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**Item No:** 7.1

**Application:** 221294

**Applicant:** Mr & Mrs Pilgrim

**Agent:** Mr James Wicks

**Proposal:** Proposed single storey rear extension

**Location:** 43 Roman Road, Colchester, Essex, CO1 1UR

**Ward:** Castle

**Officer:** Simon Grady

**Recommendation:** Approval

## **1.0 Reason for Referral to the Planning Committee**

- 1.1 This application is referred to the Planning Committee because it was called-in by Councillor Goacher for the following reason (summarised):
- Impact on light into neighbour's gardens
  - Excessive height
  - Limited garden space would remain
  - The drawings do not fully represent the proposed extension (half-light basement, back doors, and steps not shown on plans)
  - The proposed extension, along with an existing pergola in the rear garden, represents an over-development within a conservation area.
- 1.2 The proposed development has been amended in the time since Cllr Goacher's call-in.

## **2.0 Synopsis**

- 2.1 The application seeks planning permission for a single-storey rear extension. The key issues for consideration are the design of the proposed development and its impact on the conservation area in which the site is located as well as the impact that it would have on neighbour amenity. Having assessed these issues against national and local policies it is concluded that the proposed development would not have a harmful impact on neighbour's amenity and would not cause a substantial harm to the conservation area.
- 2.2 The application is subsequently recommended for approval, subject to conditions.

## **3.0 Site Description and Context**

- 3.1 The site contains a terraced dwelling lying inside of the Central Colchester settlement boundary. The site is located within Conservation Area 1. There is an Article 4 Direction in force in this Conservation Area that essentially removes any permitted development rights for the following:
- Alterations to windows, doors and roof coverings
  - The demolition, alteration or erection of boundary walls, gates or other means of boundary enclosure (not hedges)
  - The demolition or alteration of chimney stacks, including chimney pots
  - The rendering and painting of exterior brickwork
- 3.2 There are no trees on or adjacent to the site that would be affected by the proposed development and the site is in flood zone 1. The host dwelling is not listed or on the local list and there are no listed buildings nearby whose setting could be affected by this proposed development.
- 3.3 The site is within a SSSI (Site of Special Scientific Interest) impact zone, but does not exceed any of the criteria which would require further considerations of impact on the SSSI or consultation with Natural England. The SSSI in question is Bull Meadows Local Nature Reserve (over 700 metres to the north of the application site).

## **4.0 Description of the Proposal**

- 4.1 This Householder application seeks planning permission for a proposed single storey rear extension. The footprint of this extension would measure 5m wide x 6m deep. It would have a twin gable pitched roof with eaves height of 2.5m and a ridge height of 4m. The extension would be set back from the boundary with the neighbour to the south of the application site by 1m and the northern wall of the extension would become the boundary shared with the neighbour to the north.
- 4.2 The proposal has been amended during the course of the application. Originally a flat roof was proposed for the extension but this was amended to two pitched roofs with gable ends because this was felt to be more appropriate design for this particular dwelling. Other than the design of the roof and the fenestration on the rear elevation, the scheme remained the same, ie the footprint of the extension is the same for both.

## **5.0 Land Use Allocation**

- 5.1 Residential, within Colchester settlement limits.

## **6.0 Relevant Planning History**

- 6.1 There is no site history that is particularly relevant to the decision regarding this proposed development.

## **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. The following policies are considered to be relevant in this case:

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

### Relevant Section 2 Policies

- DM13: Domestic development
- DM15: Design and Amenity
- DM16: Historic Environment
- DM19: Private Amenity Space

#### Adopted SPD

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

- The Essex Design Guide
- External Materials in New Developments
- Managing Archaeology in Development

#### Neighbourhood Plans

The site is not within a Neighbourhood Plan area.

### **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. The following stakeholders were consulted:

- Historic England
- Colchester Civic Society
- Colchester Archaeological Trust
- Environmental Protection
- Parks and Recreation
- Historic Buildings and Areas Officer
- Archaeological Advisor

Responses were not received from Colchester Civic Society, Philip Crummy or Parks and Recreation. The responses received are set out below.

