



Application No: 160235

Location: Part Garden Of, 19 St Clare Road, Colchester, Essex, CO3 3SZ

Scale (approx): 1:1250

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Committee Report

Agenda item

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To the meeting of **Planning Committee**
on: **31st March 2016**
Report of: **Head of Professional/Commercial Services**
Title: **Planning Applications**

7.1 Case Officer: James Ryan Due Date: 01/04/2016

MINOR

Site: Part garden of 19 St Clare Road, Colchester, Essex, CO3 3SZ

Application No: 160235

Date Received: 2 February 2016

Agent: Mr Robert Pomery

Applicant: Mr & Mrs C Tripp

Development: Erection of detached dwelling, garage and new access.

Ward: Lexden

Summary of Recommendation: Conditional 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 Councillor Roger Buston for the following reasons:

I have been requisitioned to submit call in of the above application by residents in adjoining property, who indicate:

- 1. Overbearing. The size of the proposed dwelling is Overbearing.*
- 2. Prominence : The proposed dwelling would be overly prominent within the street scene Overbearing*
- 3. Character and Appearance of the Surrounding area : Given its size and prominence within the street scene (and that it would occupy some more of such precious green space in St Clare Road as there is), the proposal would alter and harm the character and appearance of the surrounding area rather than deliver an improvement.*

4. Policy Inconsistencies : Given the above application is inconsistent with NPPF Paragraph 58, DP 1(i), DP 1 (v), DP 14, DP 15 and Colchester Parks and Green Spaces Strategy, and Core Strategy H2.

2.0 Synopsis

- 2.1 The key issues explored below are the principle of development on this site, the design of the proposal and the impact it has on the character of the area and on neighboring amenity.

3.0 Site Description and Context

- 3.1 The site forms part of the garden to 19 St Clare Road. Number 19 is located to the north. To the south are number 25 St Clare Road and the long gardens of the dwellings which front on Fitzwalter road. It is noted that number 25 has a far shallower plot than is the character of the area. This very attractive area is made up of large detached dwellings on large plots. A new dwelling has been built south of number 20 directly opposite the site.

4.0 Description of the Proposal

- 4.1 A detached dwelling is proposed.

5.0 Land Use Allocation

- 5.1 The site sits within the settlement limits. To the rear of the site is a group of TPO'd trees.

6.0 Relevant Planning History

- 6.1 The most relevant planning history is a refusal for a detached dwelling on this site in 2005 (Ref: F/COL/05/1212). This was refused on design and character grounds in line with the 'Area of Special Character' Policy that was adopted at the time. This policy no longer makes up part of the Development Plan.

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 also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations

H1 - Housing Delivery

H2 - Housing Density

H3 - Housing Diversity

UR2 - Built Design and Character

TA5 - Parking

ENV1 - Environment

7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):

DP1 Design and Amenity

DP12 Dwelling Standards

DP13 Dwelling Alterations, Extensions and Replacement Dwellings

DP15 Open Space

DP16 Private Amenity Space and Open Space Provision for New Residential Development

DP19 Parking Standards

7.4 Further to the above, 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 Guidance/Documents:

- Backland and Infill
- Vehicle Parking Standards
- Open Space, Sport and Recreation
- Extending Your House?
- The Essex Design Guide
- External Materials in New Developments

8.0 Consultations

8.1 Natural England – No comment.

8.2 ECC Highways – No objection. Conditions suggested.

8.3 Arboricultural Planning Officer – No objection to the scheme. Conditions suggested.

8.4 Archaeology – No objection. Condition requested.

In addition to the details reported above, the full text of all consultation responses is available to view on the Council's website.

9.0 Parish Council Response

9.1 Non-parished.

10.0 Representations

10.1 Six representations were received. Two were from neighbours on Fitzwalter Road who state they were not directly affected by the proposal but considered the scheme harmful to the character of the area. One was from a neighbour remote from the site (De Vere Road) who also considered the scheme harmful to the character of the area.

The other representations objected along the following lines:

- It is irrelevant that the area is no longer an 'Area of Special Character'.
- The scheme is materially harmful to the character of the area which is spacious, Arcadian and distinctive.
- The principle of development on this site is unacceptable.
- Fails to comply with the NPPF and LDF Policies H2, H3, SD2, DP1, DP14 and DP15.
- Loss of Private Open Space.
- Loss of Greenfield Land.
- Loss of space would be irreversible.
- Dwelling is too large.
- Larger than refused scheme and more visually prominent.
- A modest bungalow would be better.
- It is not affordable housing.
- Scheme is cramped.
- Creates dense development.
- Frontage widths are inconsistent – there are more wide frontages than the planning statement sets out.
- The new dwelling opposite is harmful to the area, but at least it is set back from road frontage.
- The new dwelling opposite should be the last piece of infill in this area.
- More development would further impact on the setting of the locally listed Number 20 St Clare Road.
- Harmful to amenity of 19 (the donor dwelling) in terms of loss of light/overshadowing.
- Harmful to amenity of 25 in terms of overlooking.

