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Item No: 7.3

Application: 173119

Applicant: Kartik Limited

Agent: Miss Paige Harris, Boyers

Proposal: Mixed use development comprising an extension of the forecourt shop, reorientation of the drive-through hand car wash and an additional storey at first floor level to house two residential flats with associated car parking.

Location: Ranges Service Station, 154 Mersea Road, Colchester, Colchester, CO2 8PU

Ward: Berechurch

Officer: Chris Harden

Recommendation: Approval

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 Councillor Harris “Due to height of proposed extension (flats above garage) overlooking nearby properties” and “Due to existing overhead power cables.”
- 1.2 The application was discussed at the Planning Committee of March 8th and deferred to allow a Construction Method Statement to be submitted and considered by the Health and Safety Executive and the Fire Authority. An amendment was also sought in order to retain the protective Trief kerb on part of the Northern boundary of the site.

2.0 Synopsis

- 2.1 The key issues for consideration are the design, scale and form of the extension works, impact upon neighbouring residential amenity, highway aspects, including parking and maneuvering space, proximity of overhead power line, proximity of gas main and any Environmental Protection issues such as living conditions and potential contamination. Health and Safety issues have also been considered.
- 2.2 It is considered that the design, scale and form of the proposed works are acceptable and would be in keeping with the character of the street scene. It is not considered that there would be a significant impact upon neighbouring residential amenity from noise and disturbance, an overbearing impact, loss of light, overshadowing or overlooking. Lighting levels and hours of use can be conditioned.
- 2.3 There would be adequate parking provision and manoeuvring space on the site and the residential amenity of the occupants of the new flats is considered to be of an acceptable standard. The proximity to the overhead wire is acceptable subject to a condition requiring the construction works to be carried out as outlined in the construction method statement which has now been submitted and agreement in writing to any variations. The construction method statement (CMS) also covers issues relating to the gas pipeline and petrol tanks. Subject to compliance with this CMS and Health and Safety Legislation, the scheme is considered acceptable from a health and safety point of view. Any contaminated land issues can be covered by condition and an informative can also refer the developer to specific requirements in relation to the proximity of the gas main.
- 2.4 The application is subsequently recommended for approval.

3.0 Site Description and Context

- 3.1 The site lies within the physical limits of the Town and is currently a single storey petrol station with a canopy over the forecourt. There is a two storey dwelling to the North of the site, flats and shops to the South and an Electricity Pylon and Substation to the West. Vehicular access and egress is taken from Mersea Road.

4.0 Description of the Proposal

- 4.1 The proposal is for an extension to the forecourt shop, reorientation of the drive-through hand car wash and an additional storey at first floor level to house two residential flats with associated parking.
- 4.2 The scheme has been amended to slightly bring down the highest ridge height of the 1st floor flats to 7.97 metres from the originally submitted 8.27metres. The replacement canopy would be 5.7 metres in height and has been slightly amended from the original submission by stepping it back a further 0.75 metres from the road. The existing canopy on the site is 4.3 metres in height although it is 9.7 metres from the house to the North whilst the new canopy which is longer and closer to the road would be 11.4 metres from that dwelling.
- 4.3 Hours of use proposed for the shop are 06:00-22:00 each day and with the car wash open 08:00-18:00 pm. The agent also states that deliveries are currently 06:00 -22:00 and would want to retain these hours for deliveries as milk and newspapers are delivered at this time. The flats would be for staff working at the site.

5.0 Land Use Allocation

- 5.1 Neighbourhood centre. Within physical limits.

6.0 Relevant Planning History

- 6.1 081611 - Alteration and redevelopment of existing petrol filling station to provide new forecourt and canopy, extensions to the sales building and underground tanks. Approve Conditional - 02/12/2008

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 several documents as follows below.

- 7.2 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. Particular to this application, the following policies are most relevant:

- SD1 - Sustainable Development Locations
- CE1 - Centres and Employment Classification and Hierarchy
- CE2 - Mixed Use Centres
- CE2c - Local Centres
- CE3 - Employment Zones
- H1 - Housing Delivery
- H2 - Housing Density
- H3 - Housing Diversity
- UR2 - Built Design and Character
- ENV1 – Environment

- 7.3 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:

- DP1 Design and Amenity
- DP2 Health Assessments
- DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses
- DP7 Local Centres and Individual Shops
- DP12 Dwelling Standards
- DP13 Dwelling Alterations, Extensions and Replacement Dwellings
- DP14 Historic Environment Assets
- DP16 Private Amenity Space and Open Space Provision for New Residential Development
- DP17 Accessibility and Access
- DP19 Parking Standards

- 7.4 Some “allocated sites” also have specific policies applicable to them. There are no adopted Site Allocations (adopted 2010) policies that are relevant to the case.