#### **Council's Archaeological Advisor**

- 8.2 No grounds to consider refusal of permission in order to achieve preservation in situ of any important heritage assets. However, in accordance with the National Planning Policy Framework (Paragraph 205), any permission granted should be the subject of a planning condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed.

#### **Historic England**

- 8.3 Confirmation that the application lies on the west side of the scheduled monument known as 'Town Ditch' (List Entry Number: 1002178), but on the basis of the information available to date, the proposed application would not alter the significance of the scheduled monument.

## **Council's Historic Buildings and Areas Officer**

- 8.4 This application is for a rear extension to a property within Colchester Conservation Area 1, which is protected by an Article 4 Direction. While this is a sensitive area the size and scale of the extension are unlikely to have any significant impact on the character of the conservation area. For this reason there is no objection on heritage grounds.

## **Environmental Protection**

- 8.5 Environmental Protection recommend adding a condition to restrict the hours of construction and a Ground Gas Risks Informative advising the applicant to satisfy themselves that there are no unacceptable risks from ground gases during the implementation of the scheme, should planning permission be granted.

## **9.0 Parish Council Response**

- 9.1 The site is not in a parish council area.

## **10.0 Representations from Notified Parties**

- 10.1 The application resulted in one objection and one comment in support of the application from 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.

### **Neighbour Objection**

- 10.2 One neighbour raises concerns about the impact that the proposed development would have on the host dwelling because it is out of proportion, the impact on the Conservation Area, 'destroying a garden wall', overshadowing their garden, reduction in light into basement window, overdevelopment particularly because of a pergola in the garden, lack of internal dimensions on the submitted drawings, the pergola not being shown on the drawings, and the roofing material not shown.

- 10.3 The concerns raised are considered in the report below.

### **Neighbour Support**

- 10.4 Another neighbour confirmed their support for the proposed extension saying that other, larger extensions have been built in the area and that the proposal is tasteful and unobtrusive.

## **11.0 Parking Provision**

- 11.1 Not applicable because no parking is provided on the application site currently. On-site permit parking is available.

## **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. The proposed extension does include internal stairs, but this would be capable of adaptation should an increased level of accessibility be required in the future.

## **13.0 Open Space Provisions**

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

## **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 a "Householder" 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**

- 16.1 The main planning issues in this case are:
- The Principle of Development
  - Design and Impact on Conservation Area
  - Impact on Neighbouring Properties
  - Private Amenity Space Provision

### **Principle of Development**

- 16.2 The site is located within a predominantly residential area where development such as that proposed is considered to be acceptable in principle. The Article 4 Direction in place removes some Permitted Development rights but not for extensions to dwellings. However, the proposal could not be implemented under normal Permitted Development Rights because it would exceed the thresholds; the depth of the extension would be 6m and the maximum it could be is 3m.

## **Design and Impact on Conservation Area**

- 16.3 The design of the proposed development is considered satisfactory on its merits. It is appropriately proportioned in relationship and subordinate to the host dwelling and uses appropriate external facing materials of white rendered walls to match the host dwelling and black crittal doors, which are sympathetic to the age and style of the host dwelling. The precise details of the finishes are unknown at this stage and must be agreed prior to implementation of the scheme. It is suggested that this should be controlled by condition.
- 16.4 The application site is inside Colchester's Conservation Area 2 and Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of conservation areas. S38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. In addition, Local Plan Policy SP7: Place Shaping Principles states that all new development should respond positively to local character and protect and enhance assets of historical value. Local Plan Policy DM16 states that *"Development that will lead to substantial harm to or total loss of significance of a listed building, conservation area, historic park or garden or important archaeological remains (including development that adversely affects the setting of heritage assets) will only be permitted in exceptional circumstances where the harm or loss is necessary to achieve substantial public benefits that outweigh the harm or loss. Where development will lead to less than substantial harm this harm should be weighed against the public benefits of the proposal."*
- 16.5 Views of the extension from the public domain would be limited (mainly from within neighbour's rear gardens) and it would not therefore be visually dominant. It is considered that the proposed development would not have an adverse impact on the historic significance of the conservation area and that it meets the requirements of the relevant legislation, the National Planning Policy Framework and the relevant local plan policies in respect of protecting heritage assets (outlined above).

