacity on site of 38 covers with one toilet was poorly thought out, the use of the amenity space and whether this would allow for outdoor dining and causing a nuisance with regards to neighbourhood amenity. The Committee's discussion continued on issues including: road users parking on the frontage and causing disruption, the type of signage that would be available on site as well as the hours of operation.

The debate continued with Members noting that further issues could arise if approved with regards to food takeaway from providers such as Just Eat and blocking the parking, and that some members felt that this would be a self-contained business. Members discussed the sustainability of the proposal with some Members questioning whether a site visit would be a helpful for Committee members.

At the request of the Chair the Senior Planning Officer responded that the details of the amenity space could be conditioned and that if minded to approve the Committee could condition that the amenity space was not used as seating for the café as well as conditioning covering the majority of the flue to improve visual amenity. The Senior Planning Officer also confirmed that the forecourt parking at the MOT garage would not effect the existing business there.

At the request of the Chair the Strategic Development Engineer for Essex County Council's Highways Department advised Members that they would need to be mindful of an appeal if they refused the application on highways grounds as it was an accessible location which did have parking if customers chose to drive there. The Senior Planning Officer added that conditions for signage could be added to direct customers to the additional parking at the garage and that the main advertisement signage would be addressed under advertisement regulations but an informative note could be added to the recommendation to detail that the advertisement for the business should be in keeping with the street scene.

It was proposed and seconded that the application be approved as detailed in the officer recommendation with additional conditions regarding the concealment of the flue, advertisement signage condition regarding parking and that an informative note could be added regarding the advertisement signage being in-keeping with the area and street scene. The vote was lost with Three votes FOR, FOUR votes AGAINST, and ONE ABSTENTION.

It was proposed and seconded that the application be deferred so that the Committee can undertake a site visit with the Strategic Development Engineer for Essex County Council's Highways Department in attendance.

RESOLVED (*by SEVEN votes FOR, ZERO votes AGAINST, and ONE ABSTENTION*) that the application is deferred to undertake a site visit with the Strategic Development Engineer for Essex County Council's Highways Department in attendance.

A short break between 19:50-20:00 was taken following the conclusion of application 232295 but before the commencement of application 231933.

1064. 231933 Yarra Family Resource Centre, Stanway Green, Stanway, Colchester, CO3 0RA

The Committee considered an application for two detached structures, used as incidental office space (retrospective). The application was referred to the Planning Committee as the application had been called in by Councillor Scott-Boutell due to the lack of parking, increase in traffic, change of use into commercial use, damage to public open space and inadequacy of toilets provided on site.

The Committee had before it a report in which all information was set out.

Simon Grady, Planning Officer presented the application and assisted them in their deliberations. The Committee were shown the structures in place in the field and their relationship to the listed building which was next door. It had been assessed that the listed buildings were shielded from visual harm and detailed that one of the main questions before the Committee was whether the 2 structures could be linked to a higher level of harm. The Planning Officer concluded by detailing that they had assessed that the level of harm was not a strong enough link to the harmful intensification of use from the proposal and that their recommendation was for approval as detailed in the officer recommendation.

Alison Cox addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The Committee heard that the site was providing crucial services which included occupational therapy and managing emotional difficulties. It was noted that the site benefitted from a planning permission from 2014 and that no planning conditions were associated with this. The Committee heard that the structure had been erected in May 2023 under the assumption that they were permitted development and that its use was as an office and a shelter from the elements. The speaker concluded by asking that the application be approved however they felt that the travel plan was unreasonable.

Councillor Lesley Scott-Boutell addressed the Committee as a visiting Councillor. The Committee heard that the development was having a negative impact on the scheduled monument of Stanway Green and questioned whether the use of the road was being paid for and asked for further evidence on this. The Committee heard that the successful business had outgrown the site with 14 informal car parking spaces and that the travel plan in the

conditions would not resolve the issues such as congestion that had been reported by residents. Further to this the Ward Member detailed that there were no planning controls in place and that concerns had been raised with regards to highways in terms of minibuses and animal collections and that policies DM17 and DM 11 applied as the business had outgrown the site.

At the request of the Chair the Planning Officer responded to the points raised by the Have Your Say Speakers. The Committee heard that the use of the site had increased over the past 10 years and whether this could be linked to the 2 units would be difficult to connect and that they were not aware of any payments regarding the upkeep of the road. It was detailed that it was not possible to park on the green itself due to the bollards and that there were 18 spaces on site for the 32 staff but noted that they were not all on site at the same time.

