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Item No: 7.1

Application: 182523

Applicant: Mr Ross Appelby

Agent: Mr Steve Norman

Proposal: Erection of a detached bungalow with associated parking facilities

Location: Part Side Garden, 10 Ernest Road, Wivenhoe, Colchester, CO7 9LG

Ward: Wivenhoe

Officer: Eleanor Moss

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because Cllr Andrea Luxford Vaughan called in the application for the following reasons:

Impact on visual amenity of adjacent property including potential loss of sunlight. It will mean the overdevelopment of the plot and includes the removal of a period outbuilding. As garden grabbing it contravenes Colchester planning policy. Concerns over highway safety as it reduces the capacity on the existing drive way (which currently has two entry points) and there is no space on the new dwelling for cars to turn, meaning they will be restricted visibility if reversing unto the road. The property is close to a busy junction and the co-op in an area where there are always parked cars in the road.

2.0 Synopsis

- 2.1 The key issues for consideration are the provision of external space, the living conditions of the occupiers of neighboring properties, parking, the character and appearance of the area and amenity of future occupiers are all considered to be acceptable.
- 2.2 The application is subsequently recommended for approval.

3.0 Site Description and Context

- 3.1 The application site relates to a detached bungalow in the settlement limits of Wivenhoe. The host dwelling, No. 10 Ernest Road, occupies a fairly generous plot containing a large hardstanding drive, detached garage and number of outbuildings at the rear of the plot, including a Victorian coach house. The applicant has confirmed that this is to be retained.

4.0 Description of the Proposal

- 4.1 Erection of one detached bungalow.

5.0 Land Use Allocation

- 5.1 Residential

6.0 Relevant Planning History

- 6.1 None relevant to this planning permission.

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
- CE2b - District Centres
- H1 - Housing Delivery
- H2 - Housing Density
- H3 - Housing Diversity
- UR2 - Built Design and Character
- PR1 - Open Space
- TA1 - Accessibility and Changing Travel Behaviour
- TA2 - Walking and Cycling
- TA3 - Public Transport
- TA4 - Roads and Traffic
- TA5 - Parking
- ENV1 - Environment
- ER1 - Energy, Resources, Waste, Water and Recycling

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
- DP12 Dwelling Standards
- DP16 Private Amenity Space and Open Space Provision for New Residential Development
- DP17 Accessibility and Access
- DP18 Transport Infrastructure Proposals
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage

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 H1 Housing Allocations

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

The Essex Design Guide
External Materials in New Developments
EPOA Vehicle Parking Standards
Backland and Infill
Sustainable Construction
Sustainable Drainage Systems Design Guide
Planning for Broadband 2016
Wivenhoe Town Plan and Executive Summary

8.0 Consultations

- 8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.
- 8.2 **Highway Authority** – no objection subject to conditions.
- 8.3 **Environmental Protection** – no objections subject to construction deliveries hours condition.
- 8.4 **Arboricultural Officer** – requests an AIA. Please note one has now been submitted.
- 8.5 **Archaeological Officer** - No material harm will be caused to the significance of below-ground archaeological remains by the proposed development. There will be no requirement for any archaeological investigation.

9.0 Parish Council Response

- 9.1 The Council considered this application at its meeting on 6 November 2018. It resolved to object due to;
- 12 Ernest Road has already got planning approval which is not shown on the site plan.
 - Over development of plot.
 - No turning circle means vehicles may need to reverse on to Ernest Road.
 - Would like Highways to access the proposal as the proposal will adversely impact the parking arrangements for existing property. Although there are proposed to be two park spaces for new property there is no turning circle.
 - It may result in the loss an off road parking space at the adjacent property.
 - This is a busy interchange close to the Co-Operative Store.
 - Like to refer CBC to its Policy: *Back land and infill development supplementary planning document (SPD)*. This is viewed by WTC as ‘garden grabbing’.
 - This proposal may involve the demolition of a Victorian coach house, which is described as a garage on to plan?

