

**PLANNING COMMITTEE**  
**17 JUNE 2021**

|                             |  |
|-----------------------------|--|
| <i>Present: -</i>           | Councillors Hazell (Chairman) Barton, Chuah, Davidson, Lilley, Maclean and Mannion     |
|                             |  |
| <i>Substitutes: -</i>       | Councillor G Oxford for Cllr B Oxford<br>Councillor Pearson for Councillor Warnes      |
| <i>Also, in attendance:</i> | Councillors Barber*, Goss*, Hogg, King*, Willetts*, T. Young<br><br>*Attended remotely |

**846. Minutes of Previous Meetings**

The minutes of the meetings held on 26 May 2021 and 27 May 2021 were confirmed as a correct record.

**847. 202771 Turner Rise Retail Park, Petrolea Close, Colchester**

**Councillor G. Oxford indicated that he had previously made a comment in respect of this application which could be construed as pre-determination and withdraw from the room whilst the application was debated and determined.**

The Committee considered an application for alterations to the car park with the erection of a freestanding restaurant with a drive-thru facility, car parking, landscaping and associated works, including Customer Order Displays, Goal Post Height restrictor and Play Frame. The application had been referred to the Committee as it had been called in by Councillor Goss for the reasons set out in the report.

The Committee had before it a report and amendment sheet in which all information was set out.

The Committee members had been provided with films and photographs of the site taken by the Planning Officer to assist in their assessment of the impact of the proposals on the site.

Annabel Cooper, Planning Officer, presented the report and assisted the Committee in its deliberations.

Richard Chandler addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He indicated he was speaking on behalf of a large number of residents. If the application was granted

there would be 4 McDonald's restaurants in Colchester, and there were already 3 in 1.3 miles of his location. At busy periods the roads and junctions in this area and the train station were busy and if there was any form of incident on the A12, the congestion increased. There were already sufficient areas to eat on the retail park. Given the variety of retail outlets and the petrol station, there was already very large numbers accessing the retail park and if it attracted customers in the numbers predicted, it would only increase traffic and worsen the situation. The restaurant would also generate traffic from delivery drivers. There were also concerns about litter and impacts on child health, given the proximity of the site to schools.

Craig Newnes addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He explained that he was the franchisee for McDonalds and operated 9 restaurants in the local area. He had worked with officers in bringing forward the application. The application demonstrated his commitment to invest in the local area. It would create at least 85 new jobs for local people. His restaurants encouraged a no idling policy for drive-thru customers, and had made significant donations to Colchester Foodbank and other local charities. Staff worked hard to keep sites litter free and took part in campaigns aimed at reducing litter. The proposals would enhance landscaping and improve pedestrian and cycling infrastructure on the retail park. They had worked with Essex County Council to ensure the application would not have a detrimental impact on traffic in the area. The proposal would generate significant economic investment in Colchester.

Councillor Goss attended and with the consent of the Chair addressed the Committee. Whilst it was acknowledged that McDonalds did valuable community work, this was the wrong location for such a development. It was noted that one of the other retail units, Dunelm Mill, had objected. The Transport Assessment was based on a retail park in Croydon, which was not comparable. Concern was expressed about the impact of the proposals on traffic in the area, which already suffered from congestion and long delays, and a comparison was drawn with the drive thru McDonald's site at Leisure World which caused congestion on Cowdray Avenue. The significant level of public opposition was noted, as were the objections from Colchester Cycle Campaign and the objection on health grounds from the NHS. Only 4 extra car parking spaces would be provided for customers with no extra provision for staff parking. The proposals were also likely to increase issues around littering in the area. There were also concerns about increases in anti-social behaviour and harmful impacts on air quality.

