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Item No: 7.4

Application: 192101

Applicant: Mr Nicholas Frampton, Mercury Theatre

Agent: N/A

Proposal: Mesh Heras Fencing signs advertising the new temporary location of the Theatre, and the shows we will be putting on whilst building works are on going.

Location: Colchester Mercury Theatre Ltd, Mercury Theatre, Balcerne Passage, Colchester, CO1 1PT

Ward: Castle

Officer: Mr Daniel Cooper

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee for transparency as the Mercury Theatre site is land is owned by Colchester Borough Council.

2.0 Synopsis

- 2.1 The key issues for consideration are the impact on the Conservation Area and nearby Heritage Assets.
- 2.2 The application is subsequently recommended for Approval subject to recommended conditions.

3.0 Site Description and Context

- 3.1 The application site is the existing Mercury Theatre where there are works currently ongoing that were granted consent under planning reference 171964. The site is located on Balcerne Gardens/Balcerne Passage with additional access to North Hill.
- 3.2 The site is within Colchester's Conservation Area 1 with Listed Buildings to the North, East and South. In addition, the Roman Wall runs along North Hill close by to the West.

4.0 Description of the Proposal

- 4.1 The proposal is for mesh heras fencing signs advertising the new temporary location of the Theatre and the shows they will be putting on whilst building works are ongoing.

5.0 Land Use Allocation

- 5.1 Located within the Town Centre and Colchester's Conservation Area 1 the site is a Sui Generis use as a Theatre.

6.0 Relevant Planning History

- 6.1 Planning Reference 171964 granted consent for the current ongoing works which involve major alterations, extensions and demolition of the existing building.
- 6.2 Planning Reference 183000 granted consent for temporary information boards on the hoarding to provide information on the project and the Theatre's history.

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
UR2 - Built Design and Character
ENV1 - Environment

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

DP1 Design and Amenity
DP14 Historic Environment Assets

7.4 Submission Colchester Borough Local Plan 2017-2033:

The Council is developing a new Local Plan that has been submitted to the Planning Inspectorate (October 2017). An Inspector has been appointed and the formal examination commenced in January 2018. The examination is ongoing.

Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to:

1. The stage of preparation of the emerging plan;
1. The extent to which there are unresolved objections to relevant policies in the emerging plan; and
2. The degree of consistency of relevant policies to the policies in the Framework.

The Emerging Local Plan is at an advanced stage and is, therefore, considered to carry some weight in the consideration of the application, but as it is yet to undergo a full and final examination, it is not considered to outweigh the material considerations assessed above in accordance with up-to-date planning policies and the NPPF.

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

Shop Front Design Guide
External Materials in New Developments

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 Historic Buildings and Areas Officer

The proposals do not cause particular concerns for their effect on heritage since they involve a temporary feature whose presence is associated to the construction phase of the Theatre's redevelopment and will be removed when the works are over.

Conclusion

The planning application seeks permission for temporary advertisement on the hoarding of Mercury Theatre's construction site to provide information on the temporary location of the Theatre and the incoming shows. Since the application involves a temporary feature which will not have a permanent impact on the building itself, the nearby heritage assets and the Conservation Area, the proposals do not cause concerns for their impact on heritage and there are no objections to their approval.

8.3 Highways (Recommended Informative)

All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

9.0 Parish Council Response

- 9.1 Non-Parished

10.0 Representations from Notified Parties

- 10.1 No representations were received.

11.0 Parking Provision

- 11.1 N/A

12.0 Accessibility

- 12.1 N/A

13.0 Open Space Provisions

- 13.1 N/A

14.0 Air Quality

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

15.0 Planning Obligations

- 15.1 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.

16.0 Report

Design and Impact upon Heritage

- 16.1 The proposal seeks consent for mesh heras fencing signs advertising the new temporary location of the Theatre and the upcoming shows while building works are going on.
- 16.2 The NPPF states poorly placed advertisements can have a negative impact on the appearance of the built and natural environment. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts. The NPPF goes on to state that "the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
- 16.3 As stated by the Historic Buildings and Areas Officer, the signs/advertisements will be temporary and erected on existing heras fencing and would not create a significant detrimental impact on the surrounding Conservation Area and other Heritage Assets and signs will be removed once the current works are complete.

Amenity

- 16.4 In assessing an advertisement's impact on "amenity", regard should be had to the effect on the appearance of the building or on visual amenity in the immediate neighbourhood where it is to be displayed. It is therefore necessary to consider what impact the adverts will have on their surroundings. The relevant considerations for this purpose are the local characteristics of the area, including scenic, historic, architectural or cultural features, which contribute to the distinctive character of the locality

- 16.5 The site is located within Colchester's Conservation Area 1 and a close distance from a number of significant heritage assets including two scheduled monuments (Roman Wall and Balcerne Gate). A strict control over the display of outdoor advertisements should therefore be maintained. However, well-sited signs of suitable size and design should normally be acceptable, provided that they do not spoil the area's character or appearance.
- 16.6 The proposed signage will be of mesh material and erected on existing heras fencing. In addition, it will be temporary (applicant states the heras fencing will be removed around July 2020) and removed when works are completed.
- 16.7 Given the above, the proposed advertisements are not considered to have an adverse impact on the amenity of the area given the on-going works and their temporary nature.
- 16.8 It is noted that the heras fencing is already present as a result of the ongoing building works and has not been erected for the purpose of these adverts. In addition, it is recognised that the previous advertisement application under reference 183000 (for temporary information boards) was granted consent.

Public and Highway Safety

- 16.9 In assessing an advertisement's impact on "public safety", regard should be had to the effect upon the safe use and operation of any form of traffic or transport. In assessing the public safety implications of an advertisement display, one can assume that the primary purpose of an advertisement is to attract people's attention, therefore it should not automatically be presumed that an advertisement will distract the attention of passers-by. The vital consideration, in assessing an advertisement's impact, is whether the advertisement itself, or the exact location proposed for its display, is likely to be so distracting, or so confusing, that it creates a hazard to, or endangers, people in the vicinity who are taking reasonable care for their own and others' safety. The proposed advertised is not considered to have an adverse impact on the highway safety; this has been confirmed by the Highway Authority who have not objected and recommended a standard informative.

17.0 Conclusion

- 17.1 To summarise, the proposed temporary mesh advertisements will result in minimal impact to the Conservation Area and surrounding Heritage Assets. There will be no adverse impact on public and highway safety and the signs will be removed once the current approved works to the Theatre are complete thus limiting their long term impact.
- 17.2 For the reasons given above, the temporary advertisements are considered acceptable.

18.0 Recommendation to the Committee

18.1 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 Drawings labelled Panel 1, Panel 2, Panel 3 and Heras Fencing Full Design received 16th August 2019.

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

2. ZQA - Standard Advert Condition

Unless an alternative period is specifically stated in the conditions below, this consent expires one year from the date of this decision and is subject to the following standard conditions:

1. Any advertisements displayed, and any site used for the display of advertisements, shall be maintained in a clean and tidy condition to the reasonable satisfaction of the Local Planning Authority.

2. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a safe condition.

3. Where an advertisement is required under these Regulations to be removed, the removal shall be carried out to the reasonable satisfaction of the Local Planning Authority.

4. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

5. No advertisement shall be sited or displayed as to obscure, or hinder the ready interpretation of, any road traffic sign, railway signal or aid to navigation by water or air or so as otherwise to render hazardous the use of any highway, railway, waterway or aerodrome (civil or military).

Reason: In order to comply with the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

19.0 Informatives

19.1 The following informatives are also recommended:

Non Standard Informative:

All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.