- 7.5 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
- Backland and Infill
- Sustainable Construction
- Urban Place Supplement
- Managing Archaeology in Development.
- Air Quality Management Guidance Note, Areas & Order

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 Environmental Protection have no objections to the proposal subject to conditions and informatives.
- 8.3 As these are crucial to the consideration of this proposal, they are listed here in full to assist Members with their deliberations. The hours of opening/delivery times have been amended following discussions with the agent and further agreement with Environmental Protection to reflect current operations. These essentially relate to an earlier start and earlier finish.

Construction/demolition

ZPA – Construction Method Statement

No works shall take place, including any 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 and shall provide details for:

the parking of vehicles of site operatives and visitors;

hours of deliveries and hours of work;

loading and unloading of plant and materials;

storage of plant and materials used in constructing the development;

the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;

measures to control the emission of noise, dust and dirt during construction; and
a scheme for recycling/disposing of waste resulting from demolition and construction works.

Reason: In order to ensure that the construction takes place in a suitable manner and to ensure that amenities of existing residents are protected as far as reasonable.

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 working.

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.

General operation

ZGA - *Restriction of Hours of Operation*

The use hereby permitted shall not OPERATE outside of the following times:

Weekdays: 06:00-22:00

Saturdays: 06:00-22:00

Sundays and Public Holidays: 06:00-22:00

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*

No deliveries shall be received at, or dispatched from, the site outside of the following times:

Weekdays: 06:00-20:00

Saturdays: 06:00-20:00

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.

ZGR - *Light Pollution for Minor Development*

Any lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) shall fully comply with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note for zone EZ2 RURAL, SMALL VILLAGE OR DARK URBAN AREAS. The main lights shall be switched off outside of the hours of operation.

Reason: In order to safeguard the amenity of the surrounding area by preventing the undesirable, disruptive and disturbing effects of light pollution.

Car wash

Location

Any jet-washing of vehicles shall only take place within the building shown on the plan submitted with the application.

Any vacuum cleaners shall be located away from the northern residential boundary and be housed within acoustic enclosures at all times when in use.

Hours

The car wash shall not operate outside of the following times:

8.00 and 18:00.

Reason: In order to safeguard the amenity of the surrounding area by preventing the undesirable, disruptive and disturbing effects of noise pollution

Car wash staff should respect the amenity of immediate neighbours by reducing noise levels to a minimum, including not shouting or playing amplified music.

Residential units

Occupancy

The residential units shall only be occupied by staff working at the site.

Noise/fumes

The windows shall be sufficiently glazed to provide internal noise levels that comply with the current version of BS8233. They should have passive ventilation so that they can be closed to minimise the impact of noise and fumes when the garage is open.

Car parking

In terms of minimising residential impact it would be preferable to locate the disabled and resident parking along the northern boundary and the customer parking on the southern boundary.

Contaminated Land officer states: This is an acceptable preliminary risk assessment report for Environmental Protection's purposes. I note that:

- The hardstanding is in relatively poor condition; tanks are old but still in operation, and all are single skinned, as are the site's fuel supply pipework; there is a hydrocarbon sheen on the standing water in all three chambers of the brick interceptor; a former paraffin tank is known to be located under the forecourt, size and location unknown; fuel losses have been recorded from tank 4 in 1994, and unknown quantities from three pumps in 2006 (although it is also noted that no significant hydrocarbon contamination was identified in either soil or groundwater during the 2014 site investigation and that there is no evidence to suggest there has been, or is any on-going loss of product from the site petroleum infrastructure since the Subadra 2014 site investigation).
- It has been recommended that a watching brief be established at the site during the proposed works and further risk assessment and verification sampling must be completed and the conceptual site model updated accordingly, if any potential contamination is suspected.
- The report also identifies that new water supply pipework must be protected – *the applicant should be advised that this must be laid to the specification of the service provider.*

However, based on the information provided, it would appear that potential contamination matters would not preclude development, with these matters dealt with by way of condition. Consequently, if this application is approved, Environmental Protection would recommend inclusion of the following conditions:

