



**Application No:** 150366

**Location:** 147 Lexden Road, Colchester, CO3 3RN

**Scale (approx):** 1:1250

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#### **7.4 Case Officer: James Ryan**

## **HOUSEHOLDER**

**Site:** 147 Lexden Road, Colchester, CO3 3RN

**Application No:** 150366

**Date Received:** 4 March 2015

**Agent:** Mr Kevin Hall

**Applicant:** Mr & Mrs J Belshaw

**Development:** Proposed alterations and extensions to rear of existing property to provide additional ground floor living accommodation and first floor bedroom suite.

**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 by Councillor Roger Buston for the following reasons:

1. The size, scale and design of the proposed extension are:
  - a. Of such a height size and scale as to be disproportionate to the size of the plot and the existing property;
  - b. Out of keeping with the existing property as well as the surrounding properties and of a design not enhance or complement the surrounding area;
  - c. Would have a material impact upon the neighbours property;
  - d. As an extension not at all "subservient" to the main house but "dominant";
  - e. Of a design and materials which are totally inappropriate to the house and area which does not it blend, noting in particular , the proposed standing seam metal cladding claimed to more suiting a commercial or factory build, not an established domestic property.
2. Residents fear that, in due course, there will be an access to the roof of the proposed extension occasioning overlooking and intrusion. Residents further fear that the number of laurel trees that have been quickly planted to screen the extension will grow rapidly and need to be trimmed twice a year. They fear that if the trees were not regularly trimmed a further (preventable) nuisance would be occasioned to them.
3. Residents wish me to here record and set out again as material planning considerations for refusal of this application the Planning Reasons for refusal contained within 145429 dated 15 September 2014 as though the same were set out in full form herein and repeated seriatim.

## **2.0 Synopsis**

2.1 The key issues explored below are

- Character and Appearance
- Impact on neighbours' amenities

2.2 This application is a resubmission of a previously refused two-storey extension, application reference: 145429. Following the refusal Members granted consent for a single-storey extension, application reference 146354. The refusal for the two-storey extension was appealed and was dismissed by the Inspector as it was held to be harmful to the outlook of neighbours. No other reasons for refusal were cited by the Inspector.

2.3 The scheme at hand proposes a smaller, two-storey extension that has a ground floor which is the same as the approved single storey extension 146354. So, in effect this scheme proposes a scaled back first floor addition on top of an approved ground floor scheme.

2.4 The scaled back nature of the design ensures that it will have no material impact on the character and appearance of the street-scene and that the impact it has on neighbours' amenities will be within acceptable bounds. Consequently, the application is recommended for approval.

## **3.0 Site Description and Context**

3.1 The application site is situated on Lexden Road in an area of large villa type development on spacious plots. The Lexden Road Conservation area includes the first nine metres of the front garden but not the house itself.

3.2 The application site contains a large, detached house on a characteristically deep plot. To the right (east), number 145 is also a large, detached house on a deep plot. To the left (west), what would once have been a very large villa has been converted into flats. A 1960s two-storey, flat-roofed addition runs adjacent to the western boundary of the application site and contains four flats, each orientated towards the application site. To the rear (north) of the long garden is a bowls club. Boundaries of the site (the western boundary in particular) are generally marked by mature hedges and trees, but the rear boundary to the bowls club is largely open

## **4.0 Description of the Proposal**

4.1 A two-storey, flat-roofed, rear extension is proposed. The scheme projecting almost nine metres beyond the rear of the house at ground floor level and projecting 6.3 metres at first-floor. The proposal is 6.3m high.

## **5.0 Land Use Allocation**

5.1 The site is within the defined settlement limits and is not allocated for any particular purpose.

## **6.0 Relevant Planning History**

- 6.1 This application is a re-submission of planning application 145429. That planning application was for two-storey rear extension and was refused because it was considered to relate poorly to the original dwelling in its size, orientation and architectural style. It was also considered to harm outlook to the facing kitchen windows and door of 145 Lexden Road and to the facing windows, conservatory and garden of flats at West Acre Court and to result in a loss of sunlight to the conservatory and parts of the garden of West Acre Court flats.
- 6.2 The Council's decision to refuse that application was appealed. The Inspector upheld the Council's refusal, but only due to its impact in term of neighbouring outlook, not on its design, loss of light or overlooking.
- 6.3 Prior to the Inspector's decision on application 145429, Members granted consent for a single-storey extension 146354. The application before Members effectively takes the approved scheme and puts a scaled back first floor extension on top of it.
- 6.4 Earlier in the year, application 150157 granted a certificate of lawful development for a rear-facing roof dormer. The applicants have confirmed that they do not intend to build the roof dormer extension if the scheme before Members is approved.