## **Impact on Neighbouring Amenity**

- 16.6 The proposed development is single storey and there are no concerns that it would offer any opportunities for harmful overlooking into neighbouring properties, particularly given that there are no windows proposed on the side elevations of the extension.
- 16.7 There is currently a difference of 0.7m in ground level between the bottom of the back door in the existing dwelling and the existing garden, which requires 3 steps for access between the two spaces. It is proposed that the rear extension will be built on the level of the current garden, which means there will be a difference in floor level between the existing dwelling and the proposed extension that will still require internal steps for access.

- 16.8 The height of the eaves would be 2.5m (lower than the eaves/roof of the previous flat roof design) and the height of the roof ridge that is nearest to the neighbouring property to the south (which would be approximately 2m from the boundary between properties) would be approximately 4m high. It is considered that these dimensions are not excessive and, as a guide, are within the height limits set in the The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) for determining whether a proposal is Permitted Development or not.
- 16.9 The impact on the amenity of the neighbour to the south is considered to be an acceptable level of harm. The extension would comply with the 45 degree rule adopted by Colchester Council as a method to measure the impact of a building on windows of neighbouring dwellings. The distance between the edge of the neighbour's closest window and the proposed extension would be approximately 2.5m. This is shown on the submitted rear elevation drawings. It is also considered that the revised scheme featuring a twin gable roof rather than a flat roof reduces any potential overbearing experienced by the neighbour to the south. Given the above, it is considered that while the extension would be visually prominent to the neighbour to the south, the level of harm caused in terms of loss of light and appearing overbearing would not be significant enough to warrant refusal of the application. Also in mitigation, the extension is located to the north of this neighbour so would not directly block the sun, which moves in the southern sky.
- 16.10 The impact on the amenity of the neighbour to the north would be limited given that the existing boundary treatment is a solid brick wall that is almost as high as the wall of the proposed extension. In addition, the space that is immediately adjacent to the proposed extension is described as a utility and storage room and is not considered to be a habitable room for the purposes of assessing the proposed development's impact on neighbour amenity.

### **Private Amenity Space Provision**

- 16.11 The target area for private amenity space for residential development is set out in Policy DM19 of the Council's adopted local plan. For a new 3 bedroom dwelling the standard is to have a minimum of 60m<sup>2</sup>. By measuring off the drawings submitted, this proposal meets the adopted standard and in addition there is considerable open space for the occupiers to use in Castle Park and an open space surrounding the Riverside Estate.
- 16.12 Consequently, given that the proposal is single storey and retains adequate private amenity space, it is considered that this proposal does not constitute over-development of the application site.



### **Other considerations**

- 16.13 In addition to the key planning considerations above, the issues below have also been taken into account.

### **Trees**

- 16.14 There are no trees that would be affected by the proposed development and so no mitigation action is recommended.

### **Archaeology**

- 16.15 The application site is located within an area of considerable archaeological interest. The Council's Archaeological Adviser has confirmed that the proposed extension would be inside Colchester's Roman walls within the later *colonia*. Roman remains have been found in a series of small archaeological investigations along Roman Road and Castle Road in the past, with a particularly significant find of a Roman floor and the wall of a Roman building at 24 Castle Road. In general, however, the construction of these Victorian villas and their associated basements appears to have had a negative effect on the survival of archaeological remains in this area. The proposed development still, however, has potential to impact on archaeological remains of significance. The potential impact would not justify a refusal of planning permission as any important heritage assets could be preserved in situ via a condition that requires the applicant to arrange and fund appropriate archaeological investigations as part of the implementation of the proposal.

