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Item No: 7.2

Application: 172949

Applicant: Mr Craig Revell

Agent:

Proposal: Build a brick wall on the front boundary of the property to complement the house and existing planning conditions (Ref: 152105).

Location: 58 Parkwood Avenue, Wivenhoe, Colchester, CO7 9AW

Ward: Wivenhoe

Officer: Eleanor Moss

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because Cllr Scott called in the application for the following reason:

Wall built against planning permission obstructs emergency vehicles, light, access and amenity of neighbours.

2.0 Synopsis

- 2.1 The key issues explored below are the impact of the front boundary wall upon highway safety, the character of the area and neighbouring amenity. The report also confirms that private legal access rights are not a material planning consideration as the granting of planning permission does not overrule any existing legal access rights
- 2.2 The proposal is considered to be acceptable and therefore your Officer recommends approval.

3.0 Site Description and Context

- 3.1 The application site comprises the plot of a recently constructed two-storey, detached dwelling. It is situated to the south of Parkwood Avenue, with the highway fronting the dwelling. It has a large plot, larger than many in the vicinity. The recently constructed dwelling takes its access from Parkwood Avenue. To the west of the site is a detached two-storey dwelling (No. 56 Parkwood Avenue) which was erected in the 1990s. To the east of the application site is a detached single storey bungalow (Elizabeth Cottage).

4.0 Description of the Proposal

- 4.1 This application seeks retrospective planning permission for a front boundary wall with piers.

5.0 Land Use Allocation

- 5.1 Residential.

6.0 Relevant Planning History

- 6.1 150754 – Construction of a detached house. Approved 17 July 2015.

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

DP13 Dwelling Alterations, Extensions and Replacement Dwellings

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

- The Essex Design Guide
- External Materials in New Developments
- EPOA Vehicle Parking Standards
- Wivenhoe Town Plan and Executive Summary

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.

Highway Authority – No objection.

9.0 Parish Council Response

- 9.1 Wivenhoe Town Council would like to oppose this development on the grounds that access is blocked for a neighbour and that the proposed development may well exceed the boundary for this property.

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. The comments received were as follows:

- Impact upon legal rights
- Impact upon access
- Restricts emergency vehicles
- Obstructing the road
- Loss of vegetation and wildlife
- Construction upon land not within the applicants ownership

- Highways safety
- Visual impact

10.2 Officer response: Private land interests do not constitute material planning considerations which the Local Planning Authority would take account of in determining planning applications.

10.3 In this instance, the dispute involving the wall in question and the private land interest for Elizabeth Cottage is an entirely civil matter which interested parties are advised to seek independent legal advice on.

10.4 Furthermore, the Local Planning Authority does not interfere with, or take views on, private boundary disputes and this should also be subject to interested parties' independent legal advice. The Council will not take a view or make any comments on these matters. The burden lies with the applicant to prove the wall in question is entirely on their land and does not breach any private legal access rights.

11.0 Parking Provision

11.1 The proposal complies with car parking standards

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

Impact upon amenity:

15.1 The call in form highlights light as a concern. In terms of loss of light, as the front boundary wall is adjacent to a driveway, any overshadowing would be excusive to the driveway of the host property, rather than any neighbouring dwellings. It is also worth noting that there are side boundary fences adjacent to the application site, which obstruct light rather than the front boundary wall. The wall in question is mainly one metre high, rising up to no more than one-and-a-half metres at the piers, so any loss of light is very unlikely, especially given that the hedge which used to be in its place was higher than it.

Impact upon character of area:

- 15.2 The height of the front boundary wall means that it is not readily prominent within the street-scene. It is considered that the immediate locality is characterised by such boundary treatments and there are a number of properties within the locality which already contain front boundary walls. Given that the proposal is located towards the end of the cul-de-sac, the front boundary wall is not viewed centrally within the street-scene but at a pre-existing visual terminus. As such, it is considered that any impact upon the street-scene will be marginal.

Highway safety:

- 15.3 The application site is located with a cul-de-sac where car speeds are very low. The neighbouring resident of Elizabeth Cottage has raised concerns of legal access rights. The front boundary wall has replaced a hedge and therefore it is not considered that this has resulted in a harmful impact upon highway safety, nor has the front boundary wall resulted in reduced parking. The described difficulties raised by the neighbouring resident regarding access do not impact upon the highway network and, therefore, the front boundary wall does not warrant a refusal on highway safety grounds. The Highway Authority has not raised any objection to the scheme and therefore it is not considered that the proposal has a harmful impact upon highway safety.

Permitted development 'fall back':

- 15.4 There are certain permitted development limitations regarding walls and other means of enclosure. As a general rule, you do not need to apply for planning permission if your wall is adjacent to a highway and does not exceed one metre above ground level. In this instance, the application site is clearly adjacent to a highway and therefore any part of the wall exceeding one metre in height would require formal planning consent. These include the pillars and piers. The majority of the wall therefore does not require formal planning consent.

16.0 Conclusion

- 16.1 To summarise, the design of the proposed wall is appropriate and would not result in a harmful impact upon visual amenity, highways safety or residential amenity. The proposal would not appear out of character in the street-scene or as an overly-prominent addition. Your Officer therefore recommends approval.

17.0 Recommendation to the Committee

- 17.1 The Officer recommendation to the Committee is for APPROVAL of planning permission.

18.0 Informatives

18.1 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.