Councillor King attended and with the consent of the Chair addressed the Committee. There were clear counter balancing arguments against those used to support the application. The proposals would increase traffic and litter. Whilst the Highways Authority acknowledged that extra trips to the site would be generated by the proposals it did not address the impact of those additional trips, and attention was drawn to the recent ruling by a coroner on the impact of air pollution on health. The NHS did not support the application and there were demonstrable links between fast food and diseases such as diabetes. The National Planning Policy Framework was clear that social and environmental impacts could be measured against economic impacts and that public health was a material planning consideration. On that basis the application should be refused.

In discussion members of the Committee expressed concern about the additional traffic that would be generated and the impact this would have on already busy area. It was noted that the Highways Authority had not objected and further clarification was sought on the compilation and conclusions of the Transport Assessment. Further information was also sought on the distance to the nearest residential property and whether the concerns about health, in particular childhood obesity, were material planning considerations.

The Planning Officer explained that the Transport Assessment included the data from Croydon for comparison purposes, as it was considered it was the site that most closely reflected what was proposed. It did not mean that no study had been made of the impact on this area. The scope of the Transport Assessment had been agreed in advance with the Highways Authority. It was anticipated that there would be increased traffic generation, but it was considered that there would be a significant number of trips to the restaurant that were linked to existing trips to the retail park. There would also be significantly improved pedestrian and cycling access. The nearest residential property was approximately 200 metres to the north and was screened by significant structures. No concerns had been raised by the Environmental Protection Team. In respect of childhood obesity there was no guidance in the National Planning Policy Framework or local planning policies that demonstrated that this could be taken into consideration. However, the application included a Wellbeing Assessment which included information on health menu choices.

Martin Mason, Essex County Council Highways, attended to assist the Committee and explained that the Highways Authority had done their own in house traffic generation study. This had shown that the site would generate some new trips. These trips had been assessed against the National Planning Policy Framework and it was their professional opinion that the additional trips would not have a severe impact of the network. Whilst the meaning of "severe" had not been tested at appeal, it included a consideration of whether the impacts of traffic generated could be mitigated. The site would allow a significant number of linked trips to be made. The site was also accessible with public transport, cycling and pedestrian access.

In further discussion members considered that although concerns about the impact on the road network remained, this would not be a sustainable reason for the refusal of the application. It was suggested by some members of the Committee that food choices were a matter for the individual. To help address concerns about littering it was suggested that an informative be added requesting the car registration details be printed on receipts to deter littering. It was also suggested that the trees due to be removed should be replaced by semi mature trees, and it was agreed that an informative should be added requesting that this should be included in the landscaping scheme.

*RESOLVED* that (SIX voted FOR, TWO voted AGAINST) that the application be approved subject to the conditions and informatives set out in the report together with additional informatives requesting that car registration details be printed on receipt and that semi mature heavy standard trees to form part of the landscaping scheme to compensate for the loss of existing trees.

#### **848. 210787 87 Colchester Road, West Bergholt**

The Committee considered an application for part change of use to takeaway (fish and chip shop), change of shopfront, installation of extractor hood and fan and external cold rooms. The application had been referred to the Committee as it had been called in by Councillor Willetts for the reasons set out in the report.

The Committee had before it a report and amendment sheet in which all information was set out.

The Committee members had been provided with films and photographs of the site taken by the Planning Officer to assist in their assessment of the impact of the proposals on the site.

Annabel Cooper, Planning Officer, and Simon Cairns, Development Manager, presented the report and assisted the Committee in its deliberations.

Parish Councillor Bob Tyrell, Chair of West Bergholt Parish Council Planning Committee, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The applicant had made no effort to engage into dialogue. The application site was in a residential area in the heart of the village. The application did not comply with PP14 of the West Bergholt Neighbourhood Plan, which stated extensions to existing employment sites would only be supported if the impact on residential amenity was acceptable, and that traffic impact was acceptable in terms of highway safety and amenity of residents. Residents opposed the application so the Parish Council sought the refusal of the application or the deferral for further negotiations. The concerns of the Parish Council included increased traffic and parking and the proximity to a junction, together with increased disturbance because of the excessive opening hours. The location of the refrigeration units and flue would cause noise disturbance. If the Committee were minded to grant the application there should be a limit on opening times, regular collections to deal with litter that was generated and the permission should be limited to 12 months to allow the impact to be assessed.

