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Item No: 7.3 and 7.4

Application: 190266 and LB - 190267

Applicant: Mr Andrew Guyler, Decx Ltd

Proposal: Installation of fixing points on 20 buildings throughout the street. Installation of catenary cables between each fixings to create the foundations for the umbrella street. Further catenary cables complete with umbrellas would then be installed between the catenary cables. Once installed there will be a 5.7m clearance from the floor to the lowest point of the umbrella to ensure the installation conforms to highways regulations.

Location: Sir Isaacs Walk, Colchester

Ward: Castle

Officer: David Lewis

Recommendation: Approval for full planning permission and listed building consent.

1.0 Reason for Referral to the Planning Committee

- 1.1 These applications are referred to the Planning Committee because this is a project promoted by Colchester Borough Council.

2.0 Synopsis

- 2.1 The key issues for consideration are the impact on the Conservation Area and Listed Buildings and the contribution it would make to the vitality of this part of the town centre, whilst having regard to pedestrian and highway safety.
- 2.2 The works involve applying fixings to a listed building (as well as other properties within the street) which will affect the fabric of the building, however this is not irreversible and any harm is outweighed by the contribution the works will make to improving to vibrancy of the area and support to the retail function by generating an increased footfall.
- 2.3 The application is subsequently recommended for Approval for a 3 year temporary period.

3.0 Site Description and Context

- 3.1 Sir Isaacs Walk is a narrow shopping street with traffic restrictions, on the south side of the town Centre adjacent to the Culver Square. It links Headgate through to Eld Lane and on to Queen Street. The application site is situated within the boundaries of Colchester's designated Conservation Area 1, with Sir Isaac's Walk including a number of nationally and locally listed buildings. In addition to the retail uses there a variety of retail and food and drinking establishments.

4.0 Description of the Proposal

- 4.1 The application relates to a system of cables spanning a section of Sir Isaacs Walk, between No's 15 – 35b odds and 18 – 36 evens and including 1 Portal Precinct. The cables are held in place by adding a number of fixings to support the cabling. This would then form a means for hanging an installation from the cabling, which in the first instance would be a series of coloured umbrellas, (some illuminated), to form a vibrant display to this area. It is intended that the umbrella display would be in place from March to autumn, although the catenary would remain to enable subsequent, seasonal displays, hence the temporary permission for a 3 year period. The lowest part of the installation would be 5.7m above street level, to enable traffic to pass unhindered.

5.0 Land Use Allocation

- 5.1 Within the Inner Core area of the Town Centre.

6.0 Relevant Planning History

- 6.1 This is an historic street, however, none of the planning history relating to the properties is considered relevant to the consideration of the application. The property 18-22 Sir Isaac's Walk is listed, (Grade II), and Colchester's Town Wall is a Scheduled Ancient Monument (list UID 1002772), that runs along Sir Isaac's Walk, but the surviving parts can be found in the basements of buildings in the locality and not aboveground in this immediate locality.

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
CE2a - Town Centre
UR2 - Built Design and Character
PR2 - People-friendly Streets
TA4 - Roads and Traffic

- 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
DP10 Tourism, Leisure and Culture
DP14 Historic Environment Assets
DP17 Accessibility and Access

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

The Essex Design Guide
Shopfront Design Guide
Urban Place Supplement
Street Services Delivery Strategy
Managing Archaeology in Development
Planning Out Crime
Town Centre Public Realm Strategy
St Botolph's Masterplan

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 Highway Authority states;

'From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions;

1. No development shall take place until the required licensing of the proposed private apparatus oversailing the highway and the traffic management plans have been secured by the applicant which shall be approved in writing by the Local Planning Authority.

Reason: To protect and preserve the integrity and fabric of the highway and the travelling public, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

Informative1: The applicant should be advised that any Safety Assessments, Risk Assessments, traffic management plans and technical specifications of load bearing catenary cables and fixtures should accompany any request for licensing of the proposed development.

Informative2: 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

8.3 Environmental Protection states:

‘Should planning permission be granted Environmental Protection wish to make the following comments:-

Advisory

It is recommended that any illumination on the display is switched off at midnight to prevent light nuisance to any residential properties that may be above the shops.’

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 in addition to a press and site notice. The full text of all of the representations received is available to view on the Council’s website. At the time of writing no representation had been received as a result of the notifications to the occupiers of the premises immediately adjacent to the proposal, however, the period for the press notice expiring does not occur until 8 March 2019, with the site notice expiring on 1 March 2019. An update will be provided of any representations received.

11.0 Parking Provision

11.1 N/A

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

Visual impact in Conservation Area and Listed Buildings

- 15.1 The relevant statutory framework for the review of the application includes Planning (Listed Buildings and Conservation Areas) Act (1990), with Section 72(1) requiring that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas. Additionally, Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning applications are determined in accordance with the local development plan unless material considerations indicate otherwise. The relevant policies from Colchester Local Plan 2001-2021 include CS ENV1 and DPP14 which seek to protect and enhance the historic environment. Numbers 18-22 Sir Isaac's Walk is a listed building and will have the fixings applied to its wall.
- 15.2 The proposed works will serve the addition of an art installation over Sir Isaacs Walk during the summer of 2019. The project hopes to increase the attractiveness and footfall of the commercial street, following similar examples of other cities around the world. The enhancement of a Conservation Area's vitality and the support of the local businesses are key factors to ensure its sustainability. Therefore initiatives that promote this are to be supported for their effect on historic town centre. Importantly, the works are reversible and will not affect the character of and appearance of the Conservation Area in a permanent manner.
- 15.3 Although the installation is intended to be changed, the fixing would naturally be retained throughout the period of the permission. The majority of the buildings already have fixings of one form or another such as hanging signage, lights, alarm systems, ventilation ducts, and other fixings for seasonal decorations etc. and it is important to consider the impact of clutter if the fixings are left permanently and cumulative effects on the Conservation area and Listed Buildings. A suitable condition is therefore recommended to ensure components are removed at the end of the temporary period. The Colchester Town Wall, a scheduled ancient monument, whilst in this locality, is predominantly found in the basements of properties where it has survived and the works will have no visual or material impact on this heritage asset at all.
- 15.4 It is concluded that the proposals do not conflict with legislation and policies for the protection of heritage assets, listed buildings or enhancement of conservations areas.

