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<b>Item No:</b>	7.1
<b>Application:</b>	180245
<b>Applicant:</b>	Mr Mark Harding
<b>Agent:</b>	Klh Architects Ltd
<b>Proposal:</b>	Application to vary condition 2 of planning permission F/COL/02/1970.
<b>Location:</b>	Garages, Willows Court, The Willows, Colchester, CO2 8XU
<b>Ward:</b>	Berechurch
<b>Officer:</b>	Eleanor Moss
<b>Recommendation:</b>	Approval

## **1.0 Reason for Referral to the Planning Committee**

- 1.1 This application is referred to the Planning Committee because this application is a major and unresolved objections have been received.

## **2.0 Synopsis**

- 2.1 The key issues for consideration are the impact on highway safety, parking and the wider character of the area. The Highway Authority does not object to the scheme and as such the proposal is considered acceptable.
- 2.2 The application is subsequently recommended for approval.

## **3.0 Site Description and Context**

- 3.1 The application site relates to a local centre in Berechurch Ward, this contains a number of uses which are well established along with a number of residential properties.

## **4.0 Description of the Proposal**

- 4.1 This application seeks planning permission to vary condition 2, the approved drawings, of Planning permission F/COL/02/1970 (which was a predominantly residential scheme). This is in order to amend the parking arrangements, highways layout and bin storage.

## **5.0 Land Use Allocation**

- 5.1 Local centre comprising of shopping centre with residential uses

## **6.0 Relevant Planning History**

- 6.1 F/COL/02/1970 - Conversion of existing building to provide 5no. flats and new build development to provide 15no. flats and 1no. shop/office unit. Approved 30<sup>th</sup> March 2003.

## **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  
CE2c - Local Centres  
H1 - Housing Delivery  
H2 - Housing Density  
H3 - Housing Diversity  
H4 - Affordable Housing  
UR2 - Built Design and Character  
TA1 - Accessibility and Changing Travel Behaviour  
TA2 - Walking and Cycling  
TA3 - Public Transport  
TA4 - Roads and Traffic  
TA5 - Parking  
ENV1 - Environment  
ER1 - Energy, Resources, Waste, Water and Recycling

- 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  
DP7 Local Centres and Individual Shops  
DP12 Dwelling Standards  
DP16 Private Amenity Space and Open Space Provision for New Residential Development  
DP17 Accessibility and Access  
DP19 Parking Standards  
DP25 Renewable Energy

- 7.4 Some “allocated sites” also have specific policies applicable to them. The adopted Site Allocations (adopted 2010) policies set out below should also be taken into account in the decision making process:

N/A

- 7.5 There is no Neighbourhood Plans currently adopted for this area.

- 7.6 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):

The Essex Design Guide  
External Materials in New Developments  
EPOA Vehicle Parking Standards  
Affordable Housing  
Sustainable Construction

## **8.0 Consultations**

- 8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.
- 8.2 Highway Authority - The Highway Authority is informed that the access road will not be offered for adoption and that refuse/recycling vehicles will not have access within the site, therefore it does not object to the proposals as submitted.
- 8.3 Contamination Officer – No comments
- 8.4 Environmental Protection – No comments
- 8.5 Archaeological Officer – No concerns
- 8.6 Tree Officer – Additional information requested

## **9.0 Parish Council Response**

- 9.1 Non-Parished

## **10.0 Representations from Notified Parties**

- 10.1 The application resulted in a number of notifications to interested third parties including neighboring 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.
- Allocation of parking spaces
  - Existing leases
  - Removal of trees
  - Concerns regarding blue hoardings
  - Concerns regarding parking
  - Site is an eyesore

## **11.0 Parking Provision**

- 11.1 The application is considered to comply with car parking standards. This is explained in further detail at paragraphs 15.6 – 15.8.

## **12.0 Open Space Provisions**

- 12.1 N/A

### **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 classed as a “Major” application, however the original application F/COL/02/1970 did not secure any Planning Obligations and as a variation to this application, there is no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations could be sought via Section 106 (s.106) of the Town and Country Planning Act 1990.