Councillor Willetts attended and with the consent of the Chair, addressed the Committee to explain that he had called in the application. He considered the application was defective as it did not contain enough information about the control of fumes and odour. Odour and chaotic parking were common problems at fish and chip takeaways and neither could be adequately controlled by conditions. The report acknowledged that there was insufficient information to demonstrate that odour would not have a detrimental impact on the surrounding neighbourhood. Although Environmental Protection had suggested means of reducing the impact, this should have been resolved before the application was reported to the Committee. By their nature trade at fish and chips shops created queues, and there would be significant passing trade from the B1508. Much of the trade would come by car. The only parking available was a small layby that was already used by local residents. This would lead to the B1508 being blocked by indiscriminate parking. If approved the application would cause a significant nuisance to local residents.

Councillor Barber attended and with the consent of the Chair addressed the Committee. He explained that the layby near the premises was privately owned and not part of the public highway and therefore no reliance could be made on it as parking for customers. This undermined the content and conclusions of the report. Whilst the report explained that there was no minimum standard for parking the Committee should ensure that proper consideration was given to the issue. It was very unlikely that customers would cycle: most customers would arrive by car. The West Bergholt Neighbourhood Plan had been adopted by Colchester Borough Council and the report do not give sufficient weight to the Neighbourhood Plan. The Neighbourhood Plan was policy and not guidance. The Committee must take account of the local opposition to the proposal on the grounds of the impact on residential amenity. The concerns expressed on highways issues also needed to be considered.

In response, the Planning Officer explained that the issues around the Neighborhood Plan were fully addressed in the Committee report. In terms of parking, applications were considered against an adopted parking standard, but hot food takeaways were not required by policy to provide parking and so this could not be imposed on the applicant.

In discussion, members of the Committee sought further clarification on the relevance of the Neighbourhood Plan and the weight that the Committee should be putting on the arguments raised that the application was contrary to the Neighborhood Plan on highways and amenity grounds. The Planning Officer reiterated that this was addressed at paragraphs 14.13 and 14.22 of the Committee report. The Highways Authority had not objected to the proposal and therefore the application was considered acceptable in terms of traffic generation. It was also considered that the proposed conditions would be sufficient to protect residential amenity.

Concerns around the impact of odour on neighbouring properties remained. A view was also expressed that it was important to support the Neighbourhood Plan as it was based on the views of the local community, and the considerable number of objections received was noted and should be given weight. Concerns were also expressed about the potential position of the flue, given that there appeared to be room to move it away from the neighbouring property.

A different view was also expressed that that there was no evidence to support the view that the application posed a risk to highway safety and that the concerns about parking and residential amenity were speculative and could not be used to support a refusal of the application. Concerns raised about the flue would be addressed by the proposed condition requiring further information to be submitted to the Council's Environmental Protection Team.

A motion to refuse the application on the grounds on non-conformity with the West Bergholt Neighborhood Plan and the lack of parking, which would lead to congestion thereby causing a risk to Highway safety, was proposed. The Development Manager emphasised that sufficient weight had been given to policy PP14 of the West Bergholt Neighbourhood Plan on highway grounds. All development had some

impact on the neighbourhood, but the impact of this development on amenity could be effectively controlled through conditions.

On being put to the vote the proposal to refuse the application on the grounds specified was lost (FOUR voted FOR, FIVE voted AGAINST).

A proposal to approve the application subject to the conditions and informatives in the report was then proposed.