Reporting of Unexpected Contamination

In the event that historic land contamination is found at any time when carrying out works in relation to the development, it must be reported in writing immediately to the Local Planning Authority and all development shall cease immediately. Development shall not re-commence until such times as an investigation and risk assessment has been submitted to and approved in writing by the Local Planning Authority, and where remediation is necessary, a remediation scheme has been submitted to and approved in writing by the Local Planning Authority. Development shall only re-commence thereafter following completion of measures identified in the approved remediation scheme, and the submission to and approval in

writing of a verification report. This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

Reason – The site lies on or in the vicinity of an operational fuel filling station where there is the possibility of contamination and Environmental Protection wish to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

**Validation Certificate* (non-standard wording)*

Prior to the first OCCUPATION/USE of the development, the developer shall submit to the Local Planning Authority a signed certificate to confirm that any necessary remediation works have been completed in accordance with the documents and plans detailed in Condition INSERT.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors

8.4 UK Power networks states:

“As the owners of the 132,000 volt overhead lines over-sailing the site it is important that the new elevations proposed fit beneath the lines whilst maintaining minimum safety clearances during construction and on completion. The lines pose a serious risk to life if contacted directly or through a conducting medium.

The clearances to overhead lines change due to ambient temperature and circuit loading and any proposed design will need to accommodate the most onerous operating conditions.”

“We have completed our modelling of the tower design and clearances between the overhead line conductors and the proposed building.

With the overhead line operating at its maximum and allowing for the statutory clearance of 3.6m there is 0.98m clearance remaining to the apex of the proposed building.

It will be important that these clearances and the inherent danger posed by working in close proximity to the 132,000 volt lines are appropriately considered when constructing to such close margins. No element of the construction should encroach beyond 0.98m above the planned apex and construction method statements how this will be accomplished should be available before work commences on site. This includes but not limited to, use of scaffold poles and equipment, hoists, cranes or other lifting equipment or loose materials that can be caught by the wind.”

- 8.5 Cadent (Gas Network): Has not objected to the application but has confirmed:
“Due to the presence of Cadent and/or National Grid apparatus in proximity to the specified area, the contractor should contact Plant Protection before any works are carried out to ensure the apparatus is not affected by any of the proposed works.”
“Low or Medium pressure (below 2 bar) gas pipes and associated equipment. (As a result it is highly likely that there are gas services and associated apparatus in the vicinity).”
Full comments received are on the Council’s website and include the developer’s requirements when undertaking the works.
- 8.6 Highway Authority has stated “from a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions.” Following submission of the revised plan retaining the Trief kerb, the Highway Authority states “The cars on the left hand side of the pumps may have a little sharper turn to make if a parked car is protruding into the aisle but on balance I don’t think it will make a big difference or become a hazard. Drivers will have be aware of slightly less space to turn or manoeuvre into.” Again, it is appropriate to repeat these conditions in full here, as they are fundamental to the acceptance of the scheme.

1.The development shall not be occupied until such time as the allocated car parking spaces (for at least 4 vehicles for the residential element) has been clearly signed for residents use only, hard surfaced, sealed and marked out in parking bays. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and in accordance with Policy DM 1 and 8 of the Highway Authority’s Development Management Policies February 2011.

2. The development shall not be occupied until such time as the allocated car parking spaces (for at least 5 vehicles for customer parking) has been clearly signed for customer /visitor use only, hard surfaced, sealed and marked out in parking bays. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and in accordance with Policy DM 1 and 8 of the Highway Authority’s Development Management Policies February 2011.

3. All off street car parking shall be in precise accord with the details contained within the current Parking Standards being provided within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and in accordance with Policy DM 1 and 8 of the Highway Authority’s Development Management Policies February 2011.

4. Prior to the occupation of the proposed development, details of the provision for the storage of bicycles for each dwelling sufficient for all occupants of that dwelling, of a design this shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To promote the use of sustainable means of transport in accordance with Policy DM 1 and 9 of the Highway Authority's Development Management Policies February 2011.

5. No development shall take place, including any ground works or works of demolition, until a Construction Method Statement (CMS) 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 under body washing facilities

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety and Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

Informative1: The Highway Authority strongly recommends that the applicant provides accurate swept path analysis drawings commensurate with the largest delivery tanker vehicle attending the site can access the unloading area and re-join the highway in a single convenient and efficient manoeuvre.

8.7 Archaeology: "No material harm will be caused to the significance of below-ground archaeological remains by the proposed development. There will be no requirement for any archaeological investigation."

8.8 Health and Safety Executive state: "Your development does not intersect a pipeline or hazard zone. HSE Planning Advice does not have an interest in the development."

