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**Item No:** 7.1

**Application:** 202692

**Applicant:** Mr Cook

**Agent:** Mr Robert Pomery

**Proposal:** Demolition of single garage and erection of a single and two storey side extension and single storey front and side extension with balcony (retrospective)

**Location:** 19 Shears Crescent, West Mersea, Colchester, CO5 8AR

**Ward:** Mersea & Pyefleet

**Officer:** Eleanor Moss

**Recommendation:** Approval subject to recommended conditions

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

- 1.1 This application is referred to the Planning Committee because Cllr Moore call in this application for the following reasons:

*The huge number of objections to this retrospective must give you an insight into the revulsion even the Town Council feel for the selfish behaviour of this applicant. Asked for a planning reason I would say that it is overbearing. The granted permission was overbearing and the excess building makes it more so. It is also very concerning that it has been built in such a way that the existing soak away has been filled in and is now causing flooding. Whether this was taken into account with the original application/ permission I know not but this would be an opportunity to put the matter right. The application was not accurate in that it failed to mention trees on the property that have subsequently been felled or damaged. I suspect that in light of the misleading application there would be a legal case to question the original permission.*

## **2.0 Synopsis**

- 2.1 The key issues for consideration are design, traffic and highway implications, flood risk and impact on ecology and built heritage. The impact on neighbouring amenity and the surrounding area are also discussed in the report. The report concludes that subject to appropriate planning conditions, the development is acceptable, on balance, and is consequently recommended approval

## **3.0 Site Description and Context**

- 3.1 The application site is a two storey detached dwelling located towards the end of Shears Crescent. The site is located in a residential housing estate comprising other similar two storey detached development.
- 3.2 Whilst the estate is modern the uniformity in the design of the properties is a notable feature that adds to the character of the area. Balconies are also a common feature within the locality, with a number of properties having balconies located over existing flat roof additions.

## **4.0 Description of the Proposal**

- 4.1 The application seeks planning permission for the demolition of the existing single garage, erection of a single and two storey side extension and single storey front and side extension with balcony.
- 4.2 The scheme is retrospective in nature with the single storey front and rear extension almost built out.

## **5.0 Land Use Allocation**

- 5.1 Residential

## **6.0 Relevant Planning History**

- 6.1 172552 - Removal of single garage for two storey side extension and single storey rear extension with balcony to front. (Revised Drawings Received). Granted on 16 November 2017.
- 6.2 Proposed extension of previously granted balcony (ref. 172552) with access and additional doors on front elevation [amended drawings received]. Refused on 10 October 2019. The refusal was appealed and dismissed by an Inspector. The Inspectors full report is available at Appendix A.

## **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  
UR2 - Built Design and Character

- 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  
DP13 Dwelling Alterations, Extensions and Replacement Dwellings  
DP16 Private Amenity Space and Open Space Provision for New Residential Development  
DP17 Accessibility and Access  
DP19 Parking Standards  
DP20 Flood Risk and Management of Surface Water Drainage  
DP21 Nature Conservation and Protected Lanes  
DP23 Coastal Areas

- 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 Submission Colchester Borough Local Plan 2017-2033:

The Council is developing a new Local Plan that has been submitted to the Planning Inspectorate (October 2017). An Inspector has been appointed and the formal examination commenced in January 2018. The examination is ongoing.

Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to:

1. The stage of preparation of the emerging plan;
2. The extent to which there are unresolved objections to relevant policies in the emerging plan; and
3. The degree of consistency of relevant policies to the policies in the Framework.

The Emerging Local Plan is at an advanced stage and is, therefore, considered to carry some weight in the consideration of the application, but as it is yet to undergo a full and final examination, it is not considered to outweigh the material considerations assessed above in accordance with up-to-date planning policies and the NPPF.

- 7.6 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  
Sustainable Construction

## **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.

Highway Authority - The Highway Authority does not object to the proposals as submitted.

## **9.0 Parish Council Response**

- 9.1 The Parish Council have stated the following:

*Following discussion it was agreed to recommend refusal in respect of this application.*

## **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. However, a summary of the material considerations is given below:

- Dangerous precedent
- False and misleading claims in applications
- Impact upon trees and risk of endangering property and human life
- Increased built form harming the impact upon amenity of neighbouring properties
- Out of character with Shears Crescent
- Concerns in relation to the loss of privacy screen
- Overdevelopment of site
- Impact upon stability of buildings
- Flooding

## **11.0 Parking Provision**

11.1 Parking provision is considered in the main body of the report.

## **12.0 Accessibility**

12.1 The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. Based on the submitted information, the scheme is not considered to cause discrimination in terms of The Equality Act.

## **13.0 Open Space Provisions**

13.1 Not applicable

## **14.0 Air Quality**

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

## **15.0 Planning Obligations**

15.1 This application is 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.

## 16.0 Report

### Principle

16.1 This application is located in the settlement limits of West Mersea where development such as the proposed is considered to be acceptable in principle. The proposal will therefore be judged on its planning merits. The main planning considerations are: design and impact on the character of the dwelling and the surrounding area; impact on neighbouring amenity; highway safety; flood risk; and biodiversity and trees.

### Design and Impact upon Character of the Area

16.2 CS Policy ENV1 and DPD Policy DP14 seek to conserve and enhance Colchester's historic environment. With regard to design, CS Policy UR2 and DPD Policy DP1 seek to secure high quality and inclusive design in all developments, respecting and enhancing the characteristics of the site, its context and surroundings. The emerging plan policies reflects the requirements of currently adopted policies in terms of design, place shaping principles and heritage matters.