*RESOLVED* that the application be approved subject to the conditions and informatives set out in the report (FIVE voted FOR, FOUR voted AGAINST)

**849. 210673 Mary Barron Building , Colchester General Hospital, Turner Road, Colchester CO4 5JL**

**Councillor Chuah (in respect of having been the Council's shareholder appointment on the Board of the Trust) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).**

The Committee considered an application for the erection of a building to provide an Elective Orthopaedic Centre comprising 8283sqm internal floor area; the demolition of Mary Barron building and removal of Cardiac Catheterisation Unit, administrative block and part removal of Elmstead Day Unit (Endoscopy only), relocation of clinical services; a new service loop road including drop off parking, delivery area and ambulance bays; the provision of an external link corridor to the existing Elmstead Day Unit and landscaping and ancillary works.

The Committee had before it a report and amendment sheet in which all information was set out.

The Committee members had been provided with films and photographs of the site taken by the Planning Officer to assist in their assessment of the impact of the proposals on the site.

Lucy Mondon, Principal Planning Officer, presented the report and assisted the Committee in its deliberations.

Nick Hulme, Chief Executive of the East Suffolk and North Essex NHS Foundation Trust (ESNEFT), addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The application would help reduce waiting times for orthopaedic surgery, which would help reduce pressure on emergency services. Waiting times were now almost two years. The application would allow the provision of high quality care and help the Trust attract high calibre staff. The application also included extensive landscaping and drop off parking. There had been extensive consultation with residents in Essex and Suffolk and good co-operation with residents.

The Committee expressed its thanks to the Trust for their work supporting the community during the Covid 19 pandemic. The Committee also welcomed the application although some concern was expressed about the impact of the loss of trees on site and asked that they be replaced by mature trees. The potential impact of plant located on the roof was also raised. The Principal Planning Officer explained that the Council's Arboricultural Officer was satisfied that the removal of trees proposed was acceptable given their low and moderate value, subject to mitigation with additional planting elsewhere. In respect of the plant, a noise assessment had been completed and Environmental Protection were satisfied that this could be controlled by the proposed conditions.

*RESOLVED (UNANIMOUSLY) that-*

(a) The application be approved subject to the recommended conditions (following satisfactory negotiations with regards to the landscape strategy and including any necessary conditions as a result) and informatives as set out in the report and Amendment Sheet, and following the signing of a legal agreement to secure necessary planning contributions. In the event that the legal agreement was not signed within 6 months of the committee meeting, authority be delegated to the Assistant Director to refuse the application, or otherwise to be authorised to complete the agreement;

(b) Authority be delegated to the Head of Service to make minor amendments to the recommended conditions as a result of consultation with the applicant and the requirements of the Town and Country Planning (Pre-commencement Conditions) Regulations 2018.

#### **850. 190335 Land at the Rear of the Colchester Centre, Hawkins Road, Colchester**

The Committee considered an application for the redevelopment of the site to provide 282 student bedrooms (sui generis) in an 8 storey building with ancillary ground floor space combining café, meeting space, bin store, cycle store, laundry, reception/office, plant rooms and car parking.

The Committee had before it a report and amendment sheet in which all information was set out.

The Committee members had been provided with films and photographs of the site taken by the Planning Officer to assist in their assessment of the impact of the proposals on the site.

James Ryan, Principal Planning Officer presented the report and assisted the Committee in its deliberations. He explained that there was over provision of parking, especially given the sustainable location of the site. It was hoped that the applicants could be encouraged to run the site as a largely car free site and a travel plan condition was proposed.

Chris Board of ABC Planning addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application and thanked the

Council's officers, who had provided an excellent service and delivered improvements to the scheme. In terms of car parking the site would be taken over by a management company who specialised in student accommodation. They had indicated that they were looking to limit the car parking to 10 spaces for the whole building which would cover the needs of those operating the building and disabled parking provision. This could be finalised at reserved matters stage.

