

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	ML	26/11/2019
Planning Development Manager authorisation:	TF	06/12/2019
Admin checks / despatch completed	SB	06/12/2019
Technician Final Checks/ Scanned / LC Notified / UU Emails:	M	6/12/19

**Application:** 19/01520/FUL **Town / Parish:** Ardleigh Parish Council

**Applicant:** Mr Huw James - KEFCO Sales Ltd

**Address:** The Cottage Site Ipswich Road Colchester

**Development:** Variation to conditions 2 (approved plans), 3 (approved landscape details) and 20 (acoustic fencing) to approve minor material amendments to the previously approved scheme in application 17/02136/FUL (allowed at appeal APP/P1560/W/18/3203537)

### 1. Town / Parish Council

Ardleigh Parish Council      No comments received

### 2. Consultation Responses

Tree & Landscape Officer      The development proposal includes a Landscape Plan Ref: 16-0036 which refers to soft landscaping plans previously submitted with planning application 17/02136/FUL. The current application refers to the Detailed Planting Proposals Ref: 2049 01-02 prepared by Liz Lake Associates.

It is important to note that the soft landscaping plan, referred to above and approved by planning application 17/02136/FUL following a successful appeal against the Councils decision to refuse planning permission, was the subject of a revision to include additional tree planting.

Therefore it is important to ensure that the landscaping is carried out in accordance with the Amended Detailed Planting Proposals set out on drawing number 2049 01 Rev A.

Prior to the determination of this application it should be made clear by the applicant that the soft landscaping will be carried out in accordance with drawing numbers 2049 01 Rev A and 2049 02 both produced by Liz lake Associates.

Building Control and Access Officer      No observations at this time.

Environmental Protection      I have reviewed the application and have no adverse comment to make.

ECC Highways Dept      From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions:

1. In accordance with comments made for planning application 17/02136/FUL; at no point shall gates be provided at the vehicular access. The access shall remain open and free for use in perpetuity. Reason: To give vehicles using the access free and unhindered access to and from the highway in the interest of highway safety and in accordance with policy DM1.

2. No development shall take place, including any ground works or demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and underbody washing facilities

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and Policy DM1.

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative 1: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

Informative 2: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to:

SMO1 - Essex Highways  
Colchester Highways Depot,  
653 The Crescent,  
Colchester  
CO4 9YQ

The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

Colchester Borough Council Thank you for consulting Colchester Council on this section 73 application.

Mindful of the approval of the scheme at appeal, Colchester Council have no objection to the proposed variation.

Natural England Thank you for your consultation.

Natural England currently has no comment to make on the variation of condition 2, 3 and 20.

Highways England Referring to the planning application referenced above, dated 18 October 2019, applications for variation of condition 2, 3 and 20 to approve minor material amendments to the previously approved scheme in application 17/02136/FUL, the Cottage Site, Ipswich Road, Colchester, Essex, notice is hereby given that Highways England's formal recommendation is that we:  
a) offer no objection

### 3. Planning History

90/01116/OUT	Development of site for office building with related car parking and construction of access to Ipswich Road	Refused	10.01.1995
97/01240/ADV	(The Cottage, Ipswich Road, Ardleigh) Display of advertisement hoardings	Refused	11.11.1997
99/01471/LBC	Complete demolition	Approved	07.03.2000
74/00073/OUT	Detached dwelling in replacement of cottage	Approved	23.04.1974
74/00073/LBC	Detached dwelling in replacement of cottage	Approved	23.04.1974
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
13/00625/FUL	Change of use to vehicle hire with modular building and canopied wash-bay.	Approved	18.09.2013

13/00626/ADV	Proposed 3 fascia signs and 1 pole sign.	Approved	18.09.2013
15/00241/FUL	Erection of 14 dwellings.	Approved	22.08.2016
17/02119/ADV	Proposed illuminated & non-illuminated elevational signage & freestanding signage.	Approved	29.03.2018
17/02136/FUL	Development of currently vacant site by way of the erection of single storey building for mixed A3/A5 use incorporating a drive thru lane, car and cycle parking and associated landscaping and boundary treatment.	Refused <b>(Appeal Allowed)</b>	29.03.2018
19/01520/FUL	Variation to conditions 2 (approved plans), 3 (approved landscape details) and 20 (acoustic fencing) to approve minor material amendments to the previously approved scheme in application 17/02136/FUL (allowed at appeal APP/P1560/W/18/3203537)	Current	
19/01522/ADV	Proposed internally illuminated and non-illuminated elevational signs and freestanding signage.	Current	
19/01567/DISCON	Discharge of conditions 4 (tree protection), 5 (construction method statement) and 16 (external lighting scheme) for application 17/02136/FUL (allowed at appeal APP/P1560/W/18/3203537)	Approved	14.11.2019
19/01568/DISCON	Discharge of conditions 15 (CCTV), 19 (acoustics) and 21 (vehicular barrier) for application 17/02136/FUL (allowed at appeal APP/P1560/W/18/3203537)	Approved	26.11.2019

#### 4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

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

ER32a Primary Shopping Area

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

Tending District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

PP1 New Retail Development

PP2 Retail Hierarchy

PP5 Town Centre Uses

PP6 Employment Sites

PPL1 Development and Flood Risk

PPL4 Biodiversity and Geodiversity

PPL5 Water Conservation, Drainage and Sewerage

CP1 Sustainable Transport and Accessibility

Local Planning Guidance

### **Status of the Local Plan**

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.

With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

## **5. Officer Appraisal (including Site Description and Proposal)**

### **Site Description**

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 Premier 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. The site is located within a Defined Settlement Boundary in both the saved and emerging local plans.

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.

The site is currently vacant, and has remained so for many years following the demolition in the 1990's of the previous residential property, known as the Cottage, which was a Grade II listed building. Following that demolition the site was very overgrown, but following the implementation of a vehicular access into/out from the site in 2012 the site has largely remained cleared yet otherwise undeveloped.

Ipswich Road (the A1232) runs in an approximately north-east to south-west direction, leading into the town centre of Colchester to the south-west (approximately 2.5 miles from the site), whilst approximately 400 metres to the north-east is junction 29 of the A12 London to Lowestoft Road, with this junction linking the A12 with the A120 road (leading to both the port of Harwich and the resort of Clacton-on-Sea).

The closest bus stops to the site are located approximately 230 metres to the north-east of the existing vehicular entrance into the site, with those stops known locally as Balkerne Gate. The site is situated approximately 850 metres east from National Cycle Network Route 1, which runs along Severalls Lane connecting the towns of Ipswich and Colchester.

### Proposal

Planning permission was granted in March 2019 at appeal for the following development;

'Development of currently vacant site by way of the erection of a single storey building for mixed A3/A5 (restaurant and hot food takeaway use), incorporating a 'drive-thru' lane, car and cycle parking and associated landscaping and boundary treatment.'

This section 73 planning application seeks to vary the conditions attached to the appeal decision as follows;

#### Condition 2 (Approved Plans)

The updated plans differ from those plans previously approved by way of;

- The slight re-positioning of the 'drive thru pick up feature' which is located on the south-eastern elevation of the building along with its slight increase in length by 1m;
- The elevational detailing of the proposed building has also been amended but the positioning of fenestration within the building elevations remains unchanged, with the exception of a new small window within the south-west facing elevation of the 'drive-thru pick up window' feature.
- A new 'pick up canopy' feature is proposed to form part of the 'drive-thru pick up window' feature.
- Elevation signage has been altered and at the same time of this section 73 application a separate new express advertisement consent application is under consideration.

#### Condition 3 (Landscaping)

Minor alteration to the landscaping scheme is proposed to reflect the change to the drive-thru element of the development, which now incorporates a pick canopy.

#### Condition 20 (Acoustic Fencing)

Plan no. updated to reflect drawing no. erroneously quoted by the planning inspector and to update detailing to show acoustic fencing fixed to new retaining wall.

### Appraisal

#### Impact of the Changes

The changes to the drive thru element of the proposal are minor and relate to the provision of a pick-up canopy and slight alterations to the siting and length of pick up feature present on the south-eastern elevation of the building. These changes do not significantly alter the appearance of the building and are acceptable in visual amenity terms.

The finishes to the building are also being amended to include shiplap cladding and anthracite composite cladding along with insulated wall panels. This represents a change from stone cladding and larger areas of grey cladding as previously approved. Again these alterations are acceptable and assist in giving the building a more varied and contemporary appearance.

The alterations to the acoustic fencing and landscaping are minor and reflect the alterations to the drive-thru element of the development. These changes do not attract any objections from the Council's Tree and Landscaping Officer or the Environmental Protection Team. The Council's Tree and Landscaping Officer states that the planting specification previously approved remains unchanged and should be re-applied within the approved plans condition.

### Conditions

Where pre-commencement conditions have previously been approved these conditions have been updated to reflect those approved details. The time limit condition has been amended to reflect 3 years from the date of the appeal decision.

### Other Considerations

ECC-Highways, Highways England, Waste Management, Building Control, Natural England and Colchester Borough Council have no objections to the alterations.

Ardleigh Parish Council has not commented upon the application. No letters of representation have been received.

## **6. Recommendation**

Approval

## **7. Conditions**

- 1 The development hereby permitted shall commence prior to the 14th March 2022.

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans: drawing numbers: 0000/2011/B121 revision S, 0000/2011/B121 revision L (Site Plan with Sections), 0000/2011/B212 revision E, 0000/2016/B213 revision A, 0000/2011/B100 revision E, 0000/2011/B125 revision C, 0000/2011/B124 revision K, 2049 01 Rev: A, 2049 02, 80815/M/100 Rev D and 80815/M/101 Rev D.

Reason - In the interests of proper planning.

- 3 All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details (Drawing No's: 2049 01 Rev: A, 2049 02 and 0000/2011/B125 revision C) shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 10 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason - To ensure the effective implementation of the landscaping scheme in the interests of visual amenity.

- 4 The tree protection measures outlined on the 'Construction & Environmental Management Plan' (Revision A) approved under planning reference 19/01567/DISCON shall be adhered to at all times during the construction phase.

Reason - To protect mature Oak Trees present on the site in the interests of visual amenity.

- 5 The development shall be constructed in full accordance with the details outlined within the Construction & Environmental Management Plan (Revision A - dated October 2019) as approved under planning reference 19/01567/DISCON.

Reason - In the interests of highway safety and residential amenity.

- 6 Site clearance and works proposed to any trees or shrubs shall be conducted outside the main bird breeding season (which is March until September) or following a nesting bird check by a qualified ecologist.  
Reason - In the interests of biodiversity.
- 7 The use hereby permitted shall only take place between the hours of 0600 to 2300 daily.  
Reason - In the interests of residential amenity.
- 8 Deliveries shall be taken at or despatched from the site only during the hours of 0800 to 1900 daily.  
Reason - In the interests of residential amenity.
- 9 Prior to the first use of the development, the area within the site identified as a loading/servicing bay shall be provided clear of the highway and retained at all times for that sole purpose as approved in writing by the Local Planning Authority.  
Reason - In the interests of highway safety.
- 10 The proposed development shall not be occupied until such time as the vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, has been hard surfaced, sealed and marked out in parking bays with a clear minimum distance of 6m between rows of spaces. The vehicle parking area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development.  
Reason - In the interests of highway safety.
- 11 Each vehicular parking space shall have minimum dimensions of 2.5 metres x 5.0 metres.  
Reason - In the interests of highway safety.
- 12 Prior to the first occupation of the development, the proposed access routes within the site shall be constructed to a width of 6 metres and maintained as such thereafter.  
Reason - In the interests of highway safety.
- 13 No unbound material shall be used in the surface treatment of the vehicular access within 20 metres of the highway boundary.  
Reason - In the interests of highway safety.
- 14 Prior to occupation of the development the vehicular turning facilities, as shown on the submitted plan shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.  
Reason - In the interests of highway safety.
- 15 Prior to the commencement of the use, the CCTV (Close Circuit System) for external areas of the site shall be installed in accordance with the drawing titled 'KFC Ipswich Road, Colchester external CCTV arrangement' (dated 23/08/2019) and the details shown within the HIK Vision DS-2CD2345FWD-I 4 MP IR Fixed Turret Network Camera document, as approved under planning reference 19/01568/DISCON. The CCTV shall be retained as approved thereafter in full working order.  
Reason - In the interests of residential amenity.

- 16 The proposed lighting scheme shall be installed in full accordance with the details approved under planning reference 19/01567/DISCON, these being;
- Dimensions of Proposed Lighting Spill Shields drawing
  - Tubular Lighting Plans (BEI Lighting)
  - External Lighting Document (dated 08.12.17)
  - Specification Details for Wall Mounted LED Luminaire (Ref - KFC-W)
  - Specification Details for Post Top LED Luminaire (Ref - KFC-13B)

The lighting scheme shall be retained as approved thereafter.

Reason - In the interests of biodiversity and residential amenity.

- 17 The development shall be carried out in compliance with drainage strategy 1569-3/GS/AJR dated 20th October 2017.

Reason - In the interests of amenity.

- 18 The development shall be carried out in accordance with the extraction equipment and noise attenuation as per approved drawings 80815/M/100 D and 80815/M/101 D and maintained in accordance with manufacturer's specifications Project Reference: 80524 dated 9th February 2017.

Reason - In the interests of residential amenity.

- 19 The food ordering system's volume level and noise level limit shall be set as outlined in Section 5 of the submitted 'Noise Assessment' (as prepared by Sharps Redmore dated 8th December 2017) and approved under planning reference 19/01568/DISCON. The noise levels shall be retained as approved thereafter.

Reason - In the interests of residential amenity.

- 20 Prior to the first use of the development, the acoustic fencing as shown on approved drawing 0000/2011/B124 revision K shall be erected and retained as such thereafter.

Reason - In the interests of residential amenity.

- 21 Prior to the first use of the development hereby approved, a vehicle entrance barrier shall be installed in full accordance with the details shown on drawing no. 0000/2011/8216 A as approved under planning reference 19/01568/DISCON. The vehicle entrance barrier shall be retained as approved thereafter.

Reason - In the interests of residential amenity.

## 8. Informatives

### Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

<p><b>Are there any letters to be sent to applicant / agent with the decision? If so please specify:</b></p>	<p>YES</p>	<p>NO</p>
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<b>Are there any third parties to be informed of the decision?</b> <b>If so, please specify:</b>	YES	NO