10.0 Representations from Notified Parties

10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. The full text of all of the representations received is available to view on the Council's website. Two letters of objection were received from one resident, these are summarised below:

- Loss of view
- Loss of sunlight
- Impact upon amenity

11.0 Parking Provision

11.1 Complies with car parking standards

12.0 Open Space Provisions

12.1 N/A

13.0 Air Quality

13.1 The site is outside of any Air Quality Management Area and will not generate significant impacts upon the zones.

14.0 Planning Obligations

14.1 This application is not classed as a "Major" application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (s.106) of the Town and Country Planning Act 1990.

14.2 Notwithstanding the above, the site is within a zone of influence of a European designated site and in order to comply with the Habitats and Species Regulations 2017 (as amended), mitigation of any recreational impact including in combination effects will be required in accordance with the forthcoming Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS). The RAMS sets out a tariff which applies to all residential development within the Zone of Influence (Zol). The whole of Colchester Borough is within the Zol. All residential proposals within the borough should make a contribution towards the measures in the RAMS to avoid and mitigate adverse effects from increased recreational disturbance to ensure that Habitat Sites are not adversely affected and the proposal complies with the Habitat Regulations.

14.3 The applicant will be given the opportunity to pay a financial contribution to the Council prior to the decision being issued. As set out in the informative below, if the applicants choose not pay the financial contribution it is your officers opinion that this does not warrant a refusal of this scheme but may result in a legal challenge as to the lawfulness of the planning permission.

15.0 Report

Principle of Development:

- 15.1 In accordance with Core Strategy policies SD1, H1 and ENV1 development within the Borough is directed to sites within existing settlement development boundaries. The application site is identified within the defined settlement boundary of Colchester and the area is characterised as predominately residential use. Given this, the proposal is considered to be acceptable in principle.

Design and Layout

- 15.2 The application site is within the defined settlement limits where there is a presumption in favour of the development. The ribbon development and architecture give the area a rather suburban character. The proposed design is fairly modest and provide for a single storey dwelling which is considered to be acceptable for this area.
- 15.3 In conclusion, the area is mixed in character and a variety of dwelling types could be introduced without necessarily harming the character. A single storey building within this area, as proposed, would be in keeping with the area and would not have a negative impact upon the street scene when viewed from the public realm.

Impact on Neighbouring Properties

- 15.4 Guidance in Supplementary Planning document 'The Essex Design Guide' states that a 45 degree combined plan and elevation angle from the mid-point of windows should be preserved. This proposal complies with this test.
- 15.5 The proposal has been carefully designed so as to minimise harmful impacts on neighbour's amenities. The proposal is single storey in height and therefore there are no first floor side or rear facing windows. There is a ground floor side facing window which faces 12 Ernest Road however this serves a bathroom and thus can be conditioned as obscure glazed and limited opening. There are two ground floor side facing windows which serve a bedroom and kitchen, these face towards the host dwelling and therefore it is not considered these will be harmful, especially with intervening boundary treatments.
- 15.6 In summary, it is not considered that there would be material harm upon outlook or loss of light to the neighbouring properties and any impact upon residential amenity would be negligible.

Trees

- 15.7 Whilst there are various small garden trees and hedges bordering the site, none are protected and all could be removed at any time without the Council's permission. In any case, none are such that they could not be easily replaced with others of similar or better quality.
- 15.8 The submitted Arboricultural Impact Assessment (AIA) confirms all surveyed trees have been categorised as C, those of low value. Three trees adjacent the site are subject to a tree preservation order, the trees are sufficient distance away so as not to be impacted upon by development, no further mitigation for the trees subject of TPO is required. Three category C trees/groups are to be removed to facilitate development and improve the end use of the amenity space. The trees to be removed are young-early mature specimens, previously managed below 4m and are obscured from view by existing site features, the loss of these trees will not have a detrimental effect on the character of the local landscape or reduce visual tree amenity. The trees recommended for retention can be adequately protected during the construction phase of development using barrier protection. The development will not further obscure the retained visual tree amenity, the development is considered to have a low impact upon the retained visual tree amenity.
- 15.9 The proposal will result in the loss of some small trees however these trees are not of a quality that warrants a Tree Preservation Order and therefore it is not reasonable to resist their removal. The submitted AIA is considered to be acceptable. The Arboricultural Planning Officer has assessed the scheme and the submitted Tree Survey and is happy that the scheme can be built subject to tree protection measures being conditioned. On balance, the removal of trees on site is considered to be acceptable.