A statement from Councillor Tim Young was read to the meeting indicating that he did not object to the application. The design was much improved and there were no material planning reasons for it to be refused, but the issue of car parking needed to be resolved. The only car parking on the site should be disabled bays. The site was close enough to the university for students to walk or cycle there. The position of cycle storage needed to be addressed. It should be much nearer the entrance and with greater volume. A climate emergency had been declared in Colchester and that should apply to planning applications too; walking and cycling must be promoted and this application gave an opportunity to set an example. The parking in and off Hawkins Road was horrendous when the businesses are working at full capacity and more cars in the area should not be encouraged. The applicant should confirm that a sprinkler system would be included within the development. This was vitally important in any application of this type and size, and this was given added piquancy given the recent anniversary of the Grenfell tragedy.

The Principal Planning Officer indicated that the wish to reduce the parking as outlined by both speakers was supported and this could be settled at reserved matters, and the reduction in car parking would give the opportunity to create more green space. A sprinkler system would be provided.

In discussion it was suggested that there should be better provision of cycle parking, and that the University should provide transport links to students with disabilities. Confirmation was also sought that the lifts had a dedicated power supply, so they could be used in an emergency, given there were rooms for those with disabilities on all floors. It was also suggested that the material used for the cladding should be fireproof. In terms of ensuring the development was environmentally friendly, Committee members suggested that planting should be integrated into the building and whether a more sustainable heating system could be used. Concern was also expressed about the lack of amenity space for students.

The Principal Planning Officer explained that a dedicated power supply for the lifts was an issue for Building Control but an informative could be added requesting the issue be looked at. The other issues raised by the Committee could also be secured by conditions and informatives with the applicant's agreement. It was not known at this stage what sort of heating system was proposed, but again the Committee's wish that a sustainable system be looked at could be covered by an informative. The reduction in parking would provide an opportunity to provide more green space.

**RESOLVED (UNANIMOUSLY)** that the application be approved subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990, within 6 months from the date of the Committee meeting. In the event that the legal agreement was not signed within 6 months, to delegate authority to the Assistant Director to refuse the application, or otherwise to be authorised to

complete the agreement. The Permission also be subject to the conditions set out in the report, for which delegated authority was also granted to add to and amend as necessary, and additional conditions and informatives to address the following issues:-

- Dedicated power supply for the lifts to prevent them becoming unusable in the event of a power cut or emergency;
- A sprinkler system for safety;
- Green/Sedum roof;
- Solar panels;
- A sustainable heating system that limits the amount of carbon produced, such as ground source/air source heat pumps;
- All materials used to be fully fire retardant;
- Increased secure and lockable cycle provision;
- Good quality tree planting;
- More amenity space for students;
- Less on-site car parking;
- Accessibility scheme/travel plan link to university for disabled students.

#### **851. 210822 2 Woodview Close, Colchester**

The Committee considered an application for a single storey rear extension and log cabin type summer house. The application was before the Committee as it had been called in by Councillor Mike Hogg for the reasons set out in the report.

The Committee had before it a report in which all information was set out.

The Committee members had been provided with films and photographs of the site taken by the Planning Officer to assist in their assessment of the impact of the proposals on the site.

John Miles, Planning Officer presented the report and assisted the Committee in its deliberations.

Graham White addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He lived at 3 Woodview Close and explained that his wife suffered from severe acute respiratory syndrome which was aggravated by dust pollution. He welcomed that the Council had taken his concerns seriously and had made dust management a condition of the planning permission, but noted that the Advisory Note for Control of Pollution During Construction and Demolition Works did not specifically mention control of onsite dust pollution. How this would be incorporated into the Method Statement, and what assurances could be given to the maintenance and implementation of the Method Statement? It was considered that the combined effect of the application was overbearing in terms of scale and mass. Both buildings were very close to their

property. A reduction of half a metre in the depth or a reduction in height, perhaps through a flat roof, would substantially improve the situation.