### **15.0 Report**

#### The Principle of the Development:

- 15.1 The site is in a residential area close to a local shopping centre. The principle of redevelopment is therefore acceptable. Furthermore, the original application has commenced on site, the principle of the application is therefore acceptable.

#### Design, Scale and Layout:

- 15.2 The proposal does not seek to vary the previously approved built form design or layout of the scheme although it is noted that the rear of the application site is neglected and has an unsightly “backyard” appearance. The redevelopment of this site would offer an improvement to the appearance of the area.
- 15.3 As this proposal will not amend the design or layout of the built form, it is considered to be acceptable in this regard.
- 15.4 The proposal includes a number of smaller amendments, these include the bin store and screening fence for the bin store. These elements are considered to be visually acceptable and would not create an unacceptable impact upon the appearance of the area.

#### Amenity Space Provision:

- 15.5 Given the amenity space provided does not alter from the original permission, the amenity standards provided are considered to be acceptable.

#### Highways Safety and Parking:

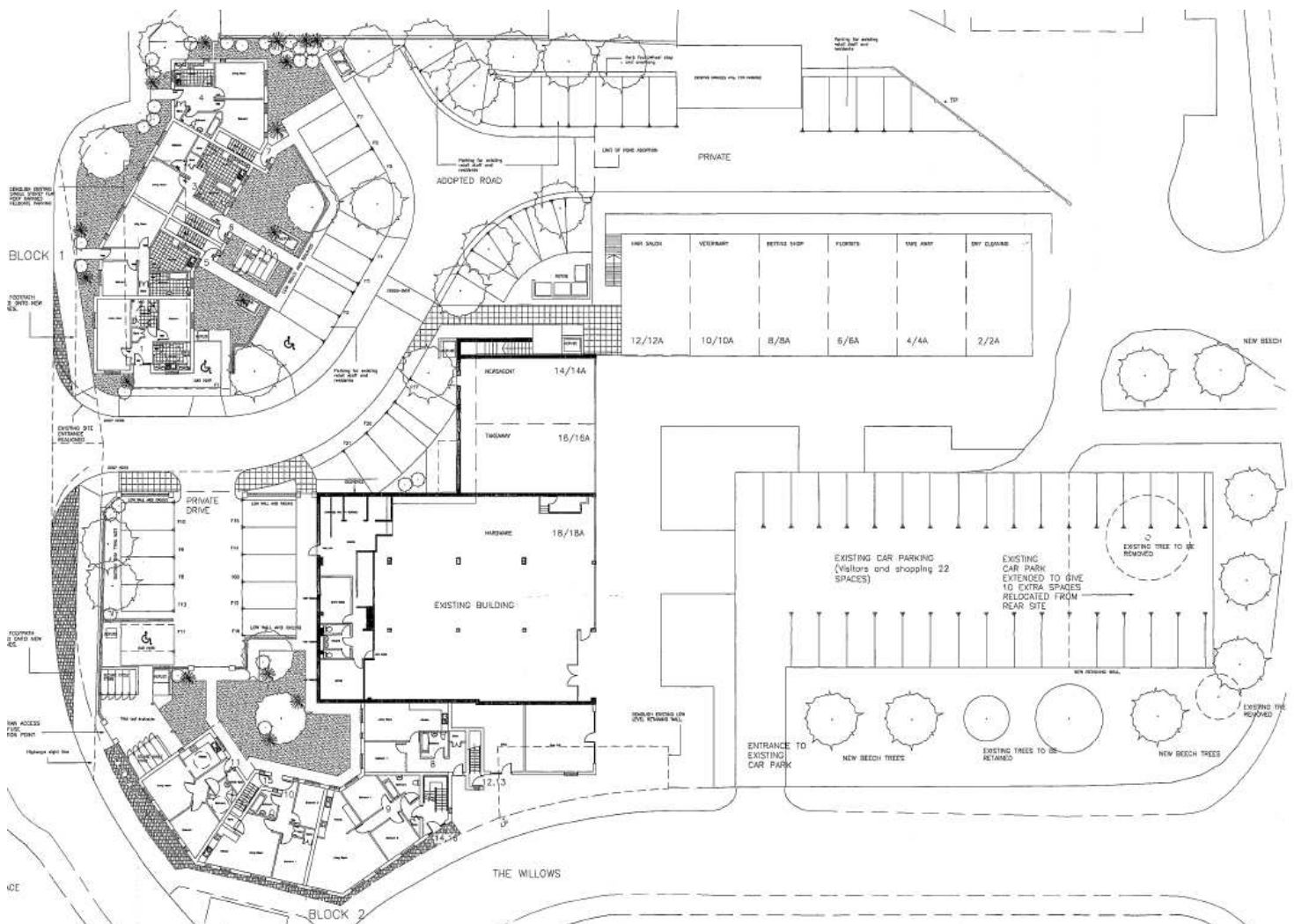
- 15.6 As per the original permission, all new residents will have a dedicated parking space on site without loss of parking space for existing residents and retail units.

