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Item No: 7.3

Application: 220959

Applicant: Mr A Oprea

Agent: Andrew Ransome, ADP Ltd

Proposal: Retrospective planning for the construction of a single dwelling, following approval ref: 182342

Location: Rear Of, 192 -200 Mersea Road, Colchester

Ward: Berechurch

Officer: John Miles

Recommendation: Approval subject to recommended conditions

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 Councilor Dave Harris for the following reason:
“The build is too high, the windows are too high and the build is too visible from houses in Holm Oak, a very tall bungalow – not built to original planning design. Looking from patio from Holm Oak the roof line is much too high.”

2.0 Synopsis

- 2.1 This application seeks to regularise the differences between the bungalow as built on site, and that originally approved under application reference 182342.
- 2.2 Given there is an extant permission in place for a similar scheme to that built, the main consideration must be given to any differences in the scheme as proposed, compared to that as originally approved. Given the nature of the differences in the two schemes the main considerations are considered to be impacts on the character and appearance of the area and neighbouring amenity.
- 2.3 To summarise, it is not considered that the differences between the approved scheme and the scheme now proposed will have a materially harmful impact on neighbouring amenity, nor the character and appearance of the area. It is also not considered that any changes in the policy context or wider circumstances since the original approval alter the conclusions drawn under extant permission 182342, with regards to the proposals acceptability in respect of other material planning considerations. The application is therefore recommended for approval.

3.0 Site Description and Context

- 3.1 The site lies within the settlement limits of Colchester and is situated within a predominantly residential area. The site is accessed via a drive off Mersea Road, in between 190 and 192 Mersea Road in a ‘backland’ location..
- 3.2 The majority of the application site is situated behind the rear of properties facing Mersea Road to the east, the rear of properties fronting Holm Oak to the west and the rear of properties fronting Buxton Road to the south. To the north, the site is bounded by the curtilage of 190A Mersea Road. This bungalow has been built on a backland plot of similar size to the application site and was allowed at appeal in 1987. In all, 13 properties share a boundary with the site. The area is of a varied character, with there a range of 1, 1.5 and 2 storey dwellings in the area, of varying styles and ages.

4.0 Description of the Proposal

- 4.1 As outlined the site benefits from an extant planning permission for a bungalow under application Ref: 182342. As discussed, this application seeks to regularise differences between the approved scheme and the bungalow as built/proposed.
- 4.2 As built the main differences between the approved scheme, and that as built, can be summarised as follows:
- Internal finished floor level is 300mm higher than as approved.
 - External openings are set 375mm higher than as approved.
 - There are variations in the position and form of openings.
 - The ridge of the roof is between 330mm-520mm higher than as approved. (N.B. The roof as built is level however the variation in the extent of any difference in height between the approved and as built scheme is a result of a varying ridge height on the drawings of the originally approved scheme.)
 - The dwelling's width is 165mm wider than approved.
- 4.3 The application seeks planning permission to retain the bungalow at its current width and height. However the application also proposes a number of interventions to the scheme as built to bring the proposal closer in line with the approved scheme. These comprise:
- Reduction in the finished floor level by 300mm, making the finished floor level in line with the approved scheme.
 - Lowering the height of windows and doors by 375mm so they are set no higher than the approved scheme.
 - Increase the height of the fence panels along the northern, southern and western boundary by 300mm, from 1.8 metres to 2.1 metres.

5.0 Land Use Allocation

- 5.1 Residential, within settlement limits.

6.0 Relevant Planning History

- 6.1 The site has an extensive planning history, however the applications most relevant to this proposal can be summarised be below:

210518

Application to discharge conditions 6 (demolished materials) 7 (construction method statement) 9 (materials) of planning permission 182342
Approved 19th April 2021

182342

Demolition of a brick garage and store and the construction of a single, detached, two bedroomed bungalow.
Approved conditionally 5th December 2018

145138

Construction of a single three-bedroom bungalow and garage.
Approve conditionally 3rd October 2014.

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 Local Plan 2017-2033 Section 1

The shared Section 1 of the Colchester Local Plan covers strategic matters with cross-boundary impacts in North Essex. This includes a strategic vision and policy for Colchester. The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The following policies are considered to be relevant in this case:

- SP1 Presumption in Favour of Sustainable Development
- SP7 Place Shaping Principles

Appendix A of the Section 1 Local Plan outlines those policies in the Core Strategy Focused Review 2014 which are superseded. Having regard to the strategic nature of the Section 1 Local Plan, policy SD2 of the Core Strategy is fully superseded by policies SP5 and SP6 of the Section 1 Local Plan. Policies SD1, H1 and CE1 of the Core Strategy are affected in part. The hierarchy elements of policies SD1, H1 and CE1 remain valid, as given the strategic nature of policies SP3, SP4 and SP5 the only part of the policies that are superseded is in relation to the overall requirement figures.

The final section of Policy SD1 which outlines the presumption in favour of sustainable development is superseded by policy SP1 of the Section 1 Local Plan as this provides the current stance as per national policy.

All other Policies in the Core Strategy, Site Allocations and Development Management Policies and all other adopted policy which comprises the Development Plan remain relevant for decision making purposes.

7.3 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
UR1 - Regeneration Areas
UR2 - Built Design and Character

- 7.4 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
DP12 - Dwelling Standards
DP16 - Private Amenity Space and Open Space Provision for New Residential Development

- 7.5 Submission Colchester Borough Local Plan 2017-2033:
The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. Subject to main modifications the Emerging Section 2 Local Plan has been found sound, as outlined in the Inspector's Report dated 19th May 2022. While the Section 2 Local Plan is yet to be formally adopted its policies can be afforded significant weight due to the plan's advanced stage.

The following policies of the Section 2 Local Plan are considered relevant:

DM12 – Housing Standards
DM15 – Design and Amenity
DM19 – Private Amenity Space

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

The Essex Design Guide
External Materials in New Developments
Backland and Infill SPD

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 *Highways Authority:*

No objection.

- 8.3 *Environmental Protection:*

No objection raised.

9.0 Parish Council Response

- 9.1 Non-Parish

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.

10.2 At the time of writing objections have been received from 7 householders, with a total of 9 letters. The main material planning considerations raised are concerning the bungalow's roof height/size, window height and position, potential for overlooking and loss of light and outlook. Concerns have also been raised in representations received regarding the possibility of the roof space being used as further habitable accommodation.

11.0 Parking Provision

11.1 There is no material change in parking provisions compared to application 182342, with policy compliant on-site parking provided.

12.0 Accessibility

12.1 In considering the application due regard has been given to the Local Planning Authority's duties under the Equality Act 2010. Representations received have not identified any specific equality implications potentially arising from the proposed development and requiring additional consideration. The proposal does not give rise to any other concerns from an accessibility or equality perspective more widely.

13.0 Environmental and Carbon Implications

13.1 The Council has declared a Climate Emergency and has committed to being carbon neutral by 2030. The purpose of the planning system is to contribute to the achievement of sustainable development as defined in the National Planning Policy Framework. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are economic, social and environmental objectives. The consideration of this application has taken into account the Climate Emergency and the sustainable development objectives set out in the NPPF.

14.0 Open Space Provisions

14.1 The proposal does not include, nor is it required by policy to make any open space provisions.

15.0 Air Quality

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

16.0 Planning Obligations

- 16.1 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.

17.0 Report

The Principle of Development

- 17.1 The site lies within the Colchester settlement boundary in an area that is residential in character where development such as that proposed is acceptable in policy terms subject to the development satisfying all other aspects of the Development Plan. The principal of the development has also already been established through the extant permission 182-342.

Design and Impact on the Surrounding Area

- 17.2 The NPPF places great importance on the achievement of high quality and inclusive design in all developments. In respect of design, the NPPF states that development should: establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit; optimise the potential of the site to create and sustain an appropriate mix of uses; respond to local character and history, and reflect the identity of local surroundings and materials. Core Strategy Policy UR2 seeks to promote and secure high quality design. Local Plan Policy DP1 sets out design criteria that new development must meet. These require new developments to respect the character of the site and its context in terms of detailed design. Section 1 Local Plan Policy SP7 requires all new development to meet high standards of urban and architectural design. Emerging Section 2 Local Plan Policy DM15 requires, amongst other things, for all development to meet high standards of urban and architectural design and respond positively to local character. The Council's Supplementary Planning Document on Backland and Infill Sites also applies to this site and requires development such as that proposed to respond to the surrounding context.
- 17.3 As discussed, the site has an extant approval for a similar scheme to that as built. The main considerations in design terms are therefore the differences between the approved scheme and that as proposed, as summarised under paragraph 4.2.
- 17.4 With regards to the variations in the form and position of openings between the approved and proposed scheme it is not considered these differences will have a material impact on the design quality of the dwelling, or its impact on the character and appearance of the area.
- 17.5 In terms of the differences in the overall height of the bungalow it is noted that the increase in height does contribute to the dwelling having an increased scale and massing and slightly increases its wider visibility. While the dwelling is

visible from several neighbouring properties, due to the site's backland nature it is of limited visibility from wider public viewpoints, and it is therefore considered any impact on the character and appearance of the area from the differences in height will be minimal and importantly the differences in height will not have a materially harmful impact on the character and appearance of the dwelling, or the surrounding area.

- 17.6 For the reasons above the design of the proposed development is considered acceptable, with it not considered the differences in height between the approved and proposed scheme are material to the dwelling's appearance such that a refusal could be substantiated on design grounds.

Residential Amenity

- 17.7 Development Policy DP1 states that all development must be designed to a high standard and avoid unacceptable impacts on amenity. This includes protecting existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, pollution (including light and odour pollution), daylight and sunlight, with these requirements echoed by Emerging Section 2 Local Plan Policy DM15. The adopted Supplementary Planning Document (SPD) the Essex Design Guide also provides guidance on the safeguarding of residential private amenity.
- 17.8 The impact of the differences between the scheme as approved and as now proposed on residential amenity are considered two-fold. Firstly there is the potential impact of the proposed changes on neighbouring amenity, and secondly there is the potential for impacts on the amenity of future occupiers. The proposed development would be located amongst existing residential development. Consideration needs to be given as to how the proposal would affect the occupants of nearby residential properties in terms of loss of light, privacy and overbearing impacts.
- 17.9 The built detached bungalow sits in the centre of the plot and a reasonable distance from the nearest neighbouring dwellings to the South and West, while the dwellings to the East of the bungalow are separated from the site by generously sized gardens.
- 17.10 The dwelling is proposed to be taller than previously approved. However it is not considered the proposed increase in height will have a material impact on the light afforded to neighbouring dwelling's, taking into account the relatively minor increase in total height proposed. There are also no concerns that any other differences between the approved and proposed scheme will result in materially harmful impacts on neighbouring amenity with regard to loss of light or outlook specifically.
- 17.11 It is considered that as built there is the potential for overlooking of neighbouring properties however it is important to note that design interventions have been proposed to address this issue and ensuring the implementation of such interventions can be controlled by the imposition of suitably worded conditions.

- 17.12 Firstly the proposal details the lowering of the external openings as built by 375mm. This will ensure that the height of external openings does not exceed those previously approved. This would remove any potential for additional overlooking beyond that already approved. Secondly, the internal finished floor level is proposed to be lowered by 300mm so as to be in line with the finished floor level of the approved scheme. Lastly, to further mitigate potential overlooking, the fence to the north, south and west are proposed to be increased in height by 300mm, to 2.1 metres.
- 17.13 Taking into account the mitigatory design interventions proposed, it is not considered that any differences to the scheme as proposed, compared to the scheme as approved, will result in materially harmful overlooking of neighbouring properties taking into account the proposed height of the internal floor and openings, and intervening boundary treatments. There are also no concerns the increase in height of the boundary fence will have an adverse impact on the light or outlook afforded to neighbouring dwelling's, taking into account the distance between the boundary and habitable rooms of neighbouring dwellings.
- 17.14 Taken as a whole, the proposed development will not have a significant adverse effect on the amenity of neighbouring properties, subject to conditions to secure the mitigatory measures proposed. In view of this, the proposed development is considered in conformity with Policy DP1 or the NPPF, insofar as they seek to protect existing public and residential amenity.
- 17.15 The proposed interventions also do not give rise to any concerns from a future occupier perspective, with it considered future occupiers will still benefit from acceptable levels of light and outlook.

Other Matters

- 17.16 Matters such as impact on trees, highways matters, parking, ecology, flood risk and archaeology were all considered under extant permission 182342 and the proposal was found to be acceptable in terms of these matters. It is considered the proposed differences in the scheme considered here are not material to the above factors such that the conclusions drawn under 182342 with regards to these issues are unchanged. It is also not considered that any changes in the policy context since the previous approval are material to the acceptability of the proposal in terms of other material planning considerations.
- 17.17 It is recommended that the conditions originally imposed on 182324 covering the surface treatment of the drive, limits to hours of construction and ecological mitigation are reimposed should permission be granted, as the effect of granting permission will be a new standalone permission. It is also recommended an amended version of the previously imposed conditions covering construction methods and materials be applied, taking into account the details already agreed under application 210518.
- 17.18 While concerns have been raised about the potential for the roof space to be used as habitable accommodation this is not what has been applied for, with the bungalow still proposed to be a single storey. With regards to the potential

for future works to accommodate accommodation at a first floor level a condition can be applied removing permitted development rights for residential extensions and alterations including the addition of roof lights and dormers. This will ensure any proposals for such works would require a planning application, under which issues such as potential impacts on neighbouring amenity would be considered further.

18.0 Conclusion

18.1 To summarise, the proposed development is held to accord with relevant Development Plan policies and amenity standards. It is consequently considered that, subject to conditions, neighbouring amenity will be suitably preserved, the amenity of future occupiers will not be unduly impacted and there will not have a materially adverse impact on the character and appearance of the surrounding area as a result of the differences between the scheme as previously approved, and as proposed.

19.0 Recommendation to the Committee

19.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1. 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 1230E.L.001, 1230E.L.003, 1230E.L.012 and 1230E.L.013.

Reason: For the avoidance of doubt as to the scope of this permission and to ensure the development is carried out as approved.

2. Mitigatory Alterations (Building)

Prior to the first occupation of the dwelling the proposed alterations to the existing fabric of the building, as outlined in the amended Design and Access Statement and as shown on drawing numbers 1230E.L.012 and 1230E.L.013, shall be carried out in full and in accordance with the details submitted.

Reason: For the avoidance of doubt, as this is the basis on which the application has been considered and found to be acceptable, with particular regard to issues of neighbouring amenity.

3. Mitigatory Alterations (Fencing)

Prior to the first occupation of the dwelling the alterations to the site's existing boundary fencing, as outlined in the amended Design and Access Statement and as shown on drawing number 1230E.L.003, shall be completed in full and in accordance with the details submitted. The approved boundary fencing shall thereafter be retained in the approved form in perpetuity.

Reason: For the avoidance of doubt, as this is the basis on which the application has been considered and found to be acceptable, with particular regard to issues of neighbouring amenity.

4. Parking and Turning Facilities

Prior to the first occupation of the dwelling hereby permitted, the drive shown on drawing entitled drawing 1 'site plan' (submitted and approved under application 182342) shall be laid out and hard-surfaced in precise accordance with that drawing. It shall be constructed so as to be permeable. It shall be retained thereafter in its approved form for the sole purpose of vehicular parking and maneuvering. Reason: To ensure that there is adequate parking available to the development, and to minimise the potential for surface water run-off.

5. ZPD – Limits to Hours of Work

No construction deliveries to or from the site, worker vehicle movements, or demolition or construction work shall take place outside of the following times;

Weekdays: 8am-6pm

Saturdays: 8am-1pm

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.

6. Construction Method Statement

The development process shall be undertaken only in precise accordance with the approved Construction Method Statement (Dated December 2020), submitted and approved under application 210518.

Reason: The access to the site is very narrow and is shared by other residential properties. Consequently there is considerable potential for damage to neighbours' property and obstruction / disruption to the occupiers of those properties. This scheme is therefore essential so as to minimise the chance of such potential harm, in addition to ensuring that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety and residential amenity.

7. Removal of PD Rights

Notwithstanding the provisions of Classes A, B, C, D and E of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no extensions, additional windows or roof lights, ancillary buildings or structures shall be erected unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: In the interest of visual and neighbouring amenity and to ensure the development avoids an overdeveloped or cluttered appearance.

8. External Materials

The external facing and roofing materials to be used shall be those previously approved under discharge of condition application 210518.

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

9. Ecology

No development shall be carried out except in complete accordance with section 3 'Conclusions and Recommendations' of the submitted updated ecology report (Dated 16/11/18), submitted and approved under application 182342.

Reason: In the interests of on site ecology.

19.1 Informatives

19.1 The following informatives are also recommended:

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.

INS – 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.