8.9 The Fire Authority, with regard to consultation which includes the Construction Method Statement state: "RE: your request for fire service observations on the attached planning consultation.

The fire service is consulted twice during the planning and build process:

The first time is under the Essex Act 1987 at initial planning – we comment on access for fire service and other emergency appliances only, i.e. can a vehicle get to within 15% of the perimeter, or to within 45m of all parts of a dwelling.

The second consultation is at building regulations stage, where we make observations on Approved Document B, Volume 2 only.

This Authority has no legal power or right to make comments or observations on any other matter – other agencies are the lead authorities for these."

9.0 Parish Council Response

9.1 Not applicable.

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.

10.2 Councillor Harris makes the following points:

Having met with residents nearby there are several concerns that need resolution for them.

The issues residents have raised include

1. Proximity to boundary. Moving the building of the garage closest to the boundary residents feel will have an adverse effect on their dwellings.
2. Increase in height and flat above. The proximity of a flat to 32000 volt overhead cable is a worry and also means houses closest in Mersea road will be overlooked. This will need sorting.
3. The removal of the bund wall (Trief) at the base of the boundary wall is a deep concern. Resident feel that the previous accidents where the wall was knocked over regularly in the 1980s will recommence, especially with less room for cars to move.
4. I get the impression the residents want improvements and I am hopeful that the list of issues that residents have can be 'resolved by amendments to the plans using discussions with planning dept and owners I am hopeful that the residents will have their concerns addressed.

10.3 Five letters of objection have been received which make the following points:-

- Now directly affected by the garage operations with noise from jet wash, vehicular movements, litter and disregard for front of site. Had to complain to Environmental Protection about excessive noise in 2015-noise abatement notice served in 2015. Still noise concerns.
- Failure to maintain exit/access sign is dangerous.
- Overhead lines directly above building
- Building will be 8.7 m high and extend 19 m along our boundary and 3 metres nearer.
- Concerns about noise and disturbance from 7 customer spaces alongside our boundary and from deliveries.
- Removal of Trief kerb leaves the wall vulnerable to collisions, as occurred before Trief kerb.
- Boundary wall shown incorrectly.
- Car parking and landscaping could impede visibility.
- Not enough room for cars to reverse.
- Access road not wide enough.
- Cars will be moving in forward gear towards our wall from drying area.

- Pollution impact on son who has MS and Asthma.
- Narrow, dark shaded access would be created.
- More air pollution and decline in air quality.
- Garage would be open longer than it is.
- Forecourt shop will have a significant detrimental impact upon our amenity.
- Incorporation of jet wash in building is welcomed. Hoovering and cleaning operations should also be included in building.
- Should be acoustic fencing.
- Detriment to street scene from canopy extending forward and beyond building line.
- Dominating and overbearing impact on our house. Building too high and too close to our boundary.
- Outlook from our property, including from kitchen window and conservatory would be unacceptably affected. Sky will be obscured. Will block light to rooms and garden.
- Facing wall is flat and featureless.
- Significant light pollution from canopy.
- Lack of planting mitigation.
- Overshadowing/loss of light beaches BRE25 degree- have received expert advice on this. Further tests should be undertaken.
- When we bought property, garage had not been built. Were not made aware of it.
- Poor living conditions of future residents. Fumes, no outdoor space.
- Concern about vent pipe emissions to rear.
- Too much being proposed on the site.
- Don't object to principle of redevelopment but strongly object to this application.
- Since Kartik has operated the garage we have suffered ongoing stress and disturbance.
- Extra hours of operation will cause more disturbance. Not clear if wash facility hours extended.
- A reduction in sunlight and increase in shading throughout the day will not only impact on the enjoyment of our property but may restrict and alter the range and diversity of plants and wildlife that currently utilises the habitat.
- Out of date contamination study submitted.
- Phase 1 contaminated land study is a desk top study and essentially reviews and other relevant historic data. Is there any reason why MCERTS accredited testing laboratories weren't used across all of the analysis?
- The Building Research Establishment (BRE) "Site Layout Planning for Daylight and Sunlight: a good practice guide" 2011 by PJ Littlefair provides guidance for the planning department to consider. We understand the proposal breaches the BRE 25 degree test in relation to the side windows within no 152, which serve habitable rooms. As a result, the proposal is likely to cause a reduction of light to the property and the further tests for daylight and sunlight should be undertaken to evaluate the impact upon our client's property.
- We note that the applicant has not submitted a BRE daylight or sunlight study in support of their application which establishes the impact of the proposal upon our client's property. We would therefore request that no decision in

favour of the application is made until the applicant undertakes a daylight and sunlight study.