15.7 As existing, there are 55 spaces in total. The proposed scheme creates 77 overall. The original application granted permission for the extension of the existing car park and therefore no concerns are raised in this regard. The Highway Authority has confirmed it does not raise an objection to the scheme. The realignment of the road is therefore considered to be acceptable. It has been confirmed that the road will not be formally adopted and as such the duty to maintain the road will fall upon the owners.

15.8 Following negotiations, amendments have been made to the scheme which satisfactorily meet vehicular traffic safety concerns, including the Willows shoppers' parking area and access to/from Mersea Road. Pedestrian needs, including those with disabilities, have been fully accommodated. Cycle storage facilities will be provided.

### Trees and Landscaping:

15.9 The Tree Officer has requested an Arboricultural Impact Assessment (AIA) to be submitted in support of this application. Whilst these concerns are noted, the extension of the existing car park has previously been approved under the original application and the removal of trees has already been accepted. As shown in the drawing below:



15.10 The realignment of the road is sufficiently distanced from any existing vegetation to ensure that any impact will be minimal.

Commencement:

15.11 The application has been submitted in order to vary the alignment of the internal access road and parking layout, this is in order to avoid moving the location of four car parking spaces. In order to lawfully commence development it is necessary to satisfy the legal requirements in section 56(4) of the Town and Country Planning Act 1990. This says that “development is taken to be begun on the earliest date on which a material operation is carried out”. A material operation is defined in the Act and can include any works of construction, demolition, digging foundations, laying out or constructing a road and a material change in the use of the land. It is noted that a number of concerns have been made in relation to the length of time to build out the original permission and these are sympathised with, however it is clear there is a part commencement of the scheme by the creation of the flats above the existing shops, this means that the rest of the development can be carried out at any time in the future. The applicant is at the stage where the original alignment of the road is causing blockages to implementing the rest of the development. The realignment of the road will allow for the rest of the development to be completed.

## **16.0 Conclusion**

16.1 To summarise, the variation of condition application is considered to be acceptable. All relevant conditions which accompanied the original permission will be imposed upon any planning approval in order to ensure critical aspects are protected.

## **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 Drawings Referenced 3801-0300 Revision P01, 3801-KHK-0102 P05 and 'Fence horizontal open slatted'.

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

## **3. ZBB - Materials As Stated in Application**

The external facing and roofing materials to be used shall be those specified on the submitted application form and drawings, unless otherwise agreed, in writing, by the Local Planning Authority.

Reason: To ensure that materials are of an acceptable quality appropriate to the area

## **4. Non Standard Condition – Vehicles**

No vehicle connected with the works shall arrive on site before 07.30 or leave after 19.00 (except in the case of emergency). Working hours shall be restricted to between 08.00 and 18.00 hours Monday to Saturday (finishing at 13:00 on Saturday) and at no time on Sunday. No noisy machinery shall be operated or noisy process carried out outside the hours of 09:00 to 17:00 Monday to Friday with no working of any kind permitted on Sundays, Saturdays after 13:00 hours or any Public/Bank Holiday days.