Ecology:

- 15.10 Core Strategy policy ENV1 and Development Policy DP21 seek to conserve or enhance biodiversity of the Borough. The NPPF states that the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity.
- 15.11 In this instance, the application site forms a dwelling with associated hardstanding and mowed lawn. The site is not considered to be a suitable habitat for protected species.

Parking and Highways Safety:

- 15.12 Core Strategy policy TA1 seeks to improve accessibility and change travel behaviour and encourages development within highly accessible locations to reduce the need to travel. Core Strategy Policy TA2 promotes walking and cycling as an integral part of sustainable means of transport. Policy TA4 seeks to manage the demand for car use. Development Policy DP17 states that all developments should seek to enhance accessibility for sustainable modes of transport by giving priority to pedestrians, cycling and public transport access.
- 15.13 Given that proposal will provide for the required visibility splays, the proposed scheme is not considered to have a severe impact on the local highway either in terms of highway safety or capacity and accords with planning policies which seek to improve accessibility and changes in travel behaviour. The Highway Authority does not raise any concerns in relation to the proposal, and as such is considered to be acceptable in terms of highways safety.
- 15.14 Policy TA5 of the Core Strategy refers to parking and states that development proposals should manage parking to accord with the accessibility of the location and to ensure people friendly street environments. Policy DP19 states that the Council will refer developers to the Essex Planning Officers Association (EPOA) Vehicle Parking Standards which is an adopted SPD (November 2009). This policy requires that a minimum of two parking spaces should be provided for each dwelling of two or more bedrooms.
- 15.15 The submitted plan details parking in accordance with the aforementioned policy and SPD and as such the proposal is considered to accord with the requirements.

Flood risk

- 15.16 Core Strategy policy ENV1 seeks to direct development away from areas of flood risk (both fluvial and coastal), towards sites with the lowest risk from flooding. Development Policy DP20 seeks to promote flood mitigation and defence measures as well as the use of appropriate sustainable drainage. The NPPF requires a detailed flood risk assessment (FRA) to be produced for all development located within a flood zone and/or sites that are greater than 1 hectare. The application site is outside an identified flood zone and measures 0.10 hectares and as such a FRA is not required to support the application. Given that the proposal is outside of any flood zone, the proposal is not considered to have a harmful impact upon surface water drainage within the locality.

16.0 Conclusion

- 16.1 To summarise, on balance, the scheme complies with the Development Plan and the NPPF and an approval is warranted.

17.0 Recommendation to the Committee

17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1. ZAA - 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. ZAM - *Development to Accord With Approved Plans*

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawings Referenced Site Layout, Location Plan, 1840/1 and TPSarb9431218 TPP.

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

3. ZBB - Materials As Stated in Application

The external facing and roofing materials to be used shall be those specified on the submitted application form and drawings, unless otherwise agreed, in writing, by the Local Planning Authority.

Reason: To ensure that materials are of an acceptable quality appropriate to the area

4. Z00 - Trees

All tree measures and/or works (including tree protection), shall be carried out in accordance, with the details contained in the Arboricultural Impact Assessment and Preliminary Method Statements (including Appendices 1 - 6) (dated 31st December 2018) throughout the lifetime of the development works.

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

5. ZFS - 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.

6. ZCE - Refuse and Recycling Facilities

Prior to the first occupation of the development hereby permitted, refuse and recycling storage facilities shall be provided in accordance with a scheme which shall have been previously submitted to and agreed, in writing, by the Local Planning Authority. Such facilities shall thereafter be retained to the satisfaction of the Local Planning Authority at all times.

Reason: The application contains insufficient information to ensure that adequate facilities are provided for refuse and recycling storage and collection.

