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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 1<sup>st</sup> April 2023 to 31<sup>st</sup> 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.

<b>Housing Need OAHN</b>	
Annualised objectively assessed housing need (OAHN)	920
5 year housing requirement (5x920)	4600
5 year housing requirement and 5% buffer	4830
<b>Supply</b>	
Permissioned sites, existing allocations and windfall allowance	5074
<b>Total number of years' worth of housing supply including emerging allocations</b>	
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.