

Planning Committee

Thursday, 04 February 2021

Attendees: Councillor Lyn Barton, Councillor Helen Chuah, Councillor Pauline Hazell, Councillor Brian Jarvis, Councillor Cyril Liddy, Councillor Derek Loveland, Councillor Jackie Maclean, Councillor Martyn Warnes
Apologies: Councillor Philip Oxford
Substitutes: Councillor Gerard Oxford (for Councillor Philip Oxford)

824 Minutes of the Previous Meeting

RESOLVED that the minutes of the meeting held on 21 January 2021 be confirmed as a correct record.

825 202692 19 Shears Crescent, West Mersea

The Committee considered an application for Demolition of single garage and erection of a single and two storey side extension and single storey front and side extension with balcony (retrospective).

The Committee had before it a report in which information about the application was set out.

The Committee members had been provided with films and photographs of the site taken by the Senior Planning Officer to assist in their assessment of the impact and suitability of the proposals.

Mr Hicks addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application.

Mr Hicks stated that the applicant had signed declarations that there were no trees within falling distance of the proposal but had since offered to remove the trees that were affected if requested, even though the trees in question were not the applicant's to remove.

The single and two storey extensions were not on existing hardstanding as the original base had been a garage. Foundations would have been required and this would have necessitated replacing clay with concrete. It was highlighted that the area was a High Risk Surface Water Flood Zone and a flood survey had been needed but the builder did not research or commission one. Residents felt that increases in surface water may be exacerbated through concrete foundations preventing the flow of ground and surface water.

The Appeal had found that an increase in size would affect the character of the street and appear over dominant. However, the build that had taken place was overbuild and with the exception of the staircase followed the refused plan, increasing the footprint.

It was pointed out that in all other properties in Shears Crescent no balconies were forward of the original building line, they had been built over garages. The balcony proposed by the applicant would be nearly double the size at 27 square metres.

Mr Hicks referred to the comments of West Mersea Town Council regarding size, character, and neighbour's aspect. He also stressed that the current stage of the build was irrelevant and that the applicant had chosen to build off plan. Residents could see no merit in granting permission.

Robert Pomery addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application reminding members of the appeal decision in relation to the previous proposals for the site.

Mr Pomery set out the events that had led to the Committee report: permission was granted for extensions in 2017, an application was then made to increase the size of part of the approved scheme, which was refused. The applicant appealed and the appeal was dismissed. Following the appeal, work began to build the approved scheme, which had advanced, when a Planning Enforcement Officer visited the site to assess what was being built. Measurements were taken and it was discovered that some parts of the extensions were slightly smaller than approved plans and some parts slightly larger. These discrepancies ranged between 50mm (2in) and 200mm (7.8in).

Ordinarily, this level of variation might be expected on a building project, it is unlikely that when built, development matches precisely the dimensions on a planning drawing. The applicant was asked by enforcement to submit a Non Material amendment, a measure designed to regularise such minor changes to planning permissions. This he did, but Officers considered the modest variation to be a material increase and insisted a planning application was made to regularise the small discrepancies. The application made detailed the changes with a plan submitted, showing what had been approved, what had been built and what had been dismissed at appeal. It is evident from this plan that what had been built is only slightly different to what had been approved. Officers were advising that the small differences were not material and had no discernible impact on the street or on neighbouring outlook. It was not the case that the applicant had simply built the scheme that the Inspector dismissed, the difference between the appeal scheme and what has been built was significant and clearly illustrated on the plan submitted.

The applicant accepted that one of the questions on the application form involving neighbouring trees was incorrectly answered, that has been rectified. The extensions do not impact trees any more than the hardstanding that was in place previously. There was no evidence which demonstrates any harm to trees, the trees concerned were garden leylandii, with no public amenity value, so were not material to planning considerations. The built extensions had not removed a soak-away from the site, the surface water drainage system on the site had not changed, new drainage installed had been passed under Building Regulations. There was no evidence that demonstrated that the works had led to an increase in flooding.

The applicant had acted properly throughout and done what the Council had asked of him at every step. It was surprising that an extension which was just one brick longer (200mm) than it should be, had to come before Committee.

Councillor Moore attended and with the consent of the Chair addressed the Committee speaking on behalf of the residents.