The full text of all of the representations received is available to view on the Council's website.

11.0 Parking Provision

11.1 Off street parking in excess of the standards will be possible at both the proposed dwelling and the existing.

12.0 Open Space Provisions

12.1 This scheme raises no open space requirements.

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 Development Team and 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 (S106) of the Town and Country Planning Act 1990.

15.0 Report

Principle of Development

- 15.1 The redevelopment of this side garden area of number 19 St Clare Road is acceptable in principle. This area is currently very attractive, well planted and well maintained by the existing owners but this does not mean it cannot be developed sensitively.
- 15.2 As noted in the planning history section above a dwelling on this site was refused over 10 years ago. It is important to note that it was assessed against different policy criteria – in particular the ‘Area of Special Character’ policy. This policy no longer forms part of the Development Plan. Furthermore, the site is not located in the Conservation Area. It is therefore an area of no particular policy designation. It is not designated as ‘private open space’ as set out in DP15. There is no policy reason for the new dwelling opposite to have been the last infill dwelling in the area. It is not proposed to be ‘affordable’ housing nor is there a policy requirement for it to be so.
- 15.3 The NPPF and Development Plan policies do require high quality design and also require development to respect and enhance the character of the area. It is held that this scheme allows one dwelling in a manner that reflects the character of the area. It is not considered that the garden area to the side of number 19 is so important to the character of the area that the Council should attempt to preserve it as such.

Design and Layout:

- 15.4 As set out in the Planning Statement, the application scheme involves the erection of a single dwelling house and garage within the garden of the existing property, No. 19 St Clare Road. The new dwelling would be part 2.5 storey with a 1.5 storey side wing, which has an over sailing roof to form a small veranda to both front and rear. The house would have four bedrooms on its upper floors and the usual living/dining/kitchen facilities on the ground floor. The garage is detached and on the north side of the plot, served by a new vehicular access driveway, which connects with St Clare Road.

- 15.5 The design proposed goes significantly beyond the run of the mill. Whilst unashamedly a pastiche Arts and Crafts design, it is done very well with a level of detail befitting the area. The design incorporates a number of interesting architectural details, which are proposed on a functional and decorative basis. These include intricate white painted joinery details, finials, verge boards, double height bay window, narrow dormers, verandas and a stair tower on the rear with a long glazed section to light the hall, landing and stairs. These details are suggested to be secured by condition along with the proposed materials to further ensure a high quality finish.
- 15.6 The plans demonstrate the widths of the plots on this side of the road. Number 11 has a plot width of 18 metres as does number 15. Number 17 has a plot width of 21 metres. Following the subdivision number 19 the donor dwelling would have a plot width of 20 metres and the proposed dwelling would have a plot width of 26 metres which cannot be described as narrow. Number 25 is significantly wider at 41 metre but it is noted that this has a very shallow rear garden in comparison to the character of the area.

Scale, Height and Massing:

- 15.7 Notwithstanding the sentiments of the neighbours, it is considered that the scale of the proposal is entirely in keeping with the character of the area. This is demonstrated by the street scene drawing 6327-1305. The dwelling is of a similar height to the neighbour at number 19 and also number 25 to the south. The low main eaves keep the appearance of the mass of the building to within acceptable levels.

Impact on the Surrounding Area:

- 15.8 This is one of the key issues as set out above. Whilst it is appreciated that some of the neighbours would rather see the plot left as garden land Officers do not consider that this is an option that would be reasonably sustainable at appeal. A 'modest bungalow', suggested by neighbours in a back land position would not be able to deliver the visual richness of this proposal and would not be officers recommended approach for this site. Therefore on balance it is held that due to the quality of the dwelling that is proposed the scheme will not cause material harm to the surrounding area nor to the setting of the locally listed number 20 St Clare Road opposite number 19. It is therefore acceptable.