Members debated the application on the issues including: whether there was any damage to the scheduled monument.

At the request of the Chair the Joint Head of Planning, Simon Cairns, showed the Committee the Google Streetview images around the Scheduled Monument and detailed that it would be difficult to show the causation of the ancillary office use to the intensification in trip generation. Further to this the Senior Strategic Development Engineer for Essex County Council's Highways Department outlined that the impact would need to be severe to defend at appeal.

Members continued to debate the proposal on issues including: the purpose of the proposal and its additional use as a shelter from inclement weather.

RESOLVED (*UNANIMOUSLY*) that the application be approved as detailed in the officer recommendation.

PLANNING COMMITTEE

13 June 2024

<i>Present:-</i>	Cllrs Warnes (Chair), McCarthy (Deputy Chair), Arnold, Davidson, Goacher, Hagon, MacLean, Ripplingale, and C. Spindler
<i>Substitute Member:-</i>	
<i>Also in Attendance:-</i>	Cllr Scott-Boutell

1065. Site Visits

A site visit was conducted on the 13 June 2024 for application 232295 which was attended by the following Councillors:

- Cllr Hagon
- Ripplingale
- C. Spindler
- Arnold

It was noted that the site visit was also attended by Martin Mason, Strategic Development Engineer for Essex County Council's Highways Department.

1066. 230625 Land to the East of, Nayland Road, Great Horkesley, Colchester

The Committee considered an application for outline planning application for 100 no. dwellings, new access and A134 crossing, land for allotments, provision of a Scout and Girl Guiding Hut with associated car park, public open space and associated works. All Matters Reserved Except Access. The application was referred to the Planning Committee as 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.

The Committee had before it a report in which all information was set out.

RESOLVED (UNANIMOUSLY) That the application is approved as detailed in the officer recommendation.

1067. 232295 50 London Road, Stanway, Colchester, CO3 0HB

The Committee considered an application for the change of use from Post Office delivery office (sui generis) to café (Class E). Installation of an extraction system to the rear elevation. 1st Floor 1 bed flat. Additional Parking Plan Received. The application was referred to the

Planning Committee as the application had been called in by Councillor Scott-Boutell who stated:

“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 plan 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 developed require any materials to be used externally?” The installed flue is external materials and is installed. No detail on how waster 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 detail 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 neighbours amenity and well being.”

The Committee had before it a report in which all information was set out.

Chris Harden, Senior Planning Officer presented the application and assisted them in their deliberations. The Committee were asked to note that the report included the updated conditions that the outdoor amenity area could not be used in conjunction with the café purposes and as well as a condition to mitigate the visual impact of the flue. The Committee were shown photographs of the proposal, the access to the site as well as the layout of the site. The Committee heard that Essex County Council’s Highways Department had no objections to the proposals and that the additional spaces for parking on the garage forecourt were welcomed but were not essential in the balance of acceptability of the proposal. The Senior Planning Officer detailed that there was an adaption to condition 14 to require a precise plan for parking on the garage forecourt in addition to the directional signage. The Committee heard that the unilateral undertaking had now been completed, that there was no impact on vegetation and that the outbuilding was proposed to be used for storage. The Senior Planning Officer concluded by detailing that the officer recommendation was for approval as detailed in the report with the additional conditions set out by the Senior Planning Officer.

Andrew Feasey addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The Committee were thanked for visiting the site and detailed that the parking on the front of the site had been raised and confirmed that the parking would conform with building regulations and would be completed prior to opening. It was acknowledged that a parking plan would be provided and that the spaces would be maintained on site and detailed that the proposal was sustainable and met the Council’s policies. The Committee heard that the proposal would be a good business in a good location and that the unilateral undertaking was in place and concluded by detailing

that the rear of the site and would be used for waste bins storage as well as general storage.

Councillor Lesley Scott-Boutell addressed the Committee as a visiting Councillor. The Committee were thanked for visiting the site and detailed that there are two entryways to the Stanway Garage and detailed that these were well used and would be inaccessible. It was outlined that there would be a conflict between the pedestrians and road users on the garage forecourt and on the main café site. It was questioned how the car sales at the garage would work if they were not shown on the forecourt as well as issues of enforcement action on London Road. The Ward Member raised concern that no disabled parking spaces were being proposed at the main café site as well as issues of parking on the forecourt that could be caused. Further to this concern was raised regarding the signage on site and whether this could cause light pollution and concluded by detailing that Stanway Parish Council had objected to the proposal and that they did not support the proposal.