### **Pergola / Roman Wall**

- 16.16 The objections to this application include reference to a pergola that was erected at the far end of the applicant's garden and the possibility that it is attached to the Roman Wall. Whilst these issues are not part of the works considered in this planning application they are nonetheless worthy of consideration separately. It has been established that the pergola is not currently authorised but the applicant is preparing to submit a Lawful Development Certification application, which, if approved, would mean its presence is lawful. It has also been established that the wall at the end of the application site is a modern wall not a part of the Roman Wall so no offence has been committed by the construction of the pergola in that respect.

## **17.0 Conclusion**

- 17.1 To summarise, the proposed single-storey rear extension is acceptable in design terms, including taking into account the site's location in a conservation area. The level of harm to neighbour amenity is not considered to be unacceptable. The objections have been carefully considered and it is felt that the proposal accords with the Council's policy requirements including Policy DM13, DM15 and DM16.

## **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. Time Limit for Full Permissions**

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

### **2. 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 1375-01-01 and 1375-01-04E.

Reason: For the avoidance of doubt and to ensure that the proposed development is carried out as approved.

### **3. Materials to be Agreed**

No external facing or roofing materials shall be used in the construction of the development hereby permitted until precise details of the manufacturer, types and colours of these have been submitted to and approved, in writing, by the Local Planning Authority. Such materials as may be approved shall be those used in the development.

Reason: In order to ensure that suitable materials are used on the development as there are insufficient details within the submitted planning application.

### **4. Additional Details**

Prior to the commencement of any works, additional drawings that show details of any proposed new windows, doors, eaves, verges, cills and arches to be used, by section and elevation, at scales between 1:20 and 1:1, as appropriate, shall be submitted to and approved, in writing, by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved additional drawings.

Reason: There is insufficient detail with regard to this to protect the special character and architectural interest and integrity of the building in accordance with the requirements of Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### **5. Limits to Hours of Work**

No demolition or construction work shall take outside of the following times;

Weekdays: 08.00 – 18.00

Saturdays: 08.00 – 13.00

Sundays and Bank Holidays: none

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. Archaeology Condition**

No works shall take place until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation that has been submitted to and approved, in writing, by the Local Planning Authority.

The scheme shall include an assessment of significance and research questions; and:

- a. The programme and methodology of site investigation and recording.
  - b. The programme for post investigation assessment.
  - c. Provision to be made for analysis of the site investigation and recording.
  - d. Provision to be made for publication and dissemination of the analysis and records of the site investigation.
  - e. Provision to be made for archive deposition of the analysis and records of the site investigation.
  - f. Nomination of a competent person or persons/organisation to undertake the works.
- The site investigation shall thereafter be completed prior to development, or in such other phased arrangement, as agreed, in writing, by the Local Planning Authority. The development shall not be occupied or brought into use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development.

## **19.1 Informatives**

19.1 The following informatives are also recommended:

### **1. Informative on Archaeology:**

PLEASE NOTE The submitted scheme of archaeological investigation should be in accordance with an agreed brief. This can be procured beforehand by the developer from Colchester Borough Council. Please see the Council's website for further information: [www.colchester.gov.uk](http://www.colchester.gov.uk)

### **2. Land Contamination – Ground Gas Risks Informative**

The applicant is advised that the site to which this planning permission relates is recorded as being within 250 metres of a burial ground. Prior to commencement of the permitted development the applicant is therefore advised to satisfy themselves that there are no unacceptable risks to the permitted development from any ground gases. Where appropriate, this should be considered as a part of the design of the foundations (and may be required under Building Regulations). As a minimum, any ground gas protection measures should equal those in the main building and not compromise the effectiveness of existing gas protection measures.

The Local Planning Authority has determined the application on the basis of the information available to it, but this does not mean that the land is free from contamination. The applicant is responsible for the safe development and safe occupancy of the site.

### 3. 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.

### 4. 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](http://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.

### 5. Informative on Any Application With a Site Notice

PLEASE NOTE that a site notice was erected in a publicly visible location at the site. Colchester Borough Council would appreciate your co-operation in taking the site notice down and disposing of it properly, in the interests of the environment.