- Officer's comments do not reflect impact in street scene and on neighbouring amenity.
- Area by neighbour's boundary is rarely used for parking or manoeuvring. Metal barrier not sufficient.
- Staff only condition indicates scheme not good enough.
- No need to give consent for lower quality housing in the area.

11.0 Parking Provision

11.1 Four spaces for residents, five for customers plus a disabled bay plus an air/water bay and tanker loading bay. There will be six petrol forecourt car bays.

12.0 Open Space Provisions

12.1 Not applicable.

13.0 Air Quality

13.1 The site is outside of any Air Quality Management Area and will not generate significant impacts upon the zones.

14.0 Planning Obligations

14.1 This application is not classed as a "Major" application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (s.106) of the Town and Country Planning Act 1990.

15.0 Report

The Principle of Development:

15.1 As the site lies within the physical limits of Colchester, is part of a Neighbourhood centre and is already an employment site, the proposal should be judged on its planning merits.

Design, Scale and Form:

15.2 It is considered that the design, scale and form of the proposed extension works, including the first floor flats and canopy are visually acceptable and respect the character of the streetscene and its surroundings. The overall height of the garage with additional flats is relatively modest, at 7.97 m which is no higher than an average two-storey dwelling. It is not out of keeping with the scale of nearby buildings, including the shops with flats above located to the South which is a taller building. The proposal would present a series of pitched roof gables set behind a typical garage canopy and this is considered to be an appropriate design and layout for this context. The canopy would not be too dominating and

would only cover around a third of the site frontage before it narrows down further back into the site.

Neighbouring residential amenity:

- 15.3 It is considered the proposal is acceptable in terms of its impact upon neighbouring residential amenity. The canopy, at 5.7 metres in height, would be 1.4 metres higher and would be longer than the existing, but it would be positioned 11.4 metres away from the neighbouring dwelling as opposed to the current distance of 9.7 metres. It is considered this 11.4 metre gap is sufficient to avoid the canopy having an overbearing impact or causing any significant loss of light or having an overbearing or overshadowing impact upon the neighbours to the North. This includes to the nearest side window, garden and conservatory. This is similar to the height of a single storey dwelling and the 11.4 metre gap is substantial.
- 15.4 Similarly, the extension to the rear would be well away from the neighbouring dwelling and would be nearly four metres from the side boundary. Again, this is considered to be far enough to avoid an overbearing impact or causing a significant loss of light or having an overbearing or overshadowing impact on the garden or dwelling. The extension would be similar to the height of a two storey dwelling, and whilst longer than a dwelling, again a gap of nearly four metres to the neighbour's boundary is substantial.
- 15.5 The objections from the neighbours in this respect have been carefully considered and the first floor extension has been reduced to 7.97 m which is as low as is feasible for the two-storey element. Similarly, the canopy length was reduced to the minimum required to cover the tanker delivery point. Whilst these reductions are relatively modest, they help to minimise the impact on the neighbouring properties.
- 15.6 The canopy and extension would be far enough from the flats to the South to avoid impact from overbearing, overshadowing and loss of light. As the proposed building is to the north of these and therefore there can be no loss of direct sunlight.
- 15.7 It is considered that, subject to the hours of working conditions and light level conditions recommended by Environmental Protection, there will not be a significant impact on neighbouring residential amenity from noise and disturbance or obtrusive lighting. The garage is already a working garage and hours of use will be retained as existing. The car wash should also be quieter as it will be located within the building adjacent to the forecourt shop. A condition will restrict its use to between 08:00 and 18:00.
- 15.8 The area to the North of the site is already used for vehicular manoeuvring so it is not considered that parking by customers to the site in this location can be objected to. The number of spaces has, however, been reduced to five on this boundary to ensure the spaces meet the parking standards.

15.9 There would not be any significant overlooking of neighbouring properties from first floor windows on the extended property. The first floor windows on the front elevation would look towards the garage forecourt rather than into neighbouring windows or private amenity space. There would not be 1st floor windows on the side elevations except for two small, high-level bathroom windows. These can be obscure glazed and non-opening. The first floor rear windows would face towards the substation.

15.10 The building work conditions suggested by Environmental Protection such as the Construction Works Management plan should ensure that there is not significant disturbance to neighbours at inappropriate times whilst the construction work is being undertaken.