16.3 Objections have been received to this application which raise concerns in relation to; the proposal being out of keeping for the area, being inappropriate for this context and that the proposal constitutes overdevelopment.

16.4 It is noted the appeal decision (ref: APP/A1530/D/19/3239650) found the single storey front and side extension with balcony over (and external staircase) not proportionate to the existing dwelling and therefore harmful to the character of the area. The Inspector noted it was the increase in footprint and the external staircase, with the associated screening, that caused harm when compared to the approved 172552.

16.5 In this instance, the proposed single storey front and side extension (with balcony over) is smaller than the scheme dismissed at appeal and the external staircase has been removed. The concerns raised regarding the impact upon the character of the area are appreciated. It is however important to note the changes are considered to be materially different to the appeal scheme and this application must be considered on its own merits.

16.6 The proposed single storey front and side extension is considered to be generous in size, however it is considered an extension of this size can be adequately accommodated on the plot without appearing materially harmful to the character of the dwelling or the wider area. It is also noted there is a balcony proposed above, however balconies are common features of West Mersea and Shears Crescent. As such, it is not considered the scheme would be out of keeping for the area. The use of weatherboarding, in addition to the brick, has been proposed to visually tie the new development to the existing dwelling. The concerns in relation to the impact upon the area are appreciated. It is, however, important to note that the scheme previously approved (172552) was for a very similar development. Given this fact, provided it can be adequately demonstrated that the current application does not have a significant detrimental

impact on the amenity of the adjacent residential properties, it is not considered that an objection can be sustained due to the size and location of the single storey front and side extension. The proposed garage and two storey side extension with rear extension are considered to be acceptable on their own merits.

- 16.7 It is accepted that the proposed new development will affect (change) the character of the dwelling and surrounding area. Whilst the single storey front and side extensions are publicly visible, the difference between the already approved (172552) and the submitted scheme is considered to be marginal. The findings of the appeal Inspector are noted however the small increase is not considered to materially harm the character and appearance of the dwelling or the surrounding area. The appeal decision noted the harm came from the increase in size and the inclusion an external staircase. The reduction in footprint and removal of the external staircase are considered to overcome the previous appeal dismissal.
- 16.8 On balance, the design and layout of the proposed development is considered to be consistent with relevant adopted and emerging policies and the guidance set out in the NPPF.

#### Impact upon neighbouring amenity

- 16.9 Development Policy DP1 states that all development must be designed to a high standard and avoid unacceptable impacts on amenity. This includes protecting existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, pollution (including light and odour pollution), daylight and sunlight. The adopted Supplementary Planning Document (SPD) the Essex Design Guide also provides guidance on the safeguarding of residential private amenity.
- 16.10 Objections have been received from neighbouring properties in relation to harm to amenity. It is noted that one letter requests the retention of privacy screening.
- 16.11 Adjacent to the application site are detached residential dwellings with further dwellings to the rear of the site (accessed along Broomhills Road). It is acknowledged the previous application 172552, granted permission for a first floor balcony. This was held to be acceptable on the grounds of 1.8m obscure screening to the east and south of the balcony. In this instance, the proposed balcony would be adjacent to the boundary of No. 20 Shears Crescent. It is considered there is a good degree of separation between the properties and although No. 20 has a side extension there remains a small area of amenity space between it and No. 19, and the properties are subdivided by a boundary wall.
- 16.12 The side and rear balcony would be fitted with privacy screening which would prevent overlooking of the neighbouring amenity space and any views from the balcony would be limited to the frontages of neighbouring properties which are already visible from the road and pavement. It is likely that any views from the balcony would be of the sea. Subject to an appropriate planning condition to ensure the erection and retention of 1.8m high privacy screening, the proposal

would not result in any harmful degree of overlooking, perceived or actual. The proposed garage and two storey side extension with rear extension are considered to be acceptable on their own merits.

- 16.13 It is noted the Inspector dismissed the appeal on the grounds the proposal would result in an overbearing impact upon the neighbouring property (No. 20). It is important to note that the current application is smaller than the previous application dismissed at appeal and the external staircase which caused an overbearing impact upon No.20 previously has been removed from the scheme. In this instance, it is considered the proposal will not infringe a 45° line when taken from the mid-point of the closest neighbouring window in elevation. The Essex Design Guide suggests this line not to be infringed in either plan or elevation. The scheme is considered to comply with the Essex Design Guide in this regard.
- 16.14 The proposal is located approximately 3m from the shared boundary of No.19 which is considered to be a sufficient distance to ensure the scheme is not overbearing.
- 16.15 In terms of impact to No.18, the proposal is considered to be a sufficient distance from No.18 to ensure any impact upon No.18 is minimal. It is noted the proposed balcony is approximately 14m from No. 18. This distance is considered to be quite generous and therefore it is not considered the proposal causes a harmful impact upon No.18.
- 16.16 On balance, for the reasons given above, it is considered that the proposed development would not have a significant adverse effect on the amenity of neighbouring properties. In view of this, the proposed development is not considered to conflict with DPD Policies DP1 and DP12 or the NPPF insofar as they seek to secure a good standard of amenity for all occupants of land and buildings.

#### Landscaping and Trees:

- 16.17 Core Strategy policy ENV1 states that the Borough Council will conserve and enhance Colchester's natural and historic environment, countryside and coastline, and this is also echoed within section 15 of the NPPF. Development Policy DP1 provides that all development must demonstrate environmental sustainability and respect its landscape setting and contribute to the surrounding area.
- 16.18 In this instance, the application is not considered to create a harmful impact upon existing trees or landscaping. It is noted that harm to trees is raised as a concern in relation to the proposal. