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Item No: 7.2

Application: 190212

Applicant: Mrs V Bond

Agent: Mr Steve Norman

Proposal: Application to vary condition 2 of planning permission 170475

Location: 65 John Kent Avenue, Colchester, CO2 9HE

Ward: Shrub End

Officer: Chris Harden

Recommendation: Approval

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 Cllr Vic Flores who states: "Application made without notification of the owners. Original plan not in keeping with DP16. Gate already exists without planning permission to rear section of Land. Continued mention of Rear Access but is in fact owned and fenced land cutting proposed plan into 2 separate segments of land. Owners of 65 have been treated poorly and I have had highly unsatisfactory contact from applicant."

2.0 Synopsis

- 2.1 The key issues for consideration are the revised layout which relates to different levels of amenity space provision for each dwelling compared to the approved plans. Accordingly the impact upon residential amenity and the character of the area needs to be considered along with an assessment as to whether the revised layout complies with the standards of private amenity space as outlined in Policy DP16.
- 2.2 The application is subsequently recommended for Approval. To summarise, the provision of private amenity space for each dwelling meets the standards outlined in Policy DP16. Accordingly it is not considered an objection can be raised to the variation of Condition 2. It is not considered that the character of the area has been compromised with this revised amenity space layout so the proposal also complies with Policy DP1.

3.0 Site Description and Context

- 3.1 The site lies within the settlement limits and consists of a corner plot on a housing estate. Planning permission was granted in 2017 (170475) to convert a recently constructed 2 storey side extension to the host dwelling to an independent two bedroom dwelling. This entailed converting the garage to a living room, providing extra parking at the front and a new access and parking space along Smallwood Avenue. Amenity space was also split, with the original dwelling retaining the majority of the garden (around 220m²) and the new dwelling being provided with approximately 75m² of private garden.

4.0 Description of the Proposal

- 4.1 The proposal is now to vary Condition 2 of approval 170475 and this condition relates to the approved drawings. The variation involves different proportions for the garden areas, with the original dwelling now having an amenity area reduced to 60m² and the newer dwelling having approximately 220 m² of amenity space, subdivided by a pathway that serves the new dwelling.

5.0 Land Use Allocation

- 5.1 Settlement limits
Residential Area

6.0 Relevant Planning History

- 6.1 170475 - Conversion of recent addition to dwelling into a separate dwelling house with provision of associated parking facilities. Approved 13/4/17.

182818 - Erection of a 2 bedroom detached dwelling house with associated parking facilities. Withdrawn 21/12/18

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

- 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
DP12 Dwelling Standards
DP13 Dwelling Alterations, Extensions and Replacement Dwellings
DP14 Historic Environment Assets
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP19 Parking Standards
DP21 Nature Conservation and Protected Lanes

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

N/A

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

The Essex Design Guide
EPOA Vehicle Parking Standards
Backland and Infill
Sustainable Drainage Systems Design Guide
Managing Archaeology in Development.

- 7.6 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;
2. The extent to which there are unresolved objections to relevant policies in the emerging plan; and
3. 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 examination, it is not considered to outweigh the material considerations assessed above in accordance with up-to-date planning policies and the NPPF.

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 Cllr Flores objects: “I have asked for this application to be called in, as there are a number of concerning elements to this proposal, not least of which is a seeming ultimate desire to squeeze another property into a tiny area of land behind numbers 65 and 65a John Kent Avenue. I also have some concern over the accuracy of the plans provided and the reality of the area concerned. I will be happy to expand further before the committee should the need arise.”

9.0 Parish Council Response

- 9.1 Non-Parished

10.0 Representations from Notified Parties

10.1 The application resulted in a number of notifications to interested third parties including 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 8 letters of objection have been received which raise the following points:

- The previous owner has put in a planning application in our property number which she no longer has anything to do with. This address is registered at the land registry in our names under Miss Taylor & Mr Jones. However, Ms Vee Bond has put in a planning application number 190212 where she plans to take part of our garden.
- This application needs to be removed with immediate effect.
- We purchased the property in July 2018, unbeknown to us Ms Vee Bond kept the end of the garden. Ms Bond kept this as she planned to build on this, as she put in a building application last month under application number 182818. This was withdrawn as she was advised it would be refused since she had 7 objections.
- Ms Bond has now decided to use this piece of land as part of 65A's garden, however in doing so she wants part of our garden to access it.
She has already breached application number 170475 where the application clearly states 65 John Kent Avenue will be left with 230 square metres of garden.
- However, Ms Bond has only left us with 61 square meters of garden! Please see below our land registered at the land registry. Ms Bond has put in her planning application that the side entrance is public access, it is in fact not, it is our land.
- Plans are not clear- no dimensions.
- Number of plans approved over the years. None appear to have been completed to the approved plans.
- The kerbs: The 2 on the front of John Kent avenue are incomplete. Therefore the vehicles going on the drive of 65a are bumping over existing higher kerb. Neither of the drives of 65 and 65a are hard standing as per the highways requirement.
- Applicant did not plan to keep the land for the 2 bed dwelling but to develop it further in a piece meal fashion. Something I believe the council frowns upon, and tries to avoid. For this very reason the land has been divided in such a way that it is now detrimental to the property owners and the local area.
- This change to land configuration will cause 65 John Kent Avenue, a 3 bed property to have a significantly reduced garden area and 65a, the smaller 2 bed to have a large and separated garden. Proposal is not in keeping with the local layout and design of neighbouring properties all of whom have larger, long, narrow gardens. This change will also mean we, as a boundary property, have a further property to share our boundary with.
- application should be refused on the grounds of being poorly planned and not taking into consideration in its design the improvement and/or current designs within the local area.
- fail to understand how there can be a new revised certificate B plan 1 day before consultation period end.