Ray Miller addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The summer house would be located in a corner of the plot adjacent to a large leylandii hedge and would be well screened. Additional screening would also be added. The design of the rear extension had been subject to some discussion with the neighbours and the plans had been amended to take account of concerns expressed. Further screening would help reduce the impact on neighbouring properties. The application would not set a precedent as there had been significant development in the area. A Method Statement for the Control of Dust would be prepared and the Advisory Note on Control of Pollution would be strictly adhered to.

Councillor Hogg attended and with the consent of the Chair addressed the Committee. He had called the application in on the basis of concerns and objections from residents and he felt it was important that the decision was made by the Planning Committee after hearing representations from neighbours. Whilst the conclusion in paragraph 16.9 on the impact of the development on amenity of neighbouring properties was noted, this would depend on where the application was viewed from and he considered there would be loss of visual amenity.

The Planning Officer explained that in respect of control of dust the Council had a statutory duty under the Equality Act to address potential effects on those who may have a protected characteristic. A bespoke condition was proposed which required a Method Statement specifying the extra measures that would be taken to minimise dust pollution. This would give the Council more control over the building process and provide security for neighbouring residents. In terms of neighbourhood amenity the impact on all surrounding properties had been assessed. The application had passed the 45 degree test and in terms of the amenity of properties to the north, it accorded with Council standards. Therefore, it was considered the application was acceptable in terms of impact on amenity.

In discussion the Committee was pleased to note the bespoke condition on the control of dust and the efforts that would be made to mitigate the effects of the construction. The Committee considered that there were no material planning reasons on which a refusal of the application could be justified.

*RESOLVED* (EIGHT voted FOR and ONE ABSTAINED from voting) that the application be approved subject to the conditions and informatives as set out in the report.

#### **852. 210384 Box Cottage, The Avenue, West Bergholt, Colchester CO6 3HD**

The Committee considered an application for a proposed first floor rear extension, alteration and detached annex for a carer. The application was before the Committee at it had been called in by Councillor Willetts for the reasons set out in the report.

The Committee had before it a report in which all information was set out.

The Committee members had been provided with films and photographs of the site taken by the Planning Officer to assist in their assessment of the impact of the proposals on the site.

Chris Harden, Planning Officer, and Simon Cairns, Development Manager, presented the report and assisted the Committee in its deliberations.

Councillor Willetts attended and with the consent of the Chair addressed the Committee and explained that he had called the application after being contacted by a number of residents who were concerned about the creation of a detached annex. There were no outstanding concerns about the proposed alterations to the main dwelling. Planning training stressed that the individual circumstances of the applicant were not a relevant planning consideration. There were several rear gardens that met at a common point and there was concern that a residential annex was being shoehorned into a narrow site in an exposed position. The standard condition requiring that the annex only be used by a relative of the family or a carer alleviated some concerns. However there were residual concerns about this form of development. Whilst there was sympathy for the circumstances of this applicant it was hoped that this would not set a precedent for this form of development in such a constrained location. It was more appropriate for this decision to be taken by the Planning committee rather than under delegated powers, and it was hoped the Planning Committee would make clear that this was only being approved due to the special considerations of the case.

The Planning Officer explained that each case would be judged on its own merits. The annex was quite small scale and there would be significant garden space remaining. The special considerations gave additional weight in planning terms. The Planning Service would ensure that the conditions regarding residency were complied with.

The Committee noted the special considerations of the applicant and welcomed the sensible approach of the applicant, neighbours and the Parish Council. The Committee explored whether the residency condition should be tightened further so that the annex could only be occupied by a carer. However, the Development Manager reassured the Committee that the condition as drafted ensured that the annex could not be used as a separate dwelling independent of the main property and so was sufficient.

*RESOLVED* (UNANIMOUSLY) that the application be approved subject to the conditions and informatives as set out in the report.

### **853. Jan Mooney**

The Committee expressed its thanks to Jan Mooney, Democratic Services Officer, for her service in support of the Planning Committee, and across the Council more widely, over her 20 years at the Council, and wished her a happy retirement.