Councillor Moore reminded the Committee of the sequence of applications; the 2017 application had contained inaccuracies with no mention of trees or flood zone as a result no mitigating measures were required. Mersea Town Council had recommended refusal. 191956 was lodged in 2019 for a larger build and refused by Colchester Borough Council and refused on appeal on grounds of scale including that the balcony appeared dominant within the street scene and noted that other balconies on properties in the street were to scale and built over existing garages. It would have been detrimental to character of the dwelling and the area; the height of the screening to the balcony would have an overbearing impact and be harmful to living conditions of the neighbours. These reasons for refusal were vital to understanding why this retrospective application should not be approved. The Inspector had pointed out that this was contrary to DP1 and UR2.

The retrospective application's build so far was 68 sq m less than the refused application and was 18% larger than the 2017 permission. It was vital that the 2017 permission was not exceeded in any way. The balustrade which was essential for the privacy of neighbours was larger and obtrusive. The height of screening to the balcony and its overall size impacted neighbours affording no privacy and overlooking neighbouring bedroom windows at the north end of the balcony. There was a condition that all windows and doors be white but this had only been partially met.

Surface water flooding was an issue (as shown in Essex County Council's map) as the properties sat in the catchment area for streams that once fed the boating lake. Building over the natural soakaway in the garden led to flooding and both the applicant's and neighbour's garden have surface water currently. The roots of the trees to the side of 19 Shears Crescent had been damaged by building works. Only one parking space was provided as the garage was too small for a modern car and the owner's vehicles have been left in the street blocking the turning point.

This overbuild should not be condoned .

Eleanor Moss, Senior Planning Officer, presented the report and assisted the Committee in its deliberations.

The Senior Planning Officer shared a presentation with members including plans from previous applications and for the current proposal that illustrated the difference between the 2017 application and the retrospective application.

She explained that the screening for the balcony would be 1.8 metres in height along the side and rear with frosted glazing to protect privacy.

The proposal/build was approximately three metres from the shared boundary of no.19. There was a minor increase in the size of the build that was material but it was considered that this had minimum impact, it was not severe with variations mostly of 20 centimetres and 15 centimetres.

The Arboricultural Officer had no comments and the conifer trees were situated bordering the rear of the site; impact on them was considered to be minimal.

The Senior Planning Officer clarified that in terms of flood risk and in accordance with the National Planning Policy Framework (NPPF) Flood Zone Areas 1 and of less than a hectare in size do not require a Flood Risk Assessment and the site measures less than a hectare. Current weather conditions had meant that many properties and areas had surface water at the present time.

On balance approval with conditions outlined in the report was recommended.

The Committee felt the retrospective nature of the application was regrettable and recognised that this had given rise to neighbours' unease and concerns. However it was acknowledged that planning considerations within the Committee's remit were the issues to be considered, looking at the differences between the scheme approved in 2017 and current changes proposed. .

Some concern was expressed over the build being disproportionate and overbearing, and whether, given the curtilage, it would be out of keeping with the area. The size and height of the balcony in particular would impact others. Policies DP1, DP20 and UR2 were referenced.

Clarification on the issue of flooding and drainage was requested and whether the trees were under a Tree Protection Order.

The issue of adequate parking was raised and damage to the pavements when there was parking on the street.

The Senior Planning Officer clarified that there was no Tree Protection Order in place.

Concerns about the soakaway/drainage and removal of earth were not planning considerations but were issues for Building Control and in this instance a private Building Control Inspector had been used.

She reconfirmed that the side and rear screening on the balcony would be 1.8 metres.

Parking remained as before with a garage and on the drive, parking on the highway was legal and any issue with pavement being broken up would be a Highways matter

Simon Cairns, Development Manager re-iterated that as the site was in Flood Risk Area - Zone 1 (lowest category) no assessment had been needed and would not normally have been undertaken for a domestic extension.

He reminded the Committee that the plans had shown the footprint of the proposal and the difference between the extant permission; the drawings showed very minor differences.

The Development Manager assured the Committee that Building Control matters were outside Planning's remit and that an Approved Building Control Inspector was dealing with this.

RESOLVED (SIX voted FOR, THREE voted AGAINST)

that the application be approved subject to the conditions contained in the report.