- I often visit at 65 John Kent Avenue & 2 Smallwood Road. I am an elderly lady and am disabled I have trouble walking on the gravel and the step is too high, therefore my only way of accessing 65 John Kent Avenue is the back access. Sharing the access will be a great inconvenience as I suffer from anxiety. I therefore need access at all times and the owners will not be allowing access to anyone else under any circumstances. The applicant already has access via a gate towards 2 Smallwood Road so why do they need a second one?

11.0 Parking Provision

11.1 2 spaces per dwelling.

12.0 Open Space Provisions

12.1 N/A

13.0 Air Quality

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

14.0 Planning Obligations

14.1 This application is 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.

15.0 Report

15.1 The principle of the subdivision of the plot into two dwellings has already been previously agreed under application 170475. The only aspect of significance that has changed since the previous approval is the way the amenity space has been subdivided. Parking layout is as previously approved.

15.2 Accordingly, Policy DP16 of the Local Plan is applicable and this provides that for two bedroomed houses (i.e 65A John Kent Ave.), a minimum of 50m² of private amenity space should be provided. As a total of 220 m² is now proposed to be provided for 65A, this level of provision easily meets the standard set in Policy DP16. The fact that this garden area is subdivided by an access to no.65 is not considered to be a reason to object to the application. A short walk along the pavement and through a gate would allow access to this extra area of garden for the occupants of 65A. This also accords with the provisions of Policy DP1 as it is a safe and secure environment and is not detrimental to residential amenity.

- 15.3 Number 65 John Kent Avenue has now been left with a smaller garden area of 60m². Again, this meets the criteria outlined in Policy DP16 which provides that for 3 bedroomed dwellings (i.e 65 John Kent Ave.) a minimum of 60m² private amenity space should be provided. Accordingly it is not considered an objection can be raised on this level of amenity space provision as it accords with Policy D16 and provides what is considered to be a reasonable level of amenity space for a property of this size. It can be accessed either from the rear of the dwelling or from the pathway from the pavement. Again, the proposal accords with Policy DP1 as a safe and secure environment is provided and there is not a reason to object on impact upon residential amenity. It also appears that this level of amenity space is what the new owners were expecting when the property was purchased.
- 15.4 It is not considered an objection can be raised in terms of the impact upon the character of the area. Whilst it is slightly unorthodox for the smaller of the two dwellings to have the larger garden area, this does not justify a reason for refusing the application. The character of the area, including visual impact is not significantly affected as the precise positioning of the rear boundary of number 65 and its extent of garden space makes little difference visually to the character of the area and is not detrimental to its surroundings.
- 15.5 The comments received from neighbours have been carefully assessed but for the above reasons, the revised amenity areas are considered acceptable. The correct Certificate B has now been served. If vehicular access kerbs have not been installed correctly, this can be addressed by the Enforcement Team. It should be noted that this will fall under the responsibility of the individual owners of each dwelling. It is not considered an objection can be raised relating to access to number 65 as raised by a neighbour.
- 15.6 Other matters: The site is within a zone of influence of a European designated site and in order to comply with the Habitats and Species Regulations 2017 (as amended), mitigation of recreational impact will be required in accordance with the forthcoming Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS). This equates to a financial payment which has been requested.

16.0 Conclusion

- 16.1 To summarise, the provision of private amenity space for each dwelling meets the standards outlined in Policy DP16. Accordingly no objection can be raised to the variation of Condition 2. It is not considered that the character of the area has been compromised with this revised amenity space layout so the proposal also complies with Policy DP1.

17.0 Recommendation to the Committee

17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to receipt of a financial contribution to mitigate recreational impact in accordance with the forthcoming Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS) and the following conditions (includes previous conditions restated where applicable):

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: location plan, 1709/4 received 23/2/17 and block plan 1709 Rev A received 31/1/19.

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

2. Non Standard Condition – Parking Provision

The vehicle parking areas indicated on the approved plans (4 spaces of 2.9 m x 5.5 m each) and vehicular access with pedestrian visibility splays, shall have been hard surfaced, and made available for use to the satisfaction of the Local Planning Authority within 3 months of the date of this approval. The vehicle parking areas and access shall be retained in this form at all times and the parking areas shall not be used for any purpose other than for the parking of vehicles that are related to the use of the development and existing dwelling.

Reason: To ensure that there is adequate parking provision to avoid on-street parking of vehicles in the adjoining streets in the interests of highway safety.

18.0 Informatives

18.1 The following informatives are also recommended:

1. Non Standard Highway Informative.

The applicant should note that additional dropped kerbs will be required. 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 or by post to:

SMO1 – Essex Highways
Colchester Highways Depot,
653 The Crescent,
Colchester.
CO4 9YQ.

2. 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.