Highway Safety and Parking Provision:

15.11 It is considered there is adequate parking provision to serve the proposed use. There will be four parking spaces for the flat occupants, five for the customers (excluding the six petrol forecourt bays) and a disabled parking bay. The proposal has been amended to ensure that parking spaces meet the required 2.9 metre x 5.5 metre size. This has made the spaces larger, but has reduced the number of spaces from the original submission to accommodate the required size of spaces. The Highway Authority has raised no objections and consider this is adequate provision. This is potentially an improved level of parking provision compared to what currently exists on the site which is a rather random parking arrangement to the rear of the shop which doubles up as the part of the drive-through for the car wash.

15.12 Space for vehicular manoeuvring, including access, exit and the drive-through car wash are considered satisfactory. Visibility splays leaving the site are acceptable and any landscaping at this point can be conditioned to be no higher than 0.6 metres to ensure the splays are not impinged upon.

15.13 The scheme has also been revised to allow for the retention of the Trief kerb adjacent to the neighbours where the parking spaces for the residents and one customer would be. This should protect wall from accidental collisions at this point and the highway authority have no objections to this revision

Proximity to overhead wires:

15.14 There are no objections from UK Power Networks to the proximity of the building works to the 132,000 volts overhead power line. However, no element of the construction should encroach beyond 0.98m above the planned apex. Accordingly, the submitted a construction method statement will need to be complied and this will be conditioned. This includes, but is not limited to, the use of scaffold poles and equipment, hoists, cranes or other lifting equipment or loose materials that can be caught by the wind. The revised scheme has been slightly lowered from the original submission, as outlined above, so clearances are slightly greater than assessed by UK Power Networks.

Residential Amenity of the occupants of the new flats:

- 15.15 Environmental Protection have raised no objections to the scheme on the grounds of the residential amenity of the occupants of the new flats subject to conditions.
- 15.16 These conditions will include that the flats will only be occupied by a member of staff of the garage and dependents thereof. In addition, the glazing will need to be sufficient to ensure adequate noise protection and the front-facing windows will be fixed to ensure no ingress of fumes. Whilst there is no defined external amenity space provision, this is not a particularly unusual occurrence within an urban location and the flats are linked to staff (and dependents thereof) working on site. The flats themselves are quite spacious and are considered to provide an acceptable level of living accommodation. There is also a benefit to the business in providing accommodation associated with the garage/retail use.
- 15.17 Environmental Protection have raised no objections to the proximity of the overhead wires to the occupants of the new flats.

Construction Method Statement and General Health and Safety

- 15.18 A Construction Method Statement (CMS) has been submitted and this covers issues such as General Safety, gas main proximity, height bars, details of isolation, equipment used, fencing, power lines, site clearance, signing by all contractors, HSE guidance in relation to powerlines and reference to the Health and Safety at Work Act 1974. The full document is available on the Council's website.
- 15.19 The Health and Safety Executive and The Fire Authority have been consulted on the scheme and raise no objections having seen the CMS. The Fire Authority have confirmed that it will also be consulted at the Building Regulation stage and that there are other agencies that are the lead authorities on such Health and Safety issues. A condition can be applied to ensure that all construction activity accords with the CMS and that any variation in activity is agreed in writing by the Local Planning Authority.
- 15.20 The agent has also confirmed that "each petrol station will need to apply for a petroleum storage licence in order to store and supply petrol to vehicles. These licences usually last a year and are then renewed. As well as this there are also Petroleum Regulations that are enforced by the Petroleum Enforcement Authorities. This authority is in charge of issuing petroleum storage certificates. These regulations and storage certificates add a further layer of regulation to ensuring the safety on the site."
- 15.21 The agent has also confirmed that the garage will be closed during the construction work.

15.22 Following the submission of the Construction Method Statement, the consultation with the Health and Safety Executive and Fire Authority and further clarification from the agent, it is concluded that adequate safeguards would be in place to ensure the safety of the construction works.

Other Issues:

15.23 With regard to potential contaminated land issues, Environmental Protection have confirmed that the submitted preliminary risk assessment report is acceptable and that potential contamination matters do not preclude development subject to conditions. Accordingly, conditions relating to unexpected contamination and validation of remediation works will need to be applied, as outlined above.

15.24 No objections have been raised by Cadent (Gas network). The mains pipes are shown to be located on the edge of the site and should not be affected by the development. However, as requested, Cadent have been informed of the proposed recommendation of approval. By way of an informative, the developer will be referred to the specific requirements outlined by Cadent when undertaking the works. The Construction Method Statement as mentioned above will also be applicable in this respect.