Impacts on Neighbouring Properties:

- 15.9 This scheme has been carefully design to ensure the impact on the neighbours would be reduced to the bare minimum. Representations have noted the impact to 19 and the impact to 25 in particular.
- 15.10 Number 19 is located to the north of the proposal so would be the most affected by this proposal. It must be noted however that number 19 own the plot in question, have made the application and have had much input into the final design. Notwithstanding this due to the generous side isolation between the proposed dwelling and 19, it is not held to be materially harmful to the amenity of the residents of number 19 in term of overlooking, overshadowing or oppressiveness.

- 15.11 Number 25 (which sometimes appears as number 15 on the OS base) is located to the south of the proposal. This means that the proposed scheme would have no material impact in terms of loss of light to the dwelling or the garden.
- 15.12 The scheme would change the outlook somewhat from the side facing windows of number 25 and from the garden which is located to the north (which is to the side). This change is not held to be one that is materially oppressive to the residents of the dwelling from their side facing windows or from their garden.
- 15.13 In terms of overlooking the majority of windows proposed face down the garden. There are two small flank windows that face the garden of number 25 but these are marked on the plans as obscure glazed and serve a bathroom. The side facing conservation roof lights and the narrow window directly below the rearmost roof light are also not considered to provide an angle of overlooking that would be materially harmful to the garden of number 25. Along with the feature staircase they would provide views down the gardens of the dwellings that are located on Fitzwalter Road however these gardens are relatively long with over 50m between the windows the rear elevations in question.
- 15.14 The representation from 25 has raised concerns regarding overlooking from the front bay window that serves as a first floor study. This would sit on the first floor in the projecting gable element nearer to the donor dwelling than the neighbour of 25. For the residents of the new dwelling to overlook they would have to be standing hard up into the bay. Within the room the views would generally be of the street and dwellings opposite. It would therefore be unreasonable to condition part of the bay window (i.e. the facet that is closest to the neighbour at 25) to be obscure glazed and fixed shut.
- 15.15 Therefore the scheme is not held be materially harmful to these neighbours in terms of overlooking.

Amenity Provisions:

- 15.16 A garden well in excess of the adopted minimum standards is proposed for the new dwelling and is retained for the existing. The garden of the new dwelling would be approximately 300 sqm and the remaining garden for No. 19 would be slightly bigger at approximately 350 sqm.

Highway Issues:

- 15.17 The Highway Authority has no objection to the scheme subject to conditions. They are all suggested to be imposed apart from the sustainable transportation mitigation 'travel packs' condition and the garage size condition neither of which are held to meet the 'six tests' as set out in the Planning Policy Guidance. The travel pack condition is not reasonable or necessary as the site is already sustainably located. The garage size condition is not reasonable or necessary as the garage is shown on the plans and does not make up part of the overall parking provision as there would be ample frontage parking off street.

Trees:

- 15.18 A group of protected trees is located towards the bottom of the garden of the proposed dwelling. The Arboricultural Planning Officer has assessed the scheme and the submitted Tree Survey and is happy that the scheme can be built without causing material harm to the trees subject to tree protection measures being conditioned. As they are located to the east of the scheme they are not in a position that would cause harmful levels of shading to the rear elevation of the proposed dwelling, nor the area of amenity space directly to the rear. Therefore it is not held that this scheme would put the trees under significant future pressure to lop, fell or prune.

Ecology:

- 15.19 The application has come with an ecology report that has assessed the site and has concluded that this scheme would not cause harm to protected species. It recommended that clearance or reduction of shrubs and trees should be undertaken outside of the main bird breeding season (March – August) and if that is not possible it must be undertaken under the supervision of a qualified Ecologist. This will be conditioned.

16.0 Conclusion

- 16.1 This development is proposed in a very attractive part of Colchester that does not benefit from any particular designation. The scheme proposes an attractive and well detailed dwelling befitting of the area. It is not held to cause material harm to the character of the area nor to neighbouring amenity. It would also provide a modest contribution to the Council's housing stock. The scheme is, therefore, held to comply with the NPPF, the PPG and the Development Plan and therefore an approval is warranted.

17.0 Recommendation

- 17.1 APPROVE subject to the following conditions:

18.0 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 (All 6327-) 1305, 1105, 1201, 1202, 1311, 1103, 1303A and 1304.

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

3 - *Removal of PD - Obscure Glazing But Opening

Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), the windows serving the first floor ensuite bathroom in the flank facing south towards number 25 shall be glazed in obscure glass to a minimum of level 4 obscurity before the development hereby permitted is first occupied and shall thereafter be permanently retained in this approved form.

Reason: To avoid the overlooking of neighbouring properties in the interests of the amenities of the occupants of those properties.

