Executive Legal Summary & Statutory Grounds of Challenge

Layer de la Haye Parish Council submits this formal representation regarding the Colchester City Council (CCC) Submission Draft Local Plan (2024–2041+). The Parish Council contends that the Plan fails the statutory tests of Soundness set out in Paragraph 35 of the National Planning Policy Framework (NPPF)—specifically failing the tests of being **Positively Prepared**, **Justified**, **Effective**, and **Consistent with National Policy**.

Furthermore, the Plan exhibits critical legal non-compliance vulnerabilities under the Environmental Assessment of Plans and Programmes Regulations 2004, the Conservation of Habitats and Species Regulations 2017, and Section 149 of the Equality Act 2010 (the Public Sector Equality Duty).

NPPF Soundness Test	Statutory Status	Primary Deficit / Challenge
Positively Prepared	**Failed**	Unsubstantiated housing growth numbers failing to align with infrastructure capacity.
Justified	**Severe Failure**	Flawed transport baseline model failing to account for committed schemes and cumulative loading.
Effective	**Severe Failure**	Critical infrastructure timing gaps across wastewater treatment, water quality, and dry utility grids.
Consistent with NPPF	**Failed**	Breaches of NPPF highway safety standards (Paragraphs 114/115) and Section 149 Public Sector Equality Duty.

Strategic Legal Challenges & Baseline Deficits

Ground 1: Failure of Baseline Cumulative Transport Modelling

Relevant Policies: NPPF Paragraphs 114 & 115; Policies ST3, ST7, ST7a, PC2

- **The Legal Deficit:** Paragraph 115 of the NPPF mandates that development should be prevented or refused on highways grounds if residual cumulative

impacts on the road network or highway safety would be severe. CCC, in coordination with Essex County Council (ECC) as the Highway Authority, has evaluated rural allocations in isolation rather than modelling cumulative network loading. Furthermore, the strategic transport baseline fails to incorporate baseline traffic generated by committed local development—most notably the 70-dwelling scheme at Monarch Rise / The Folley (planning application number 231600 due for completion late 26/early 27).

- **Flawed Baseline Assumptions:** The strategic transport model relies on unevidenced modal shifts and fails to stress-test the cumulative impact of:
    - **Internal Village Allocations:** Circa 115 new units across PP39, PP40, and PP40a.
    - **Neighbouring Rural Allocations:** Abberton, Birch, and Peldon (circa 80 units combined).
    - **Urban-Fringe Strategic Expansion:** Policy PP10 (Land South of Berechurch Hall Road — 875 units) and Policy PP55 (Land adjacent Lethe Grove — 75 units), delivering **950 units combined** along the B1026 / Berechurch corridor.
- **Physical Pinch-Point Realities:** Drivers seeking to avoid urban congestion along the primary radial network displace onto narrow, rural lanes as rat-runs. Northbound traffic towards Colchester must navigate severe physical bottlenecks, including The Folley, Malting Green Road, High Road, Birch Road over Heckford Bridge, the Berechurch Hall Road / Layer Road junction, Kingsford Bridge, Bounstead Road bridge, and Abberton Road.
- The cumulative impact of vehicular ownership generated by over 1,000 combined dwellings on minor rural carriageways has not been evaluated—specifically at the double mini-roundabout junction of Berechurch Hall Road and the B1026, which is operating near capacity during peak periods - Colchester City Council will have done traffic surveys which would support this.

Disproportionate Impact on non-car users (cyclists, horse riders and pedestrians): Designating active travel corridors (Policies ST7a and PC2) as the primary mitigation mechanism without resolving structural barriers at Kingsford Bridge creates a severe hazard. Expecting elderly individuals, or parents with pushchairs to navigate an unlit, footway-free bridge alongside 40+ mph traffic is discriminatory and prohibitive.

Ground 2: Statutory Breach of the Public Sector Equality Duty (PSED)

Relevant Legislation: Equality Act 2010, Section 149; NPPF Paragraphs 114/115

- **The Legal Deficit:** Public authorities have a statutory duty under Section 149 of the Equality Act 2010 to advance equality of opportunity and eliminate discrimination for individuals with protected characteristics, including mobility-impaired residents, wheelchair users, elderly residents, and parents with pushchairs. Separately, general highways policy requires safe active travel infrastructure for all road users, including pedestrians and cyclists.
- **Kingsford Bridge & Rural Pinch-Points Failure:** The primary highway link connecting Layer de la Haye northwards to Colchester via High Road / Layer Road crosses Kingsford Bridge. This structure exhibits:
    1. A single-carriageway width where two Large Goods Vehicles (LGVs) or buses cannot safely pass simultaneously.
    2. Complete absence of pedestrian footways, raised verges, or refuge islands.
    3. A 40mph speed limit that is routinely exceeded as witnessed by local residents, pedestrians, cyclists and horse riders. Horses have thrown their riders in recent times due to speeding traffic over the bridge.
- **Disproportionate Impact on Protected Groups:** Designating active travel corridors (Policies ST7a and PC2) as the primary mitigation mechanism without resolving structural barriers at Kingsford Bridge creates a severe hazard. Expecting mobility-impaired residents, elderly individuals, or parents with pushchairs to navigate an unlit, footway-free bridge alongside 40+ mph traffic is discriminatory and prohibitive. The absence of a bespoke Equality Impact Assessment (EqIA) evaluating these physical pinch-points renders Policy ST7a legally defective.
- Similar physical limitations and statutory PSED breaches apply to secondary rural bridges at Bounstead Road, Abberton Road, and Birch Road / Heckford Bridge.

Ground 3: Environmental Assessment & Sustainability Appraisal (SA) Flaws

Relevant Legislation: Environmental Assessment of Plans and Programmes Regulations 2004; NPPF Section 2

- **Defective Scoring Matrix:** The Sustainability Appraisal (SA) overestimates the sustainability of rural site allocations by applying inaccurate accessibility scores for local primary education, healthcare facilities, and active transport corridors.
- **Omission of Local Market Data:** The SA fails to evaluate local housing delivery evidence and rural absorption rates, resulting in top-down target allocations that do not reflect sustainable village expansion patterns.

- **Unjustified Greenfield Loss:** The SA fails to demonstrate that greenfield site allocations in rural villages are justified ahead of higher-density urban brownfield sites, breaching the spatial hierarchy set out in Section 2 of the Local Plan.

Ground 4: Wastewater Network Capacity & Environmental Pre-Conditions

Relevant Policies: Policies NZ3, EN8a, PP10(i); NPPF Paragraphs 174/180; Conservation of Habitats and Species Regulations 2017; Water Environment (Water Framework Directive) (England and Wales) Regulations 2017

- **Capacity Deficit:** The Plan explicitly acknowledges foul drainage network constraints and headroom deficits at the receiving Colchester Water Recycling Centre (WRC).
- **Unsound Mitigation Mechanics:** Policy PP10(i) relies on phasing development until drainage capacity becomes available. Without binding capital commitments within Anglian Water's Asset Management Plan (AMP8/AMP9) or executed Section 106 legal agreements, this approach fails the Effectiveness test under NPPF Paragraph 35.
- **Evidence of Infrastructure Stress:** Local operational incidents, including reported foul network surcharge and odour issues adjacent to the Monarch Rise / The Folley development, indicate that the local gravity sewer network is operating at or near hydraulic capacity. Adding further connection loads without committed off-site network reinforcement poses an unmitigated risk of foul sewer flooding.
- **SSSI & Habitat Pollution Risks:** Additional foul water discharge from Policy PP10 (875 units) and village allocations (115 units) increases the operational risk of Combined Sewer Overflow (CSO) discharges into the Roman River catchment and Roman River Valley SSSI. This conflicts with Policy EN8a, NPPF Paragraph 180, and the statutory obligations under the Conservation of Habitats and Species Regulations 2017.

Ground 5: Dry Utilities Grid Capacity & Strategic Infrastructure Phasing

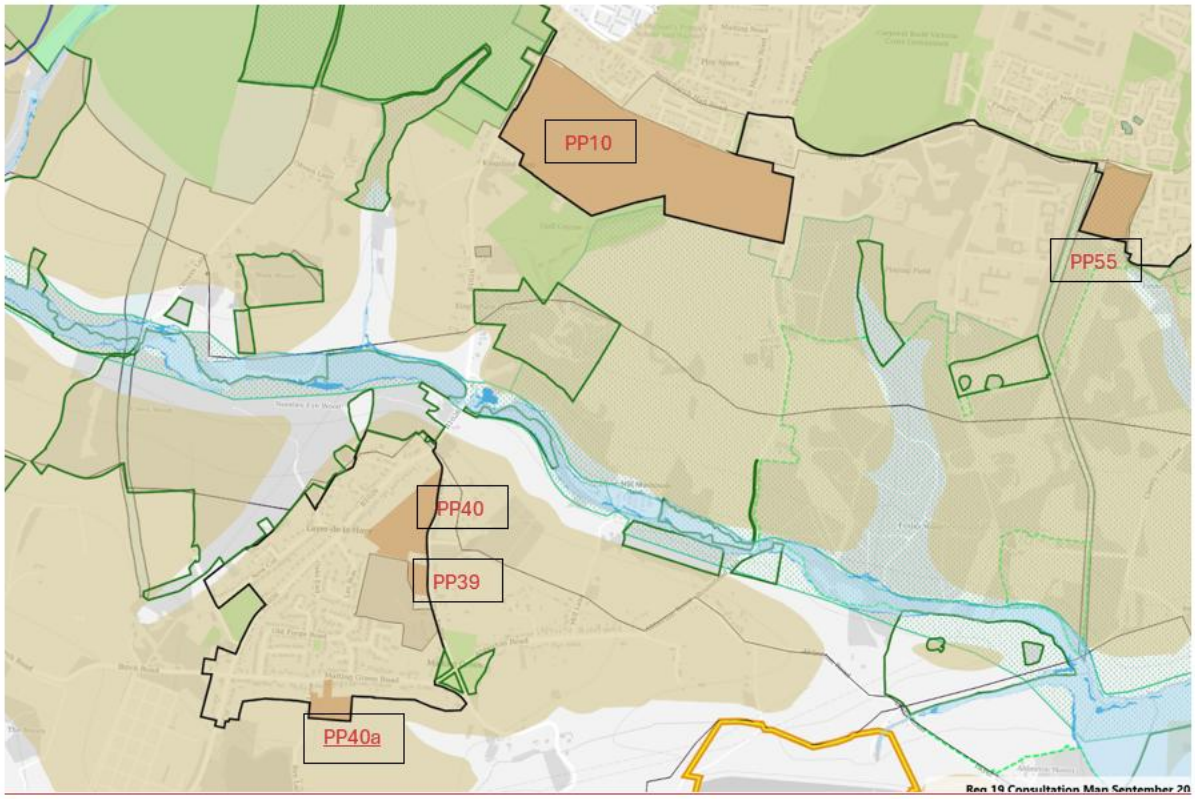
Relevant Policies: NPPF Infrastructure Delivery Requirements; Policies ST3, ST7, PP10, PP40 and PP55

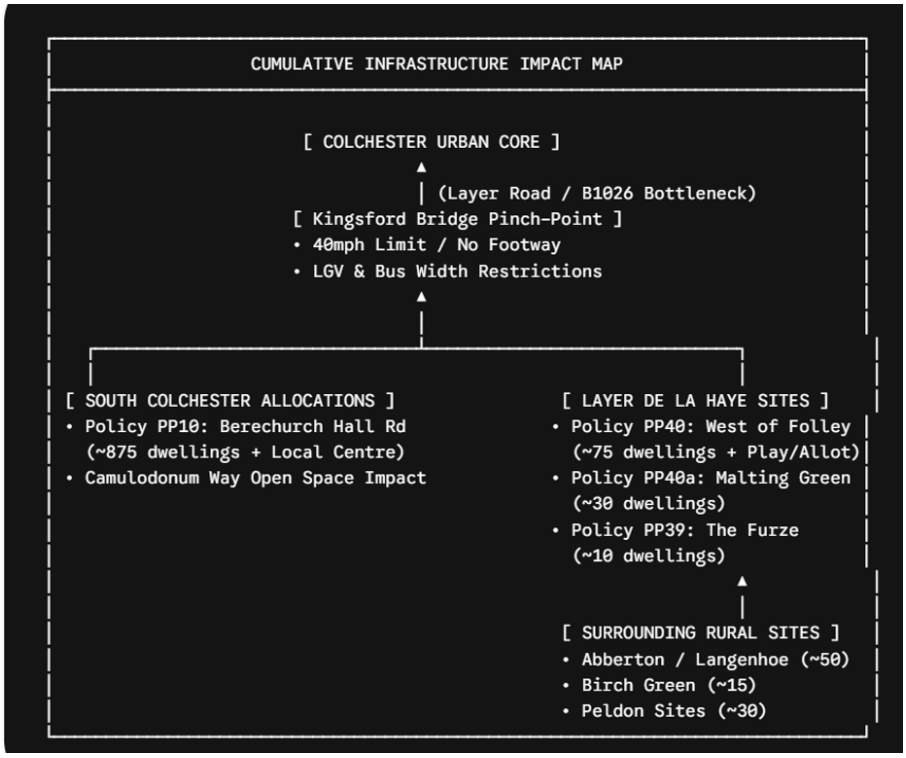
- **The Legal & Deliverability Deficit:** The Local Plan Infrastructure Delivery Plan (IDP) fails to demonstrate coordinated planning with statutory undertakers (UK Power Networks, Openreach, National Grid) for dry utility delivery across rural site allocations.
- **Substation Grid Constraints:** The combined loading of PP10 (875 units), PP55 (75 units), Layer de la Haye allocations (115 units), and neighbouring rural sites

exceeds local secondary electrical distribution network headroom. Transitioning to domestic electric vehicle (EV) charging and heat pump heating will generate significant winter peak-load demands. Existing localised power outage patterns further highlight fragile local network resilience (the author and many residents experience power cuts, especially in windy weather as power is conveyed via telegraph poles).

- **Unsound Infrastructure Phasing:** Without binding capital investment commitments or confirmed connection timelines from UK Power Networks (UKPN), housing delivery will suffer severe delays or require viability-depleting off-site network reinforcement. This directly fails the Effective and Deliverable tests under NPPF Paragraph 35.

Site Allocations & Environs Analysis





Policy PP10: Land South of Berechurch Hall Road (~875 Dwellings)

- **Displacement Traffic:** Traffic attempting to bypass B1022/B1026 urban congestion will utilise Layer de la Haye's narrow rural lanes (Malting Green Road, Birch Road, Bounstead Road and Abberton Road) as unmitigated rat-runs.
- **SSSI Recreational Pressure:** The proposed Camulodonum Way open space is insufficient to absorb recreational dog-walking pressure from 875 households, leading to ecological degradation of the nearby Roman River Valley SSSI.
- **Wastewater Risk:** Relying on temporary or deferred drainage solutions poses unmitigated risks to local surface water networks and groundwater tables.

Policy PP40: Land West of The Folley (~75 Dwellings)

- **Inherent Conflict with Policy PP40 Criterion (e) & Rural Character:**

  Criterion (e) mandates that access arrangements must not alter the rural character of The Folley. However, safely serving 75 dwellings (compounding the 70 units at Monarch Rise) requires standard Highway Authority engineering interventions—including wide urban access splays, kerbed footways, vision splays, and highway lighting. Introducing these suburban features fundamentally destroys the narrow, hedgerow-lined rural character of The Folley.

- **The Planning Catch-22:**

  The allocation creates an unresolvable planning contradiction: if formal footways and highway widening are omitted to protect rural character, the site

fails basic NPPF Paragraph 114/115 highway safety and active travel connectivity standards. Conversely, if formal highway infrastructure is introduced to satisfy safe pedestrian access, it directly breaches Criterion (e) of Policy PP40. This demonstrates that the site cannot be developed sustainably or in compliance with its own policy criteria.

- **Local Wildlife Site (LoWS) Threats:** High-density residential development adjacent to designated acid grassland LoWS assets causes unmitigable light spill, domestic pet predation, and polluted surface water runoff. The 2026 LoWS Addendum identifies key priority habitats and species put at direct risk:
    - *HC2* – Lowland Mixed Deciduous Woodland on Non-ancient Sites
    - *HC3* – Other Priority Habitat Woodland Types on Non-ancient Sites
    - *HC5* – Woody Scrub
    - *HC11* – Other Neutral Grasslands
    - *HC12* – Lowland Calcareous Grassland
    - *HC13* – Heathland and Acid Grassland
    - *SC19* – Invertebrates listed as Species of Principal Importance in England
    - *SC19* – Important Invertebrate Assemblages
    - *SC20* – Notable 'flagship' macro-invertebrates
- **School Capacity Constraints:** Generating an estimated ~22.5 primary pupils (based on standard yield multipliers of 0.3 per dwelling) exceeds available capacity at Layer de la Haye Primary School, which is landlocked with zero physical expansion headroom.
- **Public Transport Deficit:** Financial contributions towards bus stop infrastructure cannot remedy fundamental service reductions or the lack of scheduled service frequency along the B1026 corridor.

Policy PP40a: Malting Green Road (~30 Dwellings)

- **Heritage Harm:** Development adjacent to Great House Farmhouse (Grade II listed) fails to preserve its setting, breaching Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and NPPF Paragraph 205. Perimeter buffer planting is insufficient to mitigate the permanent loss of open rural setting.
- **Omission from Ecological Baseline:** This site allocation was omitted from the LoWS assessment report, meaning cumulative ecological impacts remain unevaluated.

- **Public Transport Deficit:** Financial contributions towards bus stops cannot overcome the absence of viable, high-frequency public transport services along the B1026 corridor.

Policy PP39: Land at The Furze (~10 Dwellings)

- **Habitat Fragmentation:** Fragmented residential development causes permanent loss of high-value invertebrate habitats identified in the 2026 LoWS Addendum report. Species and priority habitats at risk include:
    - *HC2* – Lowland Mixed Deciduous Woodland on Non-ancient Sites
    - *HC3* – Other Priority Habitat Woodland Types on Non-ancient Sites
    - *HC5* – Woody Scrub
    - *SC19* – Invertebrates listed as Species of Principal Importance in England
    - *SC19* – Important Invertebrate Assemblages
    - *SC20* – Notable 'flagship' macro-invertebrates
- **Public Transport Deficit:** Bus stop financial contributions fail to resolve the fundamental lack of continuous active travel corridors and public transport options.

Policy PP55: Land Adjacent to Lethe Grove (~75 Dwellings)

- **Cumulative Growth & Traffic Displacement:**

  Allocating ~75 dwellings at Lethe Grove directly compounds the 875 dwellings proposed under adjacent Policy PP10. Together, these 950 dwellings create significant new vehicular demand at the already over-capacity Berechurch Hall Road / Layer Road (B1026) double mini-roundabout junction. The Plan fails to model the cumulative displacement of traffic rat-running southwards onto minor rural lanes (Malting Green Road, Birch Road, High Road) to avoid urban-fringe congestion.

- **Heritage & Scheduled Monument Harm (Berechurch Dyke):**

  The site immediately abuts the Berechurch Dyke Scheduled Monument and the historic alignment of the WWII anti-tank ditch. Under NPPF Paragraph 205, great weight must be given to the conservation of designated heritage assets. While Policy PP55 mandates a western green buffer, introducing a high-density suburban residential development inevitably causes permanent harm to the asset's setting, open rural context, and legibility through light spill, domestic noise, hard engineering, and surface water drainage infrastructure.

- **Unsound Developer Contributions Mechanics:**

Policy PP55 seeks financial contributions towards off-site initiatives, including the Colchester High Street Mobility Hub and LCWIP routes. Under CIL Regulations (Regulation 122) and NPPF Paragraph 57, developer contributions must be directly related to the development and necessary to make it acceptable in planning terms. Paying pooling contributions towards distant city-centre mobility hubs fails to mitigate local highway pinch-points (such as Kingsford Bridge) or deliver safe, LTN 1/20 compliant active travel links for residents travelling south towards Layer de la Haye.

- **Wastewater & Environmental Risk:**

  Surface water and foul drainage management for PP55 must navigate the strict engineering limitations imposed by the proximity of Berechurch Dyke. Discharge into local watercourses feeding the Roman River catchment risks worsening existing hydraulic surcharge and Combined Sewer Overflow (CSO) spill rates into the Roman River Valley SSSI.

Matters for Other Bodies & External Stakeholders

To ensure spatial policy alignment, the Parish Council requests that the Planning Inspectorate and Colchester City Council require the following statutory bodies and service providers to satisfy specific actions, concerns, and examination questions:

UK Power Networks (UKPN) & National Grid Distribution

- **Core Concern:** Lack of confirmed primary/secondary substation headroom to absorb EV charging and heat pump loads for ~1,000 cumulative rural and urban-fringe units.
- **Required Actions:**
  1. Conduct a cumulative Grid Capacity Audit for the B1026 and South Colchester distribution corridor.
  2. Confirm whether reinforcement works are included within the current RIIO-ED2 business plan or if developer contributions will be required prior to development.
- **Examination Question for UKPN:**

  "Can UKPN confirm that existing primary distribution infrastructure can accept peak winter electrical demand from PP10, PP40, PP40a, and PP39, PP55 without requiring major off-site reinforcements that would delay delivery past 2028?"

Anglian Water Services (AWS)

- **Core Concern:** Foul drainage collection capacity and receiving headroom at Colchester Water Recycling Centre (WRC), alongside CSO discharge risks into the Roman River SSSI.
- **Required Actions:**
    1. Provide a clear headroom statement for Colchester WRC factoring in all allocated sites across Phase 1 and Phase 2.
    2. Define the exact threshold of housing delivery that triggers required network upgrades under Policy PP10(i).
- **Examination Question for AWS:**

  "What specific capital works are allocated in Asset Management Plan 8 (AMP8) to expand foul treatment capacity, and will these works be operational prior to the occupation of Policy PP10 or PP40?"

Essex County Council (ECC) Highways & Education Authorities

- **Core Concern:** Unmitigated pedestrian hazard on Kingsford Bridge (PSED failure) and zero primary school expansion capacity at Layer de la Haye Primary School.
- **Required Actions:**
    1. Complete a formal Section 149 Equality Impact Assessment (EqIA) for active travel routes crossing Kingsford Bridge and secondary rural bridges (Birch Road/Heckford Bridge, Bounstead Road, Abberton Road).
    2. Publish a definitive School Expansion Feasibility Study for Layer de la Haye Primary School.
- **Examination Questions for ECC:**
    - **Highways:** *"How does ECC propose to meet LTN 1/20 cycle and pedestrian safety standards across Kingsford Bridge without land acquisition or structural widening?"*
    - **Education:** *"If Layer de la Haye Primary School cannot expand due to site boundary constraints, where will the projected ~22.5 primary pupils from PP40 be educated, and what is the associated transport impact?"*

Telecoms & Broadband Infrastructure Providers

- **Core Concern:** Rural allocations lack full-fibre (FTTP) network guarantees, reinforcing car dependency.

- **Required Actions:** Provide connection feasibility maps for rural sites PP39, PP40, and PP40a.
- **Examination Question for Telecom Providers:** *"Are there commercial commitments to deliver gigabit-capable FTTP connections to all rural site allocations prior to first occupation?"*

Historic England

- **Core Concern:** Cumulative urban-fringe development (PP10 and PP55) encroaching on the setting, integrity, and non-designated archaeological features associated with the **Berechurch Dyke Scheduled Monument**.
- **Required Actions:** Conduct a formal evaluation of the proposed western green buffer and archaeological mitigation measures set out in the 2026 Stage 2 Heritage Impact Assessment to verify whether setting harm can legally be avoided.
- **Examination Question for Historic England:**

  "Does the high-density residential layout envisioned for Policy PP55 preserve the setting and archaeological legibility of Berechurch Dyke Scheduled Monument, or does it constitute unmitigable harm under NPPF Paragraph 205?"

This representation was prepared by Layer de la Haye Parish Council using administrative text-processing tools, with all evidence, facts, and policy arguments reviewed, verified, and adopted by the Council - submitted by Layer de la Haye Parish Council following formal resolution passed on [Date]