15.25 There is no impact upon significant vegetation on site. A landscaping condition can be applied so that precise details of landscaping proposed are submitted to, and agreed in writing by, the Local Planning Authority.

15.26 There are no archaeological implications.

16.0 Conclusion

16.1 In summary, the design scale and form of the proposed works are considered acceptable and would not detract from the character of the street scene. It is not considered that there would be a significant impact upon neighbouring residential amenity from noise and disturbance, an overbearing impact, loss of light, overshadowing or overlooking. Lighting levels and hours of use can be conditioned.

16.2 There would be adequate parking provision and manoeuvring space on the site and the residential amenity of the occupants of the new flats is considered to be of an acceptable standard. The proximity to the overhead wire is acceptable subject to a condition requiring compliance with the Construction Method Statement and agreement in writing to any variation. The Health and Safety Executive and the Fire Authority have raised no objections and it is concluded that adequate safeguards will be in place to ensure the safety of the construction works overall. Any contaminated land issues can be covered by condition and an informative can refer the developer to specific requirements in relation to the proximity of the gas main.

17.0 Recommendation to the Committee

17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1. ZAA - Time Limit for Full Permissions

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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. ZAM – Development to Accord With Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers PA-01 received 1/12/18 and & PA-06d received 7/2/18 and PA-04 f and PA-05f received 26/3/18.

Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.

3. ZBC – Materials To Be Agreed

No external facing or roofing materials shall be used in the construction of the development hereby permitted until precise details of the manufacturer, types and colours of these have been submitted to and approved, in writing, by the Local Planning Authority. Such materials as may be approved shall be those used in the development.

Reason: In order to ensure that suitable materials are used on the development as there are insufficient details within the submitted planning application.

4. ZKK- Parking Provision

The development shall not be occupied until such time as the allocated car parking spaces (for at least 4 vehicles for the residential element) has been clearly signed for residents use only, hard surfaced, sealed and marked out in parking bays. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety.

5. Z00 – Parking Standards

All off street car parking shall be in precise accord with the details contained within the current Parking Standards being provided within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety.

6. ZPA – Construction Method Statement

No development shall take place, including any ground works or works of demolition, until the Construction Method Statement (CMS) received 13/4/18 has been implemented and the following additional details shown below are submitted to and approved in writing by the Local Planning Authority. The submitted statement received 13/4/18 and the approved additional details shall be adhered to throughout the construction period. The additional details 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 under body washing facilities
- v. hours of deliveries and hours of work;
- vi. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- vii. measures to control the emission of noise, dust and dirt during construction; and a scheme for recycling/disposing of waste resulting from demolition and construction works.

No element of the construction should encroach beyond 0.98m above the planned apex and the statement shall include but not be limited to, use of scaffold poles and equipment, hoists, cranes or other lifting equipment or loose materials that can be caught by the wind.

Any variation to the submitted Construction Method Statement received 13/4/18 shall be submitted to and agreed in writing by the Local Planning Authority prior to commencement of works.

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety and in order to ensure that the construction takes place in a suitable manner and to ensure that amenities of existing residents are protected as far as reasonable. It is also to ensure no impingement beyond the safety zone around the overhead powerline in the interests of the safety of construction workers.

7. Z00 – Trief Kerb

The Trief kerb shown on drawing PA-04 f shall thereafter be retained at all times.

Reason: To ensure that no cars collide with neighbouring boundaries.

8. ZPJ – Demolition Before Development

No demolition or construction work or deliveries in association with construction work shall take outside of the following times;

Weekdays: 08:00-18:00 Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working.

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.

Reason: In the interests of highway safety and neighbouring residential amenity.

9. ZEM – Working Times

The use of the garage and extended shop hereby permitted shall not operate outside of the following times:

Weekdays: 06:00-22:00

Saturdays: 06:00-22:00

Sundays and Public Holidays: 06:00-22:00

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.

10. Z00 – Delivery Times

With the exception of fuel deliveries, no deliveries shall be received at, or dispatched from, the site outside of the following times:

Weekdays: 06:00-20:00

Saturdays: 06:00-20:00

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.

11. ZGR – Light Pollution For Minor Development

Any lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) shall fully comply with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note for zone EZ2 RURAL, SMALL VILLAGE OR DARK URBAN AREAS. The main canopy lights and signage shall be switched off outside of the hours of operation.

Reason: In order to safeguard the amenity of the surrounding area by preventing the undesirable, disruptive and disturbing effects of light pollution.