4 - Materials to be Agreed

No works shall take place until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction 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.

5 - Simple Landscaping Scheme Part 2 of 2

All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out in full prior to the end of the first planting and seeding season following the first occupation of the development or in such other phased arrangement as shall have previously been agreed, in writing, by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees, in writing, to a variation of the previously approved details.

Reason: In order to ensure that there is a sufficient landscaping scheme for the development where there is insufficient detail within the submitted application.

6 - Tree and Natural Feature Protection: Protected Areas

No works shall take place until all trees, shrubs and other natural features not scheduled for removal on the approved plans have been safeguarded behind protective fencing to a standard that will have previously been submitted to and agreed, in writing, by the Local Planning Authority (see BS 5837). All agreed protective fencing shall thereafter be maintained during the course of all works on site and no access, works or placement of materials or soil shall take place within the protected area(s) without prior written consent from the Local Planning Authority.

Reason: To safeguard existing trees, shrubs and other natural features within and adjoining the site in the interest of amenity.

7 - Tree and Hedgerow Protection: General

All existing trees and hedgerows shall be retained throughout the development construction phases, unless shown to be removed on the approved drawing and all trees and hedgerows on and immediately adjoining the site shall be protected from damage as a result of works on site in accordance with the Local Planning Authorities guidance notes and the relevant British Standard. All existing trees and hedgerows shall then be monitored and recorded for at least five years following contractual practical completion of the development. In the event that any trees and/or hedgerows die, are removed, destroyed, fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to

specifications agreed, in writing, with the Local Planning Authority. Any tree works agreed to shall be carried out in accordance with BS 3998.

Reason: To safeguard the continuity of amenity afforded by existing trees and hedgerows.

8 - Non-Standard Condition/Reason

No works or development shall take place until a scheme of supervision for the arboricultural protection measures required by condition 6] has been approved in writing by the local planning authority. This scheme will be appropriate to the scale and duration of the works and will include details of:

- a. Induction and personnel awareness of arboricultural matters
- b. Identification of individual responsibilities and key personnel
- c. Statement of delegated powers
- d. Timing and methods of site visiting and record keeping, including updates
- e. Procedures for dealing with variations and incidents.
- f. The scheme of supervision shall be carried out as agreed.
- g. The scheme of supervision will be administered by a qualified arboriculturist instructed by the applicant and approved by the local planning authority.

Reason: To safeguard the continuity of amenity afforded by existing trees and hedgerows.

9 - Non-Standard Condition/Reason

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.

10 - Turning Areas

Prior to the first occupation of the development, a vehicular turning facility of a design previously agreed, in writing, by the Local Planning Authority shall have been constructed, surfaced and thereafter maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety.

11 - No Unbound Surface Materials

No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

Reason: To avoid the displacement of loose material onto the highway in the interests of highway safety.

12 - Vehicle Parking

Prior to the first occupation of the development, the vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, shall have been hard surfaced, sealed, marked out in parking bays and made available for use to the satisfaction of the Local Planning Authority. The vehicle parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles that are related to the use of the development.

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.

13 - Non-Standard Condition/Reason

Prior to occupation of the development a scheme showing the existing access point being blocked up and made good including the frontage wall/boundary treatment shall be submitted to and approved in writing by the Local Planning Authority. This scheme shall be implemented in full prior to the occupation of the dwelling as retained as such thereafter.

Reason: In the interests of the character of the area.

14 - Non-Standard Condition/Reason

No site clearance may take place unless wholly in accordance with Paragraph 5.1.1, 5.1.2 and 5.2.2 of the submitted Phase 1 Habitat Survey January 2016.

Reason: In the interests of Ecology.

15 - Removal of PD for All Residential Extensions & Outbuildings

Notwithstanding the provisions of Classes A, B, C, D and E of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no extensions, ancillary buildings or structures shall be erected unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: In the interest of visual amenity and to ensure the development avoids an overdeveloped or cluttered appearance and in the interests of protecting nearby trees.

19.0 Informatives

(1) 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.

(2) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631.

(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. Please pay particular attention to these requirements.

(4) 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: [http://www.colchester.gov.uk/article/13595/Archaeology- andtheplanningprocess](http://www.colchester.gov.uk/article/13595/Archaeology-andtheplanningprocess)

(5) INF01 Highway Works - All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to 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: Essex Highways, Colchester Highways Depot, 653 The Crescent, Colchester, CO4 9YQ.

INF02 Cost of Works - The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

20.0 Positivity Statement

20.1 The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.