Impact on the Vitality of the Shopping Area

- 15.5 The NPPF is supportive of ensuring the vitality of town centres and this is reinforced with the council's adopted planning policies for town centres in addition to the support for tourism, leisure and culture.

15.6 Stakeholder engagement with the occupiers prior to the submission of the application received a favourable response based on the expectations of greater footfall in the area and thus support for the proposals. The works are considered to be a positive contribution to bringing vitality to the part of the town centre and compliant with planning policy.

15.7 Due to the lowest point of the installation being set at 5.7m above street level, the works will not impact on the free flow of traffic or access for delivery vehicles serving local shops and services.

16.0 Conclusion

16.1 To summarise, the proposals are considered acceptable as having no irreversible impact on the listed buildings or conservation area and any temporary harm to the fabric of the listed building being outweighed by the positive contribution the development would make to the vitality of this part of the Town centre.

17.0 Recommendation to the Committee

17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning application 190266 subject to the following conditions:

1. Non Standard Condition – Temporary Time Limit

The period of this permission shall expire on 31 March 2022 at which date the development hereby permitted shall be removed. Within 28 days from the date at which this permission expires any material or equipment resulting from, or used in connection with, the development hereby permitted shall be removed from the site in its entirety and in accordance with a scheme that shall have previously been submitted to and agreed, in writing, by the Location Planning Authority.

Reason: For the avoidance of doubt as to the scope of this permission and because a longer permission would have to be carefully considered by the Local Planning Authority at the time at which any such proposal came forward, as well as to ensure that the site is returned to its previous state so that it does not suffer from any unacceptable long term impact.

2. Non Standard Condition – Accordance with details

The development hereby permitted shall be carried out in accordance with the details shown on the submitted documents accompanying the application.

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

3. Non Standard Condition – Licensing of Proposed Private Appartus

No development shall take place until the required licensing of the proposed private apparatus oversailing the highway and the traffic management plans have been secured by the applicant which shall be approved in writing by the Local Planning Authority.

Reason: To protect and preserve the integrity and fabric of the highway and the travelling public, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

4. Non Standard Condition - Illumination

Any illumination on the display shall not be switched on between the hours of 12 midnight and 8.a.m. unless otherwise agreed with the Local Planning Authority.

Reason: To prevent light nuisance to any residential properties that may be above the shops.

18.0 Informatives

18.1 The following informatives are also recommended:

Informative1: The applicant should be advised that any Safety Assessments, Risk Assessments, traffic management plans and technical specifications of load bearing catenary cables and fixtures should accompany any request for licensing of the proposed development.

Informative2: 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:

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Colchester Highways Depot,
653 The Crescent,
Colchester
CO4 9YQ

3. ZTA - Informative on Conditions Stating Prior to Commencement/Occupation

PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either **before you commence the development or before you occupy the development.** This is of critical importance. If you do not comply with the condition precedent you may invalidate this permission and be investigated by our enforcement team. Please pay particular attention to these requirements. To discharge the conditions and lawfully comply with your conditions you should make an application online via www.colchester.gov.uk/planning or by using the application form entitled

'Application for approval of details reserved by a condition following full permission or listed building consent' (currently form 12 on the planning application forms section of our website). A fee is also payable, with the relevant fees set out on our website.

APPROVAL of listed building application 190267 subject to the following conditions:

1. Non Standard Condition – Temporary Time Limit

The period of this permission shall expire on 31 March 2022 at which date the development hereby permitted shall be removed. Within 28 days from the date at which this permission expires any material or equipment resulting from, or used in connection with, the development hereby permitted shall be removed from the site in its entirety and in accordance with a scheme that shall have previously been submitted to and agreed, in writing, by the Location Planning Authority.

Reason: For the avoidance of doubt as to the scope of this permission and because a longer permission would have to be carefully considered by the Local Planning Authority at the time at which any such proposal came forward, as well as to ensure that the site is returned to its previous state so that it does not suffer from any unacceptable long term impact.

2. Non Standard Condition – Accordance with details

The development hereby permitted shall be carried out in accordance with the details shown on the submitted documents accompanying the application.

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

3. Non Standard Condition – Licensing of Proposed Private Apparatus

No development shall take place until the required licensing of the proposed private apparatus oversailing the highway and the traffic management plans have been secured by the applicant which shall be approved in writing by the Local Planning Authority.

Reason: To protect and preserve the integrity and fabric of the highway and the travelling public, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

4. Non Standard Condition - Illumination

Any illumination on the display shall not be switched on between the hours of 12 midnight and 8.a.m. unless otherwise agreed with the Local Planning Authority.

Reason: To prevent light nuisance to any residential properties that may be above the shops.