At the request of the Chair the Senior Planning Officer responded to the points raised by the Have Your Say Speakers. The Committee heard that there were 2 vehicular entrances to the garage forecourt but confirmed that no objections had been received from Essex County Council Highways Department regarding this and that if Members were minded to approve the application then it could be conditioned. With regards to advertisements it was detailed that advertisement consent was not being sought on the property but would be subject to existing legislation regarding advertising and signage.

At the request of the Chair Martin Mason, Senior Strategic Development Engineer for Essex County Council's Highways Department added that the parking area at the garage already had a land use for vehicular movements and detailed that visibility was good with low speeds and that this was improved with the proposed additional conditions as proposed by the Case Officer.

The Committee debated the proposal on issues including: the proposed cycle storage on site, whether there were residential zones of parking in the area, whether the café would be allowed to do takeaway food and drink, the opening times of the business and the fan and flue extractor at the rear of the proposal. Further concern was raised regarding the lack of disabled toilets shown on the plans, the secure storage facility, how the Council's supplementary Planning Documents were being applied to the application.

During the debate Councillor Hagon declared a non-registerable interest as a Member of Stanway Parish Council.

The debate continued with Councillors discussing the speed limit along London Road as well as the disruption that could be caused from vehicles parking on site.

At the request of the Chair, the Senior Strategic Development Engineer for Essex County Council's Highways Department detailed that there were no residents parking zones in the area and that it was their professional view that the proposal did not create a highways risk.

At the request of the Chair, the Joint Head of Planning outlined that the design encouraged people to walk to the site but that the option of parking was available and that the proposal had been conditioned to prevent parking at the rear of the café to protect neighbourhood amenity and that an electric vehicle charging point could be added to the conditions with regards to the dwellings use. The Joint head of Planning concluded by detailing that the only reason that the application was before the Committee was because of the mixed use of the proposal.

Members continued to debate the proposal on the issues including, the exit areas from the garage site, the residents wellbeing of the dwelling that was on the garage site with regards to the parking, the liability on the car park, the number of car park spaces and the layout and the location of the lack of a disabled toilet.

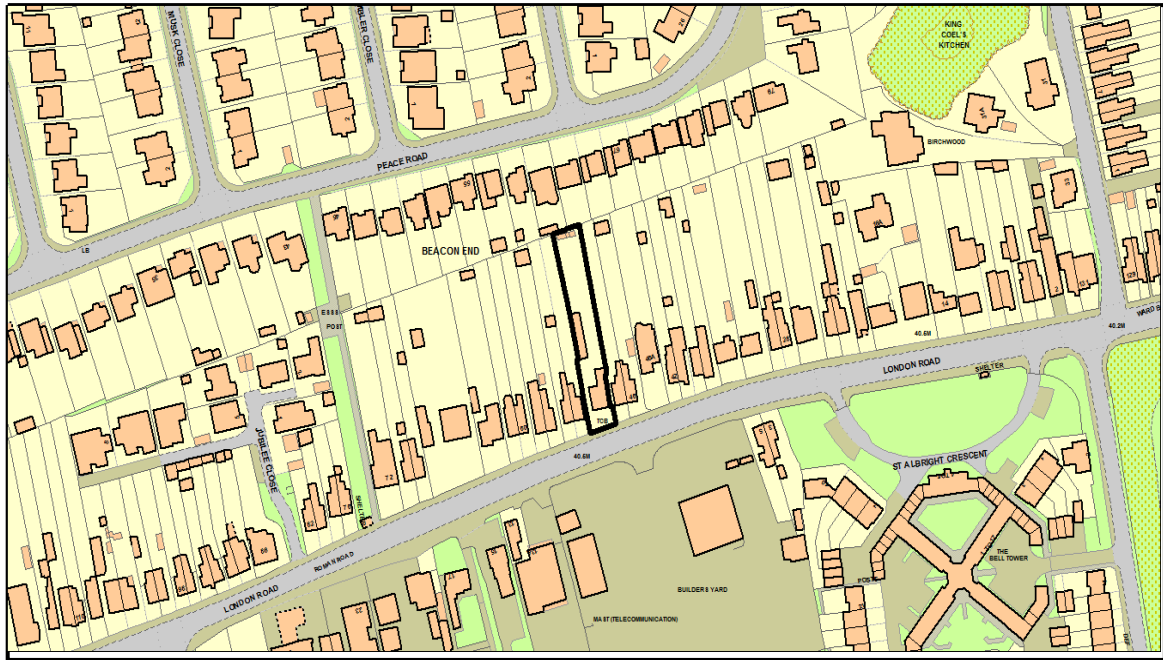
At the request of the Chair, the Joint Head of Planning outlined that the off site parking was deemed as necessary to make the proposal acceptable and that if members did wish for the disabled toilet to be conditioned then this could be added and members could be consulted on the details when they were submitted, and that lighting could be conditioned as well.