Reason: To protect residential amenity.

## **5. Non Standard Condition - Landscaping**

All approved hard and soft landscape works shall be carried out in accordance with the programme agreed with the Local Planning Authority and in accordance with the relevant recommendations of the appropriate British Standards. All trees and plants shall be monitored and recorded 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 the provision and implementation of a reasonable standard of landscape in accordance with the approved design.

## **6. Non Standard Condition – Cycle parking**

The building/s or land subject to this permission shall not be brought into use for the purposes hereby approved until satisfactory arrangements for the provision of bicycle parking have been agreed in writing and implemented to the satisfaction of the Local Planning Authority.

Reason: To ensure that adequate provision is made for cycle parking in accordance with both local and national policy to encourage and facilitate cycling as an alternative mode of transport and in the interests of both the environment and highway safety.

## **7. Non Standard Condition – Sound insulation**

The use hereby approved shall not commence until the buildings have been modified to provide sound insulation against internally generated noise in accordance with a scheme approved in writing by the Local Planning Authority.

Reason: To protect residents from internally generated noise.

#### **8. Non Standard Condition – Demolition**

No demolition works shall be carried out before 8.00 a.m. or after 6.00 p.m. Monday-Friday, before 8.00 a.m. or after 1.00 p.m. on Saturdays with no demolition on Sundays, Bank or Public Holidays.

Reason: In order to safeguard the privacy of adjoining occupiers.

#### **9. Non Standard Condition – Piling**

Prior to the commencement of any piling works, an agreed method of installation, which minimises noise and vibration to nearby residents, shall be submitted to and agreed in writing with the Local Planning Authority in consultation with Environmental Control. Any piling shall be carried out in accordance with the approved details.

Reason: In order to safeguard the privacy of adjoining occupiers.

#### **10. Non Standard Condition - Site splays**

The site splays to the proposed access road, shown on the approved drawing, shall be provided prior to any property being occupied or any parking area put to use. The splays shall thereafter be maintained so clear until such time as the road shall be a publicly maintained highway.

Reason: In the interests of highway safety.

#### **11. Non Standard Condition - Crossing**

The new dwellings shall not be occupied prior to arrangements being made to reinstate the disused service yard, footway crossing to full height footway.

Reason: In the interests of pedestrian safety.

#### **12. Non Standard condition– Site splays**

2.0 x 20 metre sight splays shall be provided to each side of each vehicular access where it meets the carriageway prior to the drive being put to use and shall thereafter be kept free of any obstruction exceeding 600mm in height within the splays.

Reason: In the interests of highway safety.

#### **13. Non Standard Condition - Pedestrian splays**

1.5 x 1.5 metre pedestrian visibility splays shall be provided to each side of the vehicular access where it meets the highway prior to the drive being put to use and shall thereafter be kept free of any obstruction exceeding 600mm in height within the splay areas.

Reason: In the interests of pedestrian safety.

#### **14. Non Standard Condition – Car parking spaces**

The car parking spaces indicated on the approved plans shall be constructed prior to the first occupation of the development hereby approved and shall thereafter be retained.

Reason: To ensure adequate parking provision so that the development does not prejudice the free flow of traffic or the general safety along the adjacent highway or the convenience and amenities of local residents.

### **15. ZFS - Tree and Hedgerow Protection: General**

All existing trees and hedgerows shall be retained throughout the development construction phases, unless shown to be removed on the approved drawing and all trees and hedgerows on and immediately adjoining the site shall be protected from damage as a result of works on site in accordance with the Local Planning Authorities guidance notes and the relevant British Standard. All existing trees and hedgerows shall then be monitored and recorded for at least five years following contractual practical completion of the development. In the event that any trees and/or hedgerows die, are removed, destroyed, 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. Any tree works agreed to shall be carried out in accordance with BS 3998.

Reason: To safeguard the continuity of amenity afforded by existing trees and hedgerows.

### **18.0 Informatives**

18.1 The following informatives are also recommended:

#### **Non Standard Informative – Highways**

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.

### **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.

### **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](http://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.