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**Item No:** 7.1

**Application:** 162790

**Applicant:** Dunelm (Soft Furnishings) Ltd

**Agent:** Mrs Lucy Turner, Montagu Evans LLP

**Proposal:** Application to vary condition 12 following grant of planning permission 91/0887.

**Location:** Dunelm, Unit 1, Turner Rise Retail Park, Petrolea Close,  
Colchester, CO4 5TU

**Ward:** Mile End

**Officer:** Sue Jackson

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

- 1.1 This application is referred to the Planning Committee because it seeks to vary a condition on a major application and objections have been received.
- 1.2 Councillor Goss also sought to call-in the application for the following reasons “This application will potentially cause disturbance to local residents as it is proposed to build for 24 hours a day. This is not acceptable. There is also an issue with dumped trolleys which will get worse with even more people using the store. All of this has an impact on local residents and our local community. The response from the store on these issues has been poor and woeful. I want to see Trolleywise employed to pick up the trolleys like Asda have done”.

## **2.0 Synopsis**

- 2.1 The key issues for consideration are policy matters, the impact of the construction works on the amenity of residents in Peto Close and how any adverse impacts can be mitigated by working practises and/or planning conditions.
- 2.2 The application is subsequently recommended for approval.

## **3.0 Site Description and Context**

- 3.1 Turner Rise Retail Park is located just to the north of the town centre close to Colchester North Station. The Retail Park comprises nine retail and restaurant units, including Go Outdoors, Home Bargains, Pizza Hut and Bensons. Asda Supermarket is located immediately to the west of the site. The application site, Unit 1, is occupied by Dunelm. The buildings on the Retail Park are approximately “U” shaped with a central car park. There is a service yard to the rear separated from residential properties by an embankment. Access is via Petrolea Close which is in turn accessed from the North Station roundabout and thereafter runs parallel to the railway line.

## **4.0 Description of the Proposal**

- 4.1 This application relates to Unit 1 and seeks to vary the wording of a condition on the original planning permissions to permit the existing mezzanine floor space to be accessed by the general public and used for retail sales. The application also seeks to extend the mezzanine floor area.
- 4.2 The application proposes that the area of the mezzanine will be increased from 1,307 sq. m to 1,484 sq. m (177sq. m) with approximately 829 sq. m will be used for retail sales, with the remainder continuing to be used for storage, offices and staff areas. A new central staircase to provide access for the public to the mezzanine will reduce the retail floor area of the ground floor by approximately 73 sq. leading to an overall increase to the net sales area of the unit of 784 sq. m.

- 4.3 Outline planning application COL/91/0887 provides the original planning permission for the Retail Park approved in September 1993. Condition 12 of this permission restricted the gross floor area at the development to 13,006 sq. m. Application COL/98/0004 approved in February 2008 allowed the creation of additional mezzanine floorspace within three of the units, including Unit 1 through the variation of Condition 12. The application also reduced the maximum level of gross non- food retail at the site from 13,006 sq. m to 11,261 sq.m.
- 4.4 Condition 12 reads as follows: “The retail floorspace hereby approved is restricted in the following manner:
- a) A maximum 82,000 sq. ft. (7617.8 sq. m.) gross floor area to include a maximum of 45,000 sq. ft. (4180.5 sq. m.) net retail sales area - foodstore only. In particular:-The food retail unit shall be retained as a single unit and shall be used principally for the purposes of a foodstore and for no other purpose (unless the entire unit is used for non-food retailing purposes as set out below). This restriction upon use precludes any other retail use which might otherwise be permitted by virtue of Class A1 of the Schedule of the Town and Country Planning (Use Classes) Order 1987 - or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order.
  - b) A maximum 121,225 sq. ft. (11,261.8 sq. m.) gross floor area (excluding mezzanine floors hereby approved) - non-food retailing only. In particular:-The non-food retail units shall be retained as not more than 7 units and only used for the sale of furniture, carpets, electrical white goods, home improvement products, D.I.Y. goods and materials, garden and associated products or similar goods as may be agreed by the Local Planning Authority in writing that are of a weight and bulk which would impose inconvenience to the public if located in conventional centres and for no other purpose including any other purpose within Class A1 of the Schedule of the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order. **The mezzanine floors hereby permitted shall be used only for storage and office purposes ancillary to the use of the associated units for the purposes set out above and for no other purpose without the prior written approval of the Local Planning Authority (including any other purpose within Class A1 of the Schedule of the Town and Country Planning (Use Classes) Order 1987 or in any statutory instrument revoking and re-enacting that Order). The mezzanine floor shall not be accessible to the general public”.**

- 4.5 The application proposes to amend the wording of the highlighted text above as follows; The mezzanine floor within Unit 1, as shown on plan ref. 900-102-A, may be used for retail sales in accordance with the restrictions set out in this condition (as amended by Permission Ref. F/COL/05/196). Except for Unit 1, the mezzanine floors hereby permitted shall be used only for storage and office purposes ancillary to the use of the associated units for the purposes set out above and for no other purpose without the prior written approval of the Local Planning Authority (including any other purpose within Class A1 of the Schedule of the Town and Country Planning (Use Classes) Order 1987 or in any statutory instrument revoking and re-enacting that Order). Except for the approved mezzanine floor within Unit 1, the mezzanine floor shall not be accessible to the general public”
- 4.6 Whilst the application is to vary a condition to allow part of the mezzanine to be used for retail sales this involves internal works which include excavating the floor slab to provide a pit for a lift and installing a lift.

## **5.0 Land Use Allocation**

- 5.1 Urban District Centre, Regeneration Area

## **6.0 Relevant Planning History**

- 6.1 The original applications for the Retail Park, including Unit 1, are detailed in the “Description of Proposal” application references COL/91/0887 and COL/98/0004.
- 6.2 F/COL/05/196 approved on 30 October 2006 varied the range of goods that can be sold from Unit 1 to include kitchenware, tableware and other products to enable Dunelm to trade from the unit.
- 6.3 Similar permissions have also been granted at the Retail Park to vary the range of goods that could be sold from individual units.
- 6.4 Application 144667 was approved on 09 September 2014 for the development of two Class A1 retail units at the Turner Rise site, plus two food and drink pods (Use Class A1 and / or A3), and other associated works.

## **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  
CE2b - District Centres  
UR1 - Regeneration Areas  
UR2 - Built Design and Character  
TA5 - Parking  
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  
DP7 Local Centres and Individual Shops  
DP19 Parking Standards

- 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:

SA TC1 Appropriate Uses within the Town Centre and North Station Regeneration Area

- 7.5 The Neighbourhood Plan for Boxted / Myland & Braiswick is also relevant. This forms part of the Development Plan in this area of the Borough.

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

EPOA Vehicle Parking Standards  
Affordable Housing  
Sustainable Construction  
North Colchester Growth Area  
Myland Parish Plan AND Myland Design Statement

## **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 The Highway Authority does not object to the proposals as submitted but recommends an informative.

- 8.3 Environmental Protection originally raised concerns due to the close proximity of residential premises located at the rear of the application. A meeting was arranged at the premises attended by an Environmental Protection Officer representatives from the applicant company, the agent and the planning case officer. The meeting included an inspection internally and externally, specifically the rear service yard, and clarification on the internal works, their duration and machinery/equipment.
- 8.4 Following the meeting and the receipt of further information Environmental Protection has raised no objection subject to conditions requiring the submission of a Construction Method Statement, restricting access to the rear service yard, requiring the roller door on the rear elevation to be kept closed at specific times and imposing a limit on noise.

## **9.0 Parish Council Response**

- 9.1 The Parish Council have stated that Myland Community Council support this application.  
MCC do not believe the work will affect car parking or significantly increase footfall to the store. The application is supported by ward councillors although they have opposed night work due to the proximity of housing. However, MCC would note Environmental Health's view that such work may have to be done outside store hours due to customer safety.  
MCC would recommend that the mezzanine level's area is no more than 50% of the area of the ground floor level due to the height of the store.

## **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 Goss initially supported the application and commented as follows; "No issues with the internal extension as this store is already a destination store for many Colchester residents as well as being a local employer. Car parking is now becoming a premium at the Turner Rise car park so anything that can be done to alleviate congestion issues as part of this application need to be considered if any funding can be provided".  
Subsequently Councillor Goss raised the following concerns "I've heard that Dunelm plan to undertake the work at night which would be totally unacceptable as local residents back onto the building. I still support the internal works to be undertaken but I do not support this being undertaken at night. If necessary I will call this application in so the planning committee can ensure this does not happen. Work must be carried out during standard agreed hours as per all building in Colchester. Local residents must suffer no disturbances. Another issue currently on the increase is the amount of dumped trolleys from Dunelm Mill. They are not good at collecting them. Can they please sign a contract with Trolleywise

to collect the trolleys in the same way Asda has done and also look to put in a trolley locking system or a £1 token for the trolleys. This needs to happen as part of this planning application so please pass to the developers for this scheme please”.

- 10.3 Two Residents have raised concerns that the work involved to achieve the proposal could result in noise and disturbance to nearby residents in Peto Avenue. The noise and disturbance will have an adverse effect on residents if carried out at certain times. Nearby residents have been subject to noise and disturbance in the past, such as severe lack of sleep, from activities undertaken at night and at weekends by other retailers. If the council is minded to grant this proposal, there should be a condition attached to the planning permission to restrict the times during which the building operations would take place and work must NOT be undertaken overnight.

## **11.0 Parking Provision**

- 11.1 The Retail Park currently provides approximately 475 car parking spaces, including 388 spaces in the main car park of which 28 are disabled bays and 10 for parents with small children, and 87 staff spaces, which are located in the service yards. The customer car park sites in the centre of the site, with the retail and restaurant units facing onto the car park.

## **12.0 Open Space Provisions**

- 12.1 Open Space is not a relevant issue.

## **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 As a “Major” application, there was a requirement for this proposal to be considered by the Development Team. It was considered that no Planning Obligations should be sought.

## **15.0 Report**

- 15.1 The main issues in this case are:

### Principle

- 15.2 The site is in an Urban District Centre. Core Strategy Policy CE2b confirms that new retail proposals in the Urban District Centres, including change of use to retail, will be supported, where they meet identified local needs and do not compete with Colchester Town Centre. The Policy also states that intensification within Urban District Centres will be supported

where the quality of the public realm and the built character is improved. Finally, the policy advocates that development will be encouraged to make more efficient use of land including alternatives to surface car parking.

- 15.3 The site also forms part of the wider Town Centre and North Station Regeneration Area allocated under Policy SATC1 of the Colchester Site Allocations DPD (2010). This allocation covers a large area, including Turner Rise, Colchester Station, Colchester Town Centre, and the land in-between the Town Centre and the Station. The wording of Policy SATC1 encourages a mix of residential and commercial uses at Turner Rise, and confirms that proposals for new development at Turner Rise should be in accordance with Core Strategy Policy CE2b, and should provide an improved public realm, urban character and a more diverse mix of uses.
- 15.4 It is considered that the scale of the development is commensurate with the role of Turner Rise as an Urban District Centre and will not impact on the town centre. The application proposes an increase of just 177 sq. m which represents less than 1.2% of the overall approved floorspace at the Retail Park. The applicant has undertaken a review of potential sites within Colchester Town Centre and has concluded there is no suitable or viable site available and that Turner Rise is a preferable location outside of the Town Centre itself.
- 15.5 The application proposes no external works and no design issues and there will be no impact on the surrounding area

#### Impacts on Neighbouring Properties

- 15.6 Whilst the proposed development will not impact on neighbouring properties the works required to enable the general public to access the mezzanine area could have an impact particularly as the intention is to carry out these works when the store is closed. Environmental Protection are aware that internal works carried out at adjacent premises have caused disturbance to residents. A site meeting was arranged so officers could fully appreciate the internal works involved. Following the site visit and the submission of further information it was established the main works involve the breaking out of the floor for the installation of a lift, forming the lift shaft and the installation of the lift. Noise issues could also arise if the rear service yard is used and there could be noise from the construction work if the rear service door is opened. Other works include fitting new shelves and decoration.
- 15.7 The works include forming a lift pit by cutting the slab floor and excavating material and bagging the excavated material and installing the lift. A spreadsheet of the project programme for the installation of a similar lift at the Dunstable store and photographs of this work will be included in the presentation to Members. It was confirmed “the floor slab is cut into manageable chunks for removal cut sections are put into tonne bags and kept within the store ready for removal to the service yard and into skips after 7am, materials would be bought into the store before 9pm”. The



applicant has also indicated there will be a dedicated mobile phone so any noise could be reported and actioned immediately. The supporting information indicates "Operatives will park in the front car park as the service yard gates are locked at night by the landlord and Dunelm propose to open the fire door at the front left corner of our building to allow operatives to go outside and smoke at night in the alley between Dunelm and Greggs. This will avoid the need for persons being out in the service yard, closer to people's homes".

- 15.8 The applicant is aware of Councillor Goss's comments regarding trolleys a contact email address has been provided for the Street Warden and will be ensuring that the trolleys are locked up at night in the trolley bay to prevent theft going forward".
- 15.9 Environmental Control having visited the site and discussed the proposed works with the applicant, is satisfied the potential impact of these works can be satisfactorily controlled by conditions.
- 15.10 The application raises no amenity, landscape or highway issues.

## **16.0 Conclusions**

- 16.1 In conclusion the application raises no substantive policy issues. Subject to appropriate conditions it is considered that resident's amenity will be protected during the course of construction works.

## **17.0 Recommendation**

- 17.1 The recommendation is therefore APPROVAL of planning permission subject to the following conditions set out below.

## **18.0 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 102 rev A.

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

### 3. ZAW - \*Removal/Variation of Condition(s) Approval\*

With the exception of condition 12 of Planning Permission COL/91/0887 and Condition 12 of Planning Permission COL/98/0004 which are hereby varied, the requirements of all other conditions imposed upon planning permissions COL/91/0887 & COL/98/0004 remain in force and shall continue to apply to this permission, including the details and provisions of any approved matters discharging any condition(s) of that permission.

Reason: To avoid any doubt that this application only applies for the variation of the stated condition(s) of the previous planning permission as referenced and does not seek the review of other conditions, in the interests of proper planning and so that the applicant is clear on the requirements they need to comply with.

4 – Non Standard condition – Restricts amount of retail floorspace, the size of the food store, the amount of non-food retail and use of mezzanine

“The retail floorspace hereby approved is restricted in the following manner:

- a) A maximum 82,000 sq. ft. (7617.8 sq. m.) gross floor area to include a maximum of 45,000 sq. ft. (4180.5 sq. m.) net retail sales area – food store only. In particular:-The food retail unit shall be retained as a single unit and shall be used principally for the purposes of a foodstore and for no other purpose (unless the entire unit is used for non-food retailing purposes as set out below). This restriction upon use precludes any other retail use which might otherwise be permitted by virtue of Class A1 of the Schedule of the Town and Country Planning (Use Classes) Order 1987 - or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order.
- b) A maximum 121,225 sq. ft. (11,261.8 sq. m.) gross floor area (excluding mezzanine floors hereby approved) - non-food retailing only. In particular:- The non-food retail units shall be retained as not more than 7 units and only used for the sale of furniture, carpets, electrical white goods, home improvement products, D.I.Y. goods and materials, garden and associated products or similar goods as may be agreed by the Local Planning Authority in writing that are of a weight and bulk which would impose inconvenience to the public if located in conventional centres and for no other purpose including any other purpose within Class A1 of the Schedule of the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order. The mezzanine floor within Unit 1, as shown on plan ref. 900-102-A, may be used for retail sales in accordance with the restrictions set out in this condition (as amended by Permission Ref. F/COL/05/196). Except for Unit 1, the mezzanine floors hereby permitted shall be used only for storage and office purposes ancillary to the use of the associated units for the purposes set out above and for no other purpose without the prior written approval of the Local Planning Authority {including any other purpose within Class A1 of the Schedule of the Town

and Country Planning (Use Classes) Order 1987 or in any statutory instrument revoking and re-enacting that Order). Except for the approved mezzanine floor within Unit 1, the mezzanine floor shall not be accessible to the general public”.

Reason: For the avoidance of doubt as to the scope of this permission. Unrestricted retail use would not be appropriate on this site.

#### 5 – Non Standard Condition – Construction Method Statement

No works shall take place, 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, but not be limited to, the following

- 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
- bringing construction material and plant/ machinery into the building
- removal of waste/construction materials from the building
- details of a smoking shelter

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.

#### 6 – Non Standard Condition – Restriction of use of rear yard

No access to the rear yard shall be permitted outside of the following times: Monday to Sunday: 07.00 – 21.00.

Reason: To safeguard the amenities of nearby residential properties.

#### 7- Non Standard Condition – Restricts use of the roller door

The roller door on the rear elevation shall be kept closed at all times between the hours of 21.00 to 07.00 the following day Monday to Sunday.

Reason: To safeguard the amenities of nearby residential properties.

#### 8- Non Standard Condition – Noise Limit

Noise emitted from the construction work required for the development shall not exceed 15 dB(A) above the background levels determined at all boundaries near to noise-sensitive premises.

Reason: To ensure that the construction of the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue noise emission and/or unacceptable disturbance.

9 – Non Standard Condition – Requirement to notify residents

Prior to commencement of development residents at 2- 54A (even) Peto Avenue and 1-9 (odd) Braithwaite Drive shall be given written details of the date of the commencement of the building works, their duration and contact details including a mobile phone number of the site manager or other personnel at the premises during the construction works.

Reason: To ensure residents are kept informed of the construction and have a point of contact should any issues arise during the construction period.

10 – Non Standard Condition – Scheme for trolleys

No works whatsoever shall commence until a scheme to deter the removal of trolleys from the site has been submitted to and approved, in writing, by the Local Planning Authority. The scheme shall then be implemented as approved prior to the commencement of the first use of the development hereby permitted and retained as such thereafter.

Reason: To retain trolleys on site and deter the unnecessary displacement of any trolley from the site that may lead to abandonment elsewhere, in order to avoid any detrimental impacts on the neighbouring areas.