7. ZDC - 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.

8. Z00 - Highways

Prior to the first occupation of the proposed dwelling, the proposed northern vehicular access shall be reconstructed to a width of 5.5m and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

Reason: To ensure that all vehicles using the private drive access do so in a controlled manner and to ensure that opposing vehicles may pass clear of the limits of the highway, in the interests of highway safety

9. Z00 – Highways

No unbound materials shall be used in the surface treatment of the proposed vehicular access throughout.

Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety

10. Z00 – Highways

The parking spaces / vehicular hardstandings shall be constructed to minimum dimensions of 6.0m x 3.0m and retained thereafter.

Reason: To encourage the use of off-street parking, in the interests of highway safety.

11. Z00 – Contamination

In the event that historic land contamination is found at any time when carrying out works in relation to the development, it must be reported in writing immediately to the Local Planning Authority and all development shall cease immediately. Development shall not re-commence until such times as an investigation and risk assessment has been submitted to and approved in writing by the Local Planning Authority, and where remediation is necessary, a remediation scheme has been submitted to and approved in writing by the Local Planning Authority. Development shall only re-commence thereafter following completion of measures identified in the approved remediation scheme, and the submission to and approval in writing of a verification report. This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex

Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

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.

Reason: Insufficient information is supplied with the application, the proposed use would be vulnerable to contamination and Environmental Protection wish to ensure that development only proceeds if it is safe to do so.

12. ZPE - Limits to Hours of Construction Deliveries/Worker Traffic

No construction deliveries to or from the site, worker vehicle movements, or construction work shall take place 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.

13. Z00 – Landscaping

No groundworks shall take place until a scheme of hard and soft landscaping works for the publicly visible parts of the site has been submitted to and agreed, in writing, by the Local Planning Authority. This scheme shall include any proposed changes in ground levels and also accurately identify positions, spread and species of all proposed trees, shrubs and hedgerows on the site, as well as details of any hard surface finishes and external works, which shall comply with the recommendations set out in the relevant British Standards current at the time of submission. The approved landscape scheme shall be carried out in full prior to the end of the first planting and seeding season following the first occupation of the development. 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.

Reason: In order to ensure that there is a sufficient landscaping scheme for the relatively small scale of this development where there are public areas to be laid out but there is insufficient detail within the submitted application.

14. ZFK - Smallscale Residential Boundary Treatments

No groundworks shall take place until details of the provision, siting, design and materials of screen walls and fences have been submitted to and agreed, in writing, by the Local Planning Authority. The approved screen walls and fences shall then be erected prior to the first occupation of the dwelling to which they relate and shall thereafter be retained in the approved form.

Reason: There are insufficient details within the submitted application to ensure that the boundary treatments are satisfactory in relation to amenities and the surrounding context.

18.0 Informatives

18.1 The following informatives are also recommended:

(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) 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.

(3) INS – Highways Informative

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

(4) INS - Land Contamination - Ground Gas Risks

The applicant is advised that the site to which this planning permission relates is recorded as being within 250 metres of filled land ('Belle Vue Road'). 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.

Reason: The site lies within 250m of a former (or suspected) landfill site and Environmental Protection wish to ensure that development only proceeds if it is safe to do so. This informative should not be read as indicating that there is any known danger from landfill gas in this locality.

(5) INS – RAMS

The proposal is likely to have a significant effect upon the interest features of European sites [Colne Estuary SPA and Ramsar site, Blackwater Estuary SPA and Ramsar site, Dengie SPA and Ramsar site, Stour and Orwell Estuaries SPA and Ramsar site (south shore) and Essex Estuaries SAC] through increased recreational pressure, when considered in-combination with other plans and projects. The applicant is reminded that mitigation of any recreational impact will be required in accordance with the forthcoming Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS) and is entirely the responsibility of the applicant to ensure compliance. The mitigation will equate to a financial contribution. Should the required mitigation fail to be submitted prior to the occupation of the dwelling, the planning permission could be considered to be unlawful.