Members continued to debate the proposal regarding the lack of detail surrounding the disabled toilet facilities as well as access around the side of the building.

It was proposed and seconded that the application be refused, however this proposal was withdrawn.

Following this it was proposed and seconded that the application be deferred for further details to be submitted concerning provision of accessible Toilets, including pedestrian access and lighting, details of cycle parking, provision of EV Charging Point(s) and disabled parking space.

RESOLVED (*UNANIMOUSLY*) that the application is deferred to seek further details to be submitted concerning provision of accessible Toilets, including pedestrian access and lighting, details of cycle parking, provision of EV Charging Point(s) and disabled parking space.



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Item No: 7.1

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 were added.

The application was then subsequently deferred from the Planning Committee of 13.6.24 to enable submission of further details concerning

provision of accessible WC's, including pedestrian access and lighting, details of cycle parking, provision of EV Charging point(s) and disabled parking space. In addition, a revised parking layout has been shown at No.29 London Road. The conditions have also been appropriately revised.

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. The additional details concerning provision of accessible

WC's, including pedestrian access and lighting, details of cycle parking, provision of EV Charging point(s), disabled parking space and parking layout at No 29 have been submitted as requested. These details are considered acceptable and will be conditioned.

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 disabled space. There is still room for deliveries on site. 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 8 parking spaces to serve the café when it is open under a 10 year lease, 7 for customers and one dedicated to staff. 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.

4.2 Since the last Committee meeting, additional plans have been submitted incorporating the following:

- Cycle store has been moved as requested by the committee and shown on the block plan. The cycle store will be as per a data sheet submitted (i.e., curved roof supported by steel).
- Safe pedestrian route the cyclist will take to access the rear entrance door of the cafe from the cycle store.
- Block plan revised to state 1 No. disabled space to front of cafe and 1 No parking space for flat. The flat will have an EV charging point as per data sheet attached.
- Floor plan with disabled WC within the cafe “which removes the committee comments on access to the toilet, pedestrian routes and lighting as these will not be required with the internal WC. In line with BS6465 the restaurant will be limited to 24 covers and one unisex disabled WC with a hand basin is sufficient for the premises.”

- Parking layout at No. 29 London Garage showing 8 spaces, one of which will be dedicated to staff parking.

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 8 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 (with EV charger and one disabled space. There is still room for deliveries on the site. There are also now 8 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. This is reduced from the 10 spaces as previously shown, but avoids any uncertainty about access to the rear of the garage site. 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 8 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 and extra detail has been provided in the form of a data sheet and drawing (i.e. curved roof supported

by steel). The additional plans show a safe pedestrian route the cyclist will take to access the rear entrance door of the cafe from the cycle store.

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 A floor plan has been submitted showing a disabled WC within the cafe and, whilst a Building Regulations issue, this accords with BS6465 as the restaurant will be limited to 24 covers. Accordingly, one unisex disabled WC with a hand basin is sufficient for the premises." This then avoids the need for extra rear lighting for access to the toilet, as raised at the previous Committee meeting.

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: Site arrangement incl ground floor plan only Rec'd 27.6.24, Location of parking plan Rec'd 18.4.24 as amended by offsite parking plan rec'd 27.6.24, Extractor fan Rec'd 18.4.24, Parking off-site location 21.3.24, Block Plan and Sites Plan Rec'd 9.5.24, 100A first floor Rec'd 26.1.24, cycle shelter rec'd 27.6.24, EV charger details Rec'd 27.6.24.

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 the submitted plans received 27.6.24. 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, including disabled parking space and EV charging points and one staff space at No.29 London Road. 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 London Road 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 scrapyards 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.