12. Z00 – Car wash operation times

The car wash shall not operate outside of the following times:

08:00 and 18:00. Any jet-washing of vehicles shall only take place within the building shown on the plan submitted with the application. Any vacuum cleaners shall be located away from the northern residential boundary and be housed within acoustic enclosures at all times when in use.

Reason: In order to safeguard the amenity of the surrounding area by preventing the undesirable, disruptive and disturbing effects of noise pollution.

13. Z00 – Staff Occupation

The residential units hereby permitted shall only be occupied by staff working at the site (and dependents thereof).

Reason: In the interests of residential amenity of the occupiers as permission has only been granted for people working at the site.

14. Z00 – Front windows non-opening

The first floor windows on the front elevation shall be non-opening and glazed to provide internal noise levels that comply with the current version of British Standard 8233 and thereafter be retained as such.

Reason: In the interest of residential amenity.

15. ZG0 – Unexpected Contamination

In the event that historic land contamination is found at any time when carrying out works in relation to the development, it must be reported in writing immediately to the Local Planning Authority and all development shall cease immediately. Development shall not re-commence until such times as an investigation and risk assessment has been submitted to and approved in writing by the Local Planning Authority, and where remediation is necessary, a remediation scheme has been submitted to and approved in writing by the Local Planning Authority. Development shall only re-commence thereafter following completion of measures identified in the approved remediation scheme, and the submission to and approval in writing of a verification report. This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

Reason: The site lies on or in the vicinity of an operational fuel filling station where there is the possibility of contamination and Environmental Protection wish to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

16. ZGY- Contaminated Land Remediation

Prior to the first occupation/use of the development, the developer shall submit to the Local Planning Authority a signed certificate to confirm that any necessary remediation works have been completed in accordance with the documents and plans detailed in Condition 17.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

17. ZFI – Tree or Shrub Planting

The development hereby permitted shall not be occupied until details of tree and/or shrub planting and an implementation timetable have been submitted to and approved, in writing, by the Local Planning Authority. This planting shall be maintained for at least five years following contractual practical completion of the approved development. In the event that trees and/or plants die, are removed, destroyed, or in the opinion of the Local Planning Authority fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed in writing with the Local Planning Authority.

Reason: To ensure an appropriate visual amenity in the local area.

18. ZCF – Refuse and Recycling Facilities

Prior to the first occupation of the development, the refuse and recycling storage facilities as shown on the approved plans shall have been provided and made available to serve the development. Such facilities shall thereafter be retained to the satisfaction of the Local Planning Authority at all times.

Reason: To ensure that adequate facilities are provided for refuse and recycling storage and collection.

19.Z00 – Air Conditioning Condensers

Prior to their installation, precise details of the air conditioning condensers to be installed on the southern elevation shall be submitted to and agreed in writing by the Local Planning Authority. Only the approved details shall be installed and shall thereafter be retained as such.

Reason: In the interests of neighbouring residential amenity.

18.0 Informatives

18.1 The following informatives are also recommended:

1.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.

2. Highway Informative: 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 or by post to:

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

3. The applicant should note that, due to the presence of **Cadent and/or National Grid apparatus** in proximity to the specified area, the contractor should contact Plant Protection before any works are carried out to ensure the apparatus is not affected by any of the proposed works. Low or Medium pressure (below 2 bar) gas pipes and associated equipment. Full comments received from Cadent (Gas Network) are on the Council's website and include the developer's requirements when undertaking the works.

4. With regard to **contaminated land** it has been recommended that a watching brief be established at the site during the proposed works and further risk assessment and verification sampling must be completed and the conceptual site model updated accordingly, if any potential contamination is suspected.

Car wash staff should respect the amenity of immediate neighbours by reducing noise levels to a minimum, including not shouting or playing amplified music.

The water supply pipework must be protected – the applicant should be advised that this must be laid to the specification of the service provider.

5 ZTA - Informative on Conditions Stating Prior to Commencement/Occupation

PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either **before you commence the development or before you occupy the development**. This is of critical importance. If you do not comply with the condition precedent you may invalidate this permission and be investigated by our enforcement team. Please pay particular attention to these requirements. To discharge the conditions and lawfully comply with your conditions you should make an application online via www.colchester.gov.uk/planning or by using the application form entitled 'Application for approval of details reserved by a condition following full permission or listed building consent' (currently form 12 on the planning application forms section of our website). A fee is also payable, with the relevant fees set out on our website.