## **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:

UR2 - Built Design and Character  
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  
DP14 Historic Environment Assets

- 7.4 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:

Extending Your House?  
The Essex Design Guide

## 8.0 Consultations

There are no consultation responses in relation to this application, however in relation to the previous application the following comments were received that would be just as relevant to the current application.

### 8.1 Archaeology

The Council's archaeological consultant commented;

"The proposed development is within the Lexden cemetery, an area of Iron Age and Roman burial grounds to either side of Lexden Road. The surrounding area has also produced Bronze Age finds (a Bronze Age bucket urn found at Acland Avenue – EHER 11784). Approximately 90m to the east of 147 Lexden Road, finds dating to 30-50 AD were recovered from a ditch and a pit in the garden of "Lindens" (EHER 12668). More importantly several trenches were excavated in the garden of 147 Lexden Road between 1960-65. These revealed archaeological features with dating evidence suggesting occupation before and after the Boudican revolt of 60/61 AD. A thin burnt layer, interpreted as the Boudican destruction layer was noted c. 55cm below ground level (UAD EVT 3125).

Because of the high probability of encountering human burials in the development area and the shallow depth of the archaeology, I would recommend that condition ZNL be applied to this application. The archaeological work should take the form of a trial-trench across the footprint of the proposed extension and a second trial-trench across the proposed swimming pool and pool house. The results of this evaluation would then inform any further mitigation, which could potentially involve full-scale excavation."

Subsequent to this, the applicants wrote the following email on 5<sup>th</sup> Sept;

"Further to our recent discussions I note the observations of Chris Lister regarding potential archaeology on the site.

I have studied the report mentioned and discussed the site with Philip Crummy of Colchester Archaeological Trust who advises an alternative approach to that suggested in the consultation response as trenching may miss any archaeology/burials. Instead he would propose a complete strip of the area of the proposals down to reduced levels and proposed foundation being dug out by the archaeologist which would have a greater probability of discovering any evidence if it exists.

I should also advise that the area of the proposed rear extension is currently covered by a timber deck which was installed by my clients. This replaced a lower 'crazy paved' patio area which was laid upon a layer of hardcore suggesting that there has previously been a limited site strip in this area.

I should also advise that my client is an historian and would welcome the opportunity of there being further evaluation undertaken at the site given the correct circumstances.”

To which the Council’s Archaeology Consultant responded;

“It sounds as if the applicant is happy to go with a potentially much more expensive scheme of work to deal with the archaeology that is likely to be present on the site, rather than starting with an evaluation which may have negated the need for further work.

I am happy for this approach to be adopted although it should be made clear to the applicant that I would expect any foundations, services etc and the entire footprint of the swimming pool to be cleared by the archaeological contractor, a process that may end up being carried out by hand under excavation conditions and **not** under watching brief conditions. If this approach to the archaeology was pursued then the applicant would be required to grant the archaeological contractor sufficient time on site to record and remove any features encountered before commencing construction. An appropriate post-excavation budget would also have to be agreed before work started.

The area of decking which replaced an earlier lower patio may well have been subjected to a limited site strip, but this only suggests that any surviving archaeological features are that much more likely to be close to modern ground level.

I do not think that the application should be refused because the archaeological work has not yet been carried out. The nature of the archaeology in the area makes it highly unlikely that anything of significance would be encountered that would adversely affect the development (although again it should be stressed that adequate time will need to be provided to record any archaeology encountered).

To summarise, I would have no objection to the approach suggested by the applicant and Philip Crummy being placed as a condition on the development if the application were to be approved.”

## 8.2 Trees

The Council’s Tree Officer has visited the site and does not consider there to be a significant threat to any tree worthy of protection by Tree Preservation Order. He comments:

“The Ash tree close to the existing property looks to have been previously pollarded (viewed from the road) and so could be maintained at its current dimensions.

Whilst the trees in the rear gardens contribute greatly to the area it is the trees along the frontage that define the area and as these are not really impacted by the development I think conditions or informatives may be the best course of action”

## 9.0 **Parish Council Response**

### 9.1 No Parish

## **10.0 Representations**

- 10.1 Four letter of objection have been received. One from Mr and Mrs White of 187 Lexden Road which is approximately 500 metres down the road from the application site. One letter is from Mr and Mrs Page of 145 Lexden Road. An email chain was also received from Nichols Percival on behalf of Mr and Mrs Page of 145 Lexden Road and this has been considered as a formal representation. Another letter was received from Mrs Jackson the resident of 1 West Acre Court.

In summary, these comments express that the extension is very large and inappropriate for Lexden Road and that the reasons for refusal applied to its predecessor should equally be applied here. The scheme was considered to provide the possibly of overlooking, overshadowing, oppressiveness and noise. Concern about the future access to the flat roof was also raised. The proposal was thought to be poor in design terms and inappropriate close to the Lexden Conservation Area.

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

## **11.0 Parking Provision**

- 11.1 None are proposed and none are lost to the development.

## **12.0 Open Space Provisions**

- 12.1 Not applicable

## **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**

### **15.1 The Inspectors Decision (145429 or APP/A1530/D/14/2227809)**

- 15.1.1 As an attempt of overcome the previous reason for refusal it is important to highlight the key findings issues raised by the Inspector.
- 15.1.2 The refused scheme was significantly larger than this resubmission but the Inspector did not consider that the scheme would have had a materially harmful impact on daylight to either of the neighbours. The scheme was also significantly more bulky than the resubmitted scheme but was not refused on character or appearance, nor would it have had a harmful impact on the setting of the Lexden Road Conservation Area.

Therefore the only reason for refusal was the loss of outlook to the four facing flats at West Acre Court and number 145 Lexden Road. It is therefore considered that this is the key issue to assess with regards to this application.

## **15.2 Character and Appearance**

15.2.1 The proposed extensions do not relate especially well to the original dwelling in their architectural style and in their scale, with a footprint larger than the dwelling that it extends. However, as an extension at the rear of the dwelling, this will not have any significant public visibility and so will not cause harm to the appearance of the street scene or the nearby conservation area. The ground floor of the scheme has already been approved by Members and the Inspector did not consider the refused scheme, which was larger, to be harmful in design terms.

15.2.2 Any perceived visual harm will be largely restricted to the private property of the application site and is of limited public concern. For these reasons, the design is not considered to be so harmful in visual amenity terms as to justify a refusal on that basis.

## **15.3 Impact on Neighbouring Amenity.**

### **15.3.1 Impact on 145 Lexden Road**

The large detached dwelling at 145 Lexden Road is unusual in that it has a relatively small kitchen whose back door and only window face towards the application site. The window and door already have limited outlook as they face into the rear part of the side elevation to the existing dwelling at a distance of 5.5 metres, with the intervening boundary fence 2.5 metres away. The other rooms, for example the dining room, enjoy views and outlook directly down the garden.

The closest part of the extension to the boundary with 145 Lexden Road is 2.5 metres away. This element is just 2.5 metres high. The main ground floor element of the extension is three metres high and this is three metres away from the boundary. The main part of the first floor extension would be an element 5.3 metres high and 4.5 metres away from the boundary. Due to a sloping architectural feature the highest part of the first floor element is six metres at the central part of the proposed roof. The closest part of the extension to any habitable part of the dwelling house of Lexden Road would be five metres away.

The Inspector did not consider the larger refused scheme to be harmful in terms of loss of light and as this scheme is smaller a refusal on that basis would be unreasonable.

In terms of outlook, this scheme would have an impact on the neighbour's kitchen, but it would be at tolerable levels. In elevation terms, a 45-degree line taken from the centre point of the kitchen window is not encroached upon due to the set-back of the proposed first floor element. It is therefore considered that this scheme would not be materially oppressive to the neighbours at 145 Lexden Road.



Therefore the proposed design with the first floor element set in from the approved ground floor element, combined with the distances involved, leads officers to the conclusion that this development would not materially harm the outlook or light received to 145 Lexden Road.

The first floor element has been carefully designed to ensure that views from the bedroom will face directly down the garden. The side facing glazed elements are to be frosted glass to prevent overlooking down into the neighbour's private amenity areas and this will be secured by condition. The flat roofed area will also be conditioned to prevent it being used as a balcony. Therefore officers consider that this scheme will not generate materially harmful overlooking.

#### **15.3.2 Impact on flats of West Acre Court**

The flats of West Acre Court are positioned behind the existing rear of the application dwelling and have primary windows facing the application site. One flat has its conservatory in close proximity to the boundary of 147 Lexden Road and its small courtyard garden adjacent to the boundary. This is an unconventional arrangement for which adopted guidelines in respect to outlook are of limited relevance.

The closest part of the extension to the western boundary is 1.4 metres away. This approved element is just 2.5 metres high. The main element of the approved extension is 3.2 metres high and this is 2.5 metres away from the boundary. The highest part of the extension would be the new first floor element 5.6 metres high and rising up to 6.2 metres at the top of the sloping roof feature. Also proposed is a section of first floor at 5.2 metres in height (the section proposed to be clad in seam metal cladding). The first floor element is 3.8 metres, increasing to 4.5 metres, to the boundary. The highest point is 5.9 metres away from the boundary. The closest part of the extension to the conservatory of West Acre Court would be 3.5 metres and to the main part of those flats would be 7.2 metres.

In terms of outlook this scheme would have an impact on the neighbouring flats, but it would be within tolerable levels. In elevation terms, a 45-degree line taken from the centre point of the facing conservatory window is not encroached upon due to the set back of the proposed first floor element. It is, therefore, considered that this scheme would not be materially oppressive to the neighbours in the flats at 147 Lexden Road.

As was concluded in relation to 145 Lexden Road, the proposed design with the first floor element set in from the approved ground floor element, combined with the distances involved leads officers to the conclusion that the development would not materially harm the light or outlook of the West Acre Court flat occupiers. It also ensures that the design complies with Council guidelines set out in "Extending Your House?" and the Essex Design Guide with regards to light.

#### **15.4 Other matters**

- 15.4.1 Whilst there are trees close to the extension, these are not protected and can be removed at any time without the Council's permission. It would be inappropriate therefore to seek to protect them by planning condition. The pruning of the existing laurel trees is not a planning matter. As a domestic extension it is not considered that noise will be an issue that would cause material harm.

## **16.0 Conclusion**

- 16.1 In effect this scheme is for an additional floor that would sit on top of the approved ground floor scheme 146354. It is a contemporary design that is similar to that approved at a ground floor level, but with a smaller footprint. The scheme has been designed in a manner which would ensure very little public visibility or impact on the street-scene. Combined with the distance from boundaries, it also ensures that impacts on neighbours' amenities are within acceptable bounds. It is considered that the scheme has overcome the Inspector's reason for the dismissal of the refused application 145429. Without material harm, the presumption in favour of development leads officers to recommend approval.

## **17.0 Recommendation**

- 17.1 APPROVE subject to the conditions set out in section 19 of this report.

## **18.0 Positivity Statement**

### **18.1 WA1 – Application Approved Without Amendment**

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.

## **19.0 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 2328/116, 2328/117, 2328/118 and 2328/119.

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

### **3 - Scheme of Archaeological Investigation**

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, in accordance with Policy SD1 and ENV1 of Colchester Borough Council's Core Strategy (2008).

#### 4 - \*Removal of PD - Obscure Glazed & Non-Opening (Check Building Regs)

Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), the side facing windows in the east and west facing flanks, including the glazed link shall be non-opening and 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 neighboring properties in the interests of the amenities of the occupants of those properties.

#### 5 - Removal of PD for Use of Roof as a Balcony/Terrace

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no part of the dwelling shall be adapted to enable access onto flat roofs, no part of the flat roof shall be used as a balcony or sitting-out area nor shall any balustrade, railings, wall or other means of enclosure be erected.

Reason: In the interest of the residential amenity and privacy of the occupiers of adjacent dwellings who could otherwise suffer an unacceptable level of overlooking and loss of privacy.

## 20.0 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.