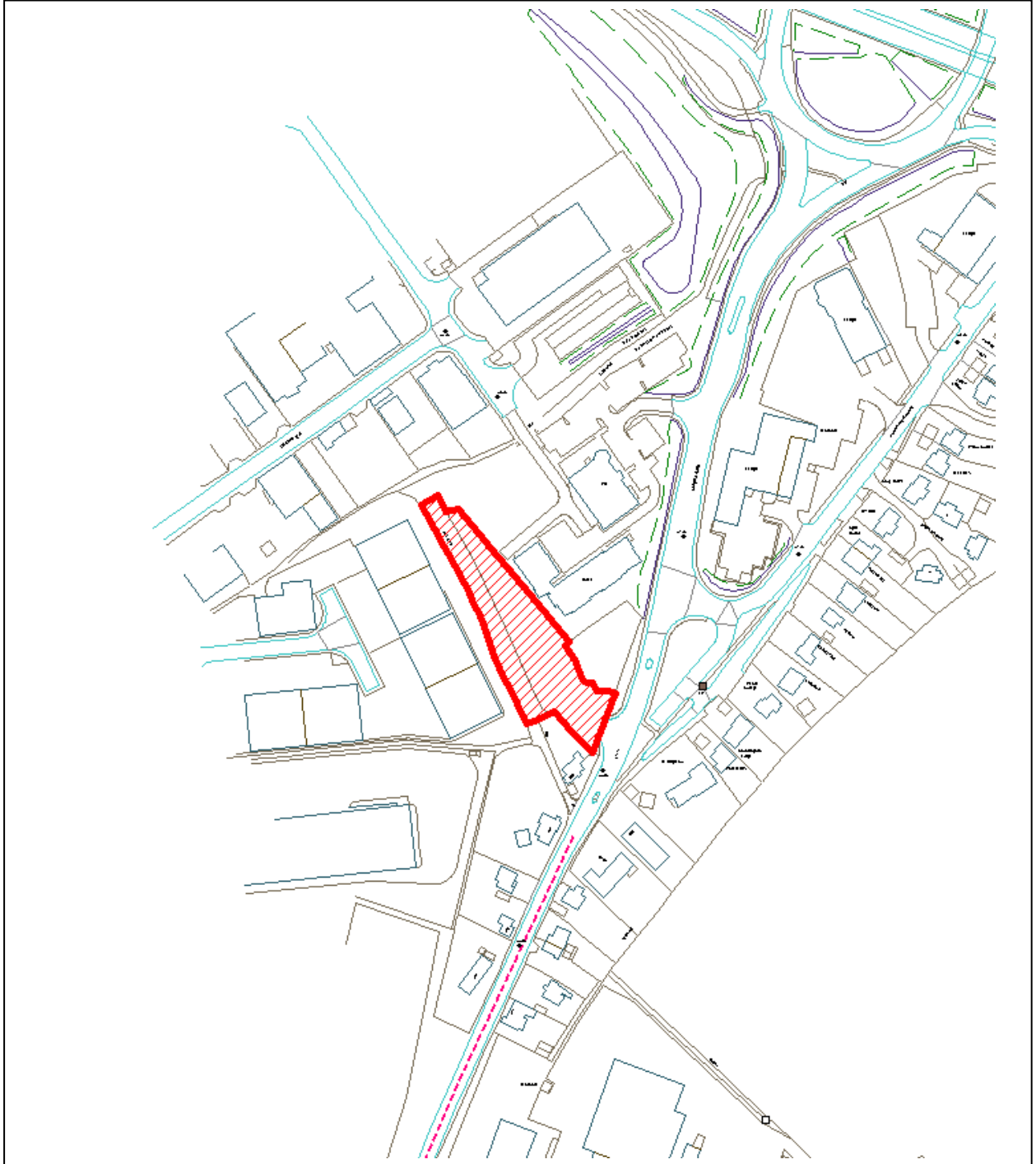


**PLANNING COMMITTEE**

**16 July 2013**

**REPORT OF THE HEAD OF PLANNING**

**A.2 PLANNING APPLICATIONS - 12/01411/FUL & 12/01412/ADV - WESTPARK, IPSWICH ROAD, COLCHESTER, ESSEX CO4 9HB**



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<b>Application:</b>	1) 12/01411/FUL 2) 12/01412/ADV	<b>Town / Parish:</b> Ardleigh Parish Council
<b>Applicant:</b>	Westdrive Colchester Ltd	
<b>Address:</b>	Westpark, Ipswich Road, Colchester, CO4 9HB	
<b>Development:</b>	1) Erection of fast food restaurant and drive-thru with associated access road, parking for cars, cycles and motor cycles, delivery bay, footpaths and landscaped areas and change of use to A3 and A5. 2) Illuminated projecting fascia signage and applied signage to fast food restaurant building. Illuminated blade totem sign adjacent to access road. 2 no. applied lettering signs to building, 1 no. applied logo vinyl graphic, 1 no. blade totem sign and 8 no. site direction/information signs.	

## 1. Executive Summary

- 1.1 The planning application has been called in by Councillor Stock because of the following material planning considerations:-
- The fast food restaurant and “drive-thru” aspect of the application are completely inappropriate and unacceptable for that location.
  - The impact on the amenity and general quality of life of existing residential properties will be substantially damaged by the cooking smells, highway activities and noise disturbance.
  - This is an extremely busy and congested highway any use of that site should not be allowed to place a significant increase onto the road in terms of access and egress movements.
- 1.2 The planning application (Ref: 12/01411/FUL) proposal relates to the erection of a fast food restaurant and drive-thru including associated parking, delivery bay, footpaths and landscaping. The advertisement consent (Ref: 12/01412/ADV) concerns illuminated signage to the proposed building, an illuminated totem blade sign to the front of the site and various information/direction signs within the site.
- 1.3 The site was previously the subject of an approved planning application in 2009 for a car showroom with associated offices and servicing areas (Ref: 08/00046/FUL). Works to the site access and the discharge of related planning conditions have ensured that this permission has now been implemented and remains live. This is a material consideration that must be given due weight.
- 1.4 The application site is located within a defined development boundary and is not allocated for any specific use within either the adopted Tendring District Local Plan (2007) or the Tendring District Local Plan Proposed Submission Draft (2012). As such the use of the site for the erection of a fast food restaurant/drive-thru is not contrary to any policy regarding a specific land use allocation.
- 1.5 The development proposal is considered to be sequentially preferable and would not have an adverse impact upon the health and vibrancy of Colchester Town Centre.
- 1.6 The proposals are found to be acceptable in terms of their impact on the character and appearance of the local area.

- 1.7 Matters of design, layout and highway safety are also considered acceptable, having regard to all other material planning considerations.
- 1.8 The impact of the proposals in terms of noise, light and odour pollution on nearby residents have been fully assessed in conjunction with the Council's Environmental Health Officers, and are considered to be acceptable and would not have a significant adverse impact on residential amenity.
- 1.9 The extended Phase 1 Habitat identifies the potential for bats to forage on the site. Essex Wildlife Trust has objected to the development on the basis that it is likely that a European Protected Species may be harmed by the proposal. However, Natural England in their role as a statutory consultee, have assessed the submitted habitat survey and have concluded that permission can be granted and no further surveys are required in respect to the issue of bats.
- 1.10 Officers consider that the planning application and the advertisement consent are acceptable and that conditional planning permission and advertisement consent should be granted.

### **1) 12/01411/FUL**

#### **Recommendation: Approve**

#### **Conditions:**

1. Standard time limit for commencement
2. Development to be carried out strictly in accordance with submitted plans
3. Samples and/or details of construction materials to be submitted and agreed
4. Soft and hard landscaping details to be approved
5. Implementation of the approved landscaping scheme
6. Restriction of opening hours to 0600-2300 (Mon-Sun)
7. Details of extraction equipment and noise attenuation
8. Laying out of parking area/motorcycle bays/bicycle storage
9. Erection of acoustic fencing
10. Litter management scheme
11. Secure bat sensitive lighting scheme
12. Details of wheel and underbody cleaning during construction to be provided
13. Low level planting only in landscaping zones 'B' and 'C'
14. Construction in accordance with recommendations in submitted Tree Report
15. CCTV scheme
16. Restriction on hours of construction work
17. Restriction on time period for site clearance

#### **Reason for Granting Planning Permission**

The proposal for the erection of a fast food restaurant and drive-thru with associated access road, parking for cars, cycles and motorcycles, delivery bay, footpaths and landscaped areas and change of use to A3 (Restaurant) and A5 (Hot Food Takeaway) is considered to comply with the NPPF and Tendring District Local Plan in terms of design, layout, access, impact upon residential amenity and protected species. The Local Planning Authority having had regard to all planning considerations material to the determination of this application, including particularly the scale and nature of development and all consultations and representations made in connection with the application, this concluded that the proposal accords with the provisions of the Development Plan as applicable to it, and in the absence of any material adverse impact resulting from the development considers that there are no

material grounds which justify its refusal.

**2) 12/01412/ADV**

**Recommendation: Approve**

**Conditions:**

1. Advertisement Conditions (5 Standard)

- No advertisement is to be displayed without the permission of the owner of the site
- No advertisement shall be sited or displayed so as to

(a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);

(b) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or

(c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.

- Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.
- Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.
- Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

2. Development to be carried out strictly in accordance with submitted plans

3. Maximum Luminance of any signage shall not exceed 300 Candelas per square metre (300 cd/m<sup>2</sup>)

4. Illuminated signs to be switched off when restaurant/drive-thru is closed to the public

**2. Planning Policy**

National Policy:

The National Planning Policy Framework

Local Plan Policy:

*Tendring District Local Plan (2007)*

QL1 Spatial Strategy

QL9 Design of New Development

QL10 Designing New Development To Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

ER2 Principal Business and Industrial Areas

ER7 Business, Industrial and Warehouse Proposals

ER16	Tourism and Leisure Uses
ER32	Town Centre Uses Outside Existing Town Centres
COM1	Access for All
COM2	Community Safety
COM20	Air Pollution/Air Quality
COM21	Light Pollution
COM22	Noise Pollution
COM23	General Pollution
EN6a	Protected Species
EN18b	Advertisement Control
TR1a	Development Affecting Highways
TR1	Transport Assessment
TR3a	Provision for Walking
TR5	Provision for Cycling
TR7	Vehicle Parking at New Development

*Tendring District Local Plan Proposed Submission Draft (2012)*

SD1	Presumption in Favour of Sustainable Development
SD5	Managing Growth
SD8	Transport and Accessibility
SD9	Design of New Development
PEO22	Green Infrastructure in New residential Development

Other Planning Guidance:

Ardleigh Village Design Statement

**3. Relevant Planning History**

00/00750/FUL	Erect car showroom, display of used cars for sale, formation of altered access to Ipswich Road (with consequent improvements to the highway) all in connection with car dealership (Lexus Marque)	Approved	02.06.2003
90/01116/OUT	Development of site for office building with related car parking	Refused	10.01.1995

and construction of access to Ipswich Road

99/01471/LBC	Complete demolition	Approved	07.03.2000
90/01116/LBC	Development of site for office building ( 4,500m2 ) with related car parking and construction of roundabout	Approved	10.01.1995
90/00039/LBC	Demolition of cottage	Approved	09.04.1991
08/00046/FUL	Erection of car showroom, MOT facility and workshops, display of new and used cars for sale and alterations to access onto Ipswich Road.	Approved	23.06.2009

#### **4. Consultations**

##### **4.1 Essex County Council Highways**

No objections subject to the following requirements;

- Provision of a vehicular wheel cleaning facility within the site;
- The provision of a travel plan;
- The planting within Zones 'B' and 'C' shall be low level only

##### **4.2 The Highways Agency**

No objections to the planning application.

##### **4.3 Natural England**

The protected species survey has identified that bats, a European protected species may be affected by this application.

Natural England advises the authority that "Permission could be granted (subject to other constraints)" and that the authority should "Consider requesting enhancements" in respect to green infrastructure provision.

##### **4.4 Essex Wildlife Trust**

Essex Wildlife Trust wishes to register an objection to this proposal on the grounds that it may harm a European Protected Species. Evidence suggests that trees directly adjacent to the site boundary are regularly used by roosting bats and the application site itself provides hunting and foraging habitat for this local bat population.

##### **4.5 Colchester Borough Council**

Colchester Borough Council objects to the applications for the following reasons;

- The site is not in a sustainable location for a restaurant

- The proposal is harmful to the Town Centre
- The proposal is out of keeping with its surroundings
- Lighting and disturbance to local residents
- Increased litter
- Increased congestion and harm to highway safety
- Poor relationship to street and neighbouring properties

#### 4.6 **Ardleigh Parish Council**

Ardleigh Parish Council strongly objects to this application. The Council considers that the proposed development is totally inappropriate for the location and would contravene all the guidelines in the Ardleigh Village Design Statement.

The Parish Council has the following serious concerns;

- The development will cause increased traffic movements in and out of the site for 18 hours of the day.
- The quantity of vehicles using Ipswich Road will increase substantially in the near future with the proposed development of over 200 residential units at the former Betts site.
- Coming from the Colchester direction, the entrance to Westpark is just round a corner, a blind spot and potential traffic accident spot.
- A fast food outlet will cause a continuous high level of noise, from traffic and customers, which will start very early in the morning and continue until midnight.
- The smell and litter which will come from the food waste is likely to result in a certain number of vermin, foxes and rats being attracted to the site.
- Light pollution is bound to be high from the building itself, the signs and the traffic. This is unacceptable for the residents of Plains Farm Close and Ipswich Road.
- No ecological survey appears to have been done. However, there are bats in the trees around this site. Not only are bats a protected species but the light pollution during the evening/night hours will cause severe problems to the bat population. Commercial development should not be allowed to affect the local ecology.
- There is no proven need for another food outlet at this location, there already being a number within easy reach, including immediately adjacent at the Balcerne Gate.
- There is considerable concern over the amount of litter that will develop both on the site and immediately surrounding it as customers deposit their rubbish on the street rather than using litter bins.

## 5 **Representations**

- 5.1 The planning application (Ref: 12/01411/FUL) has received a total of 41 objections. However several of these are 'double objections' due to amended plans being received and objectors being re-notified.

- 5.2 The advertisement consent application (Ref: 12/01412/ADV) has attracted 23 objections. A large number of these objections relate to both applications.
- 5.3 The salient points of the objectors' representations are summarised as follows:
- Impact upon residential amenity in respect to odours, noise and light pollution;
  - Fast food restaurant out of keeping in this location;
  - Highway safety concerns/congestion;
  - Impact upon protected species (bats);
  - Litter concerns;
  - Community Safety/Anti-Social behaviour;
  - Incompatible use adjacent to residential properties;
  - Impact upon residents staying at adjacent hotel;
  - Totem sign too large and visually intrusive.
- 5.4 Objection letters have also been received from two Colchester Borough Councillors, which relate to concerns over noise, light and odour pollution and the unsustainable nature of the location.
- 5.5 The local MP has written an objection letter on behalf of his local constituents in regards to noise and highway safety concerns and the visual impairment caused by the proposed totem sign.
- 5.6 The comments raised are addressed within the officer assessment below.

## **6 Assessment**

The main planning considerations are:

- Context and background;
- Proposal details;
- Policy issues;
- Sequential Test/Sustainability Considerations
- Design/Layout;
- Residential Amenity;
- Highway Issues;
- Ecological Concerns; and,
- Advertisement Consent.

### **Context and Background**

- 6.1 The application site is located on the western side of Ipswich Road on the outskirts of Colchester. To the north of the site is an existing Travel Inn Hotel, to the south and east are residential properties and to the north-west is Severalls Industrial Estate. Directly to the west of the site is a large commercial building owned by Royal Mail. The area is characterised by a mixture of residential properties in Plains Farm Close and commercial premises i.e. car showrooms, hotel and public house etc.
- 6.2 The site itself is wasteland formerly occupied by a small derelict and partly collapsed cottage, which has now been removed. The south-eastern boundary of the site faces onto Ipswich Road with an overall frontage of 75m. The site falls to its rear north-western boundary by 6.5m over a horizontal distance of 160m.
- 6.3 The side and rear boundaries to the site are identified by thin hedgerows and some mature oak and beech trees. The south and north eastern boundaries, at the frontage of the site consist of close boarded fencing with some hedge planting and



form the boundary lines to the side and rear of the Lion and Lamb Cottage, which is a residential property located directly to the south of the site.

- 6.4 The site was previously the subject of an approved planning application in 2009 for a car showroom with associated offices and servicing areas (Ref: 08/00046/FUL). Works to the site access and the discharge of related planning conditions have ensured that this permission has now been implemented and is live. This is a material consideration that must be given due weight.
- 6.5 Directly to the east of the planning application site is a vacant area of land which fronts onto Ipswich Road. This is currently the subject of a planning application for the change of use to vehicle hire with modular building and canopied wash-bay (Ref: 13/00625/FUL).

### **Proposal Details**

- 6.6 This application seeks to develop this vacant site with a Fast Food Restaurant incorporating a Drive-Thru together with service access road, car parking, cycle and motor cycle facilities to serve the proposed development. The change of use would bring the site into A3 (Restaurant) and A5 (Hot Food Takeaway) use. The opening hours proposed are 06:00-23:00 Monday to Sunday.
- 6.7 The restaurant proposed for this site would have a gross internal floor area of 240m<sup>2</sup> and would consist of a single storey building with flat roof. The overall height of the building would be 4.35m with a site area of 0.35 hectares. The building in the main would measure 11.4m wide by 21.5m long.
- 6.8 Access into the site will be off Ipswich Road. A new road junction on Ipswich Road to serve the site and Plains Farm Close has recently been completed. This junction and the associated right hand turn and pedestrian crossings were approved under planning permission ref: 08/00046/FUL, and have been fully approved by the Highways Authority.
- 6.9 The building would be positioned some 44m back from the frontage of the site and given the fall in ground levels, the finished floor level would be 2.7m lower than the Ipswich Road level at the bellmouth access into the site. The proposed building has been positioned in the site to be between the Royal Mail Depot to the west and the Premier Inn building to the east. This location represents the widest part of the site and allows for the width of the building, the Drive-Thru lane and access road to the north to be incorporated along with the a pedestrian footpath to the lower end of the site.
- 6.10 Due to the fall in ground levels on the site a retaining wall to the north-western end of the building is proposed to allow for the Drive-Thru lane to be constructed at appropriate levels for the order and collection windows. The retaining wall is continued up the site between the Drive-Thru lane and the new service road. To the boundary with the 'Lion and Lamb Cottage' 2.1m high acoustic fencing is proposed.
- 6.11 The delivery vehicle bay is located on the lower side of the retaining wall with a ramped access provided for the deliveries to be taken up to the rear yard area of the proposed building. The remainder of the site to the north is to be surfaced and kerbed for parking areas and access to the rear of the site. To the south west end (front) of the proposed building is the access road to the Drive-Thru lane and further car parking including disabled bays.
- 6.12 The proposed parking provision is 36 vehicular spaces, including 2 disabled spaces, bays for 4 motorcycles and spaces for 6 bicycles.

- 6.13 At the frontage of the site a Blade Totem Sign is proposed to advertise the restaurant's presence on the site. The proposed sign would measure 6.3m high and 2m wide. The signage is considered separately under advertisement consent ref: 12/01412/ADV.
- 6.14 During the course of the planning application and the advertisement consent various revisions have been requested by the Council. In respect of the planning application a sequential test was requested in accordance with the provisions of the NPPF. Furthermore, the provision of acoustic fencing around the boundary of 'Lion and Lamb Cottage', a reduction in the hours of operation from 0600-2400 to 0600-2300 and extra vehicle parking provision has been secured. In relation to the advertisement consent a revision reducing the height of the totem sign to the site frontage from 8m to 6m has been achieved.

### **Policy Considerations**

- 6.15 The National Planning Policy Framework (NPPF) contains the Government's planning policies and sets out how these are expected to be applied. Planning law continues to require that applications for planning permission are determined in accordance with the Development Plan unless material considerations indicate otherwise. The policies contained within the NPPF are a material consideration and should be taken into account for decision-making purposes. Specific references to relevant sections of the NPPF are referred to in the assessment later in this report.
- 6.16 The site is located within the development boundary and therefore there is a presumption in favour of development in this location. The area immediately in the vicinity of the site is mixed use including a public house, a hotel, a Royal Mail distribution centre and a collection of car showrooms. The site is not allocated for any particular use in the adopted Tendring District Local Plan (2007) or the Tendring District Local Plan Proposed Submission Draft (2012), so the use of the site for construction of a fast food restaurant/drive-through is considered to be acceptable in principle. Matters therefore now turn to the detailed aspects of the scheme, which are controlled by a whole host of policies. These policies are QL1, QL2, QL9, QL10, QL11, ER1, ER7, COM1, COM2, COM18, COM21, COM22, EN6, EN6a, TR1A, TR1, TR5, TR6 and TR7 of the adopted Tendring District Local Plan (2007). These policies seek to ensure that proposals are well designed, relate satisfactorily to their surroundings, would not adversely impact upon residential amenity in the locality, are acceptable from a highways perspective and are acceptable in terms of their environmental/ecological impact.
- 6.17 Policies in the Tendring District Local Plan Proposed Submission Draft (November 2012) have undergone public consultation and can therefore be afforded some weight. The draft policies most relevant to this application are Policies SD1, SD2, SD8, SD9, SD10, PRO5, PRO6 and PLA4. These policies may be subject to further amendment and thus are attributed weight in as far as where the draft policies meet the National Planning Policy Framework's core principles; particularly that planning should be taking account of the different roles and character of an area.
- 6.18 The Ardleigh Village Design Statement (2011) requires that planning applications for new development should take into consideration the following;
1. Planning Policy, Building Regulations any local or national designations.
  2. The design of a new building.
  3. Do they maintain or enhance local character and distinctiveness?
  4. Is the proposed building well-positioned on their site?
  5. Is the height and scale of the proposed building acceptable on this site?
  6. Are the design and choice of construction materials acceptable on this site?

7. Will the visual impact of the proposed development on this site be acceptable in relation to the area surrounding the site?
8. Does the proposed building respect or enhance the views, skyline and any natural or man-made features currently visible from the site?
9. Does the proposed development incorporate in an acceptable manner any existing landscape features such as trees, hedges, walls, buildings, water features or buffer zones?

### **Sequential Test/Sustainability Considerations**

- 6.19 The Glossary to the National Planning Policy Framework ('The Framework') confirms that drive-thru restaurants are defined as a town centre use for which the policies of 'The Framework' apply. According to 'The Framework' the proposed site lies within an out of town centre position. Paragraph 24 of 'The Framework' therefore applies, this states;

*'Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then edge of centre locations and only if suitable sites are not available should out of centre sites be considered'.*

- 6.20 Therefore, as the proposal involves the development of a main town centre use, not in an existing centre, a sequential assessment is required. A sequential assessment has therefore been prepared and submitted for consideration.

- 6.21 In this case the applicants (KFC) are seeking a complementary facility to their existing town centre premises. This is intended to capture car borne expenditure travelling in and around the north of the town. The assessment therefore identifies that for any site to be considered in the sequential test it needs to meet the following requirements;

- A broadly level site with a minimum size of 0.3 hectares, configured in such a way to allow a single storey drive-thru building, traffic circulation and parking provision;
- Safe and efficient access to the strategic road network; and
- To be sufficiently prominent to ensure visibility to passing custom.

- 6.22 As such the sequential assessment identified a total of 12 possible sites (plus 4 previously reviewed) which were assessed in terms of their availability within a reasonable time period, suitability in respect of the applicant's needs and demands and viability in regard to judging whether there is a reasonable prospect that development will occur on the site. Colchester Borough Council were consulted on the provisions of the sequential test but to date have not responded with any comments.

The sites included in the assessment were;

- Existing KFC, 10 High Street
- Tollgate Retail Park, Tollgate West
- Stanway Retail Park, Peartree Road
- Colchester United FC, United Way
- BP Services, Cuckoo Farm Way
- Betts Site, 505 Ipswich Road
- The Rovers Tye, Highwoods Approach
- Waitrose Supermarket, St Andrews Avenue
- Knowledge Gateway, Elmstead Road

- Cowdray Industrial Estate, Cowdray Avenue
- Turner Rise Retail Park, Turner Road
- Colchester Retail Park, Sheepen Road
- Sainsbury's Supermarket, 1 Western Approach,
- Tesco Supermarket, Greenstead Road
- Colne View Retail Park, Cowdray Avenue
- Wickes, 1 Clarendon Way

- 6.23 All the sites have been suitably assessed and were found by the applicant to have sufficient constraints that made them unsuitable, unavailable or unviable as alternative sites to the application site. As such it is considered that the sequential assessment put forward by the applicant is suitably robust to ensure that the sequential test is met and in compliance with the provisions of 'The Framework'.
- 6.24 Paragraph 26 of 'The Framework' makes it clear that, in the absence of a locally set threshold, schemes with a floor space below 2500 square metres should not be required to provide an assessment of the impact upon viability and vitality of town centres. However, it is considered that due to the nature of the proposal trade is likely to be derived from existing out of centre facilities. The drive-thru format is therefore unlikely to result in any recordable trade diversion from food retail facilities present within the surrounding centres, any 'impact' in this respect is consequently anticipated to be negligible.
- 6.25 Turning to matters of sustainability, it is evident that the proposal for a drive-thru facility is aimed at competing primarily with other out of centre facilities such as McDonalds at Colchester Leisure World (2.7 miles) and McDonalds at Tollgate Retail Park (6.9 miles). Furthermore, it is highly likely that the expenditure directed to the new facility will already be car bourn, either as a result of commuting journeys; leisure related trips or dedicated trips seeking a drive-thru facility. As such, the proposal is not considered to represent a 'trip generator' on its own. In addition, there will be very little trade diverted from the town centre, either in the form of direct competition with other food outlets or secondary impacts via linked trips.
- 6.26 In relation to the accessibility of the site, the National Cycle Network Route (NCN1) runs within Severalls Lane to the rear of the site. Cyclists departing from the rear access would need to ride 850m to reach the NCN1. The closest bus stop (Ardleigh, Balkerne Gate) is within 400m walking distance from the site. Buses operate frequently from this stop largely between Colchester and Ipswich. A further bus stop is located to the south (Colchester Crown Gate), again this stop provides for buses on a frequent basis operating between Monkwick, Hlghwoods and Colchester Town Centre.
- 6.27 The development of a drive-thru KFC restaurant in this location is therefore considered to promote the aims and objectives of sustainability, by meeting an identified need for car borne restaurant facilities in this location off a key distributor road, which is also accessible via public transport facilities.

### **Design/Layout**

- 6.28 Policies QL9 (Tendring District Local Plan 2007) and SD9 (Tendring District Local Plan Proposed Submission Draft 2012) state that all new development should make a positive contribution to the quality of the local environment and protect or enhance local character. Paragraph 58 of 'The Framework' supports this stance by confirming that development should function well and add to the overall quality of the area.
- 6.29 The existing vacant appearance of the site and its unkempt condition is considered to detract from the overall quality of the street scene in this location. The site is seen within a context of commercial and residential properties which have little or no local

distinctiveness. The nearest buildings are ubiquitous in character and include a hotel/public house, a car showroom and storage/distribution depot. The siting of a KFC restaurant in this location would therefore not appear out of character in this location where there is a wide variety of architectural styles and building types.

- 6.30 The Drive-Thru restaurant building is to be of a contemporary design with large areas of glazing to the front elevation with the application of corporate red detailing. The building's overall appearance is quite simple in form and would not compete, in a detrimental way, to the character of buildings that surround the application site. The previous approval on the site (Ref: 08/00046/FUL) related to the erection of a contemporary designed car showroom. It is therefore still considered appropriate that the contemporary design approach is taken.
- 6.31 The form and layout of the scheme is clearly heavily influenced by the functional requirements of the proposed Drive-Thru element of the proposal. The access point is fixed and there needs to be space for vehicles to queue around the building so that customers have time to make their choices as they approach the ordering point. As such the building has been set back into the site. This results in the building being less conspicuous in views along Ipswich Road and it being viewed against the backdrop of the much larger and functionally designed Royal Mail depot building to the west and the Premier Inn building to the east.
- 6.32 The set back of the building into the site also enables the planting of low level shrubs and feature planting, particularly around the entrance to the site. A robust planting scheme is therefore to be requested via condition to ensure the entrance into the site and views of the car parking area beyond are softened by soft landscaping.
- 6.33 Overall the design of the building and the layout proposed are considered to represent an appropriate response to the character and setting of the area. The contemporary design approach taken does not compete in a detriment manner with the mixed character of buildings in the locality and the development of the site would bring back into use a vacant and unkempt plot.

#### **Residential Amenity**

- 6.34 The application site sits directly adjacent to a residential property known as 'Lion and Lamb Cottage'. The access into the site is located 16m to the east of the property and the front of the restaurant itself is situated 44m from the rear elevation of the cottage. To the front of the restaurant the Drive-Thru access lane is proposed and beyond this and directly adjacent to the rear boundary of the property, 6 vehicle parking bays are proposed. Consequently the impact of the proposed development upon the amenity of the residents residing at the 'Lion and Lamb Cottage' has to be carefully assessed.
- 6.35 Against this backdrop the applicants have commissioned the preparation of an acoustic assessment. The objective of the assessment was to determine how noise that may be generated as a result of the proposal would affect the amenity of adjacent residences. As such, all aspects of the proposal, including associated Drive-Thru noises, car parking noise, fixed plant noise and road traffic noise, have been assessed against the existing background noise readings.
- 6.36 The report concludes that the predicted noise from the operation of the proposed Drive-Thru will not adversely affect the amenity of the nearby noise sensitive residents in Ipswich Road. The reports adds that the noise from the Drive-Thru activity and car parking activity would comply with World Health Organisation guidance values by some margin and would be below the existing ambient noise climate. Furthermore, the report states that noise from customer vehicles would

result in an undetectable increase in overall road traffic noise and have no material impact upon the amenity of existing residents.

- 6.37 The Council's Environmental Health Officers have reviewed the assessment and have confirmed they have no objections to its content.
- 6.38 The report also recommended that the proposal could trade between 0600-2400 hours without causing significant adverse effects on local amenity. Furthermore, the report was carried out on the basis that the boundary with the 'Lion and Lamb Cottage' was marked by a standard 1.8m high close boarded fence. The Council has since requested that to further reduce the impact upon the neighbouring residents that the opening hours are reduced to 0600-2300 hours and an acoustic fence is erected on the boundary with the 'Lion and Lamb Cottage'. The Council's Environmental Health Officers have confirmed that these mitigation measures will further reduce the likelihood of any noise nuisance complaint being substantiated.
- 6.39 Overall whilst it is envisaged that there may be some noise caused by car doors closing, music played in cars or loud conversations from customers, the use of acoustic fencing and the distance to the rear elevation of the neighbouring property would ensure that that such noise would not result in significant harmful conditions for neighbouring residents to warrant a refusal, even on those occasions when there is limited background noise from traffic on Ipswich Road.
- 6.40 In respect to the opening hours, a condition will be proposed ensuring that the Restaurant/Drive-Thru operates only between the hours of 0600-2300, as suggested by the applicant. This would strike an appropriate balance and the closing time would reflect that of the Table Table restaurant/public house located to the north of the site.
- 6.41 As to the impact of odours upon amenity, it is intended to install filtration and odour-suppressing equipment on the north-eastern section of the roof, at the furthest point from the adjacent residential property. Indicative details have been supplied as part of the application. These details will be secured via condition. Again, the Council's Environmental Health Officers have reviewed the indicative details and have confirmed that that as long as the extraction equipment is installed, operated and maintained in line with the manufacturer's recommendations the likelihood of a nuisance will be negligible.
- 6.42 In respect to litter, it is acknowledged that people sometimes discard packaging and half-eaten food. However, litter bins are proposed to serve the restaurant and KFC operate a litter picking policy which should reduce the likelihood of any nuisance caused by litter dropped by customers.
- 6.43 Taking all the above into account it is not considered that the proposal would result in unacceptable harm to the living conditions of nearby residents, being those adjacent to the site at the 'Lion and Lamb Cottage' or those in Ipswich Road or Plains Farm Close opposite the site. Furthermore, due to the transient nature of residents staying at the adjacent Premier Inn Hotel, the impact of the proposal in terms of noise and odours is negligible. The proposal is therefore considered to accord with saved policies QL10 and QL11 of the adopted Tendring District Local Plan (2007) and policy SD9 of the emerging Tendring District Local Plan Proposed Submission Draft (2012) in respect of their aims to prevent harm to residential amenity.

### **Highway Issues**

- 6.44 The previous approval pertaining to the site (planning ref: 08/00046/FUL), which related to the erection of a car show room, MOT bay and 6 bay workshop, required that certain highway works took place prior to the commencement of development. These works involved the alteration of the access into the site from Ipswich Road and

alterations to Ipswich Road itself including; the formation of a right turn lane, construction of relevant footpaths and works involving the widening of Ipswich Road. These works were produced in consultation with Martin Mason of Essex County Council Highways.

- 6.45 The highway works have now been completed to the satisfaction of the Highway Authority. As such, a 'Transport Assessment Report' has been submitted to assess the impact of the proposed development upon highway safety in the vicinity. The access statement concludes that the now completed highway improvements to the Ipswich Road and Plains Farm Close junction, to allow access to the 2009 consented car showroom development would also be adequate to serve the development proposal for a fast food restaurant/drive-through facility. Overall the report finishes by stating that based on the highway works undertaken and estimated vehicular movements; it is considered there are no transport reasons for an objection to be raised on this planning application for a fast food restaurant.
- 6.46 Essex County Council Highways support this view and have no objections to the development providing that a wheel washing facility is supplied on site and planting at the frontage of the site is low level only to provide for adequate visibility at the site access. These requirements will both be secured via planning condition.
- 6.47 Essex County Council Highways have also requested a financial contribution from the developer of £3000 to cover the cost of approving, reviewing and monitoring a travel plan. However, it is the Council's view that the financial contribution is not required to ensure the development is acceptable. Furthermore, there is no such policy basis to request the contribution and the previous permission relating to the car showroom, which has been implemented, did not require such a contribution or the submission of a travel plan. It is therefore concluded that to request a travel plan at this stage would not be reasonable.
- 6.48 The Highway Agency has also confirmed that they have no objection to the development proposals.
- 6.49 In regards to parking provision, the scheme provides for 36 no. car parking spaces, a motorcycle parking bay and a bicycle parking zone towards the front of the site. The split of A3 (Restaurant) use and A5 (Takeaway use) means that a total provision of 31 no. spaces are required for the proposal, this is based on a floor area of 244m<sup>2</sup>. As such the parking provision is in accordance with the Council's adopted Car Parking Standards.

### **Ecological/Tree Issues**

- 6.50 An extended Phase 1 Habitat Survey has been prepared and included in the application submissions. The survey concludes that the site is of low overall ecological value but does identify that certain offsite trees located outside the northern and western perimeter, in addition to offsite trees located west of the adjoining hotel car park may provide a foraging/commuter corridor for bats. The report therefore recommends a bat sensitive lighting scheme be adopted and any vegetation or scrub clearance should be between the months of March to September inclusive. These recommendations will be secured via planning conditions.
- 6.51 Natural England has been consulted and using their standing advice in reference to the submitted habitat survey advises the Council that permission could be granted and that the authority should consider requesting enhancements in respect to green infrastructure.
- 6.52 Essex Wildlife Trust has objected to the development on the basis that it is likely that a European Protected Species may be harmed by the proposal. However, Natural

England in their role as a statutory consultee, have assessed the submitted habitat survey and have concluded that permission can be granted and no further surveys are required in respect to the issue of bats. Furthermore, the previous planning permission relating to the site, which has been implemented and therefore could be built, did not raise the issue of bats and consequently did not provide for any mitigation in this respect.

- 6.53 There are two mature Oak trees that may be affected by the development proposal. Tree 1 is situated on the western boundary adjacent to the Royal Mail Depot and Tree 2 is situated immediately to the northeast of the application site. The applicant has therefore submitted a Tree Survey and Report that has been carried out in accordance with the recommendations contained in BS5837: 2012 Trees in relation to design, demolition and construction. The report contains details of the actions to be taken and measures that will be put in place to ensure that the trees will not be harmed as a result of the development proposal.
- 6.54 The Council's Trees and Landscaping Officer agrees with the content of the Tree Report and confirms that it will be essential to ensure that the car park surfacing within the Root Protection Area (RPA) of Tree 1 will be constructed using no dig technology as set out in the tree report. Accordingly, if the above, and other, recommendations contained in the Arboricultural Report are implemented then the development could take place without harm being caused to the protected trees on the application site and adjacent land.

#### **Advertisement Consent – 012/01412/ADV**

- 6.55 The proposed projecting fascia signage, illuminated blade totem sign, 2 no. applied lettering sign to the building, 1 no. applied logo vinyl graphic, 1 no. blade totem sign and 8 no. site direction/information signs are to be sited on and around the proposed fast food restaurant. The illuminated blade totem sign is to be located adjacent to the site access at the front of the site.
- 6.56 For advertisement consent the only issues that can be considered are amenity and public safety.

#### **Amenity**

- 6.57 The signage to the building would not be unduly prominent within the street scene due to the setback nature of the proposed building and the presence of other signage within the vicinity. Furthermore, the signage would respect the character of the area in terms of their size, position, colouration and materiality.
- 6.58 The illuminated totem blade to the front of the site would be fairly prominent due to its height of 6m. However, there are other similar signs in the locality, in particular to the north at the Table Table Public House. The sign is also set back from the edge of the carriageway by some 8m which further reduces its prominence in views along Ipswich Road. Although illuminated this would be confined to the lettering and logo and as such would not over accentuate its presence at night. Further, the signage is considered to be sited far enough away from the adjacent residential property (26m) not to cause an adverse impact upon the residents in terms of light pollution. The Council's Public Experience (Environmental Health) department have not raised any concerns in this regard.
- 6.59 To further reduce the impact of the illumination upon residents in the locality a condition will be attached to the permission ensuring that the illumination of the signage is switched off when the premises are closed to the public.

As such there is no significant harm to local amenity that would warrant a refusal.



### Public Safety

- 6.60 Essex County Council Highway raise no objections to the development providing the luminance level of the signage proposed does not exceed 300cd/m<sup>2</sup>. This requirement will be secured via condition and ensures that the illuminated adverts would not adversely impact upon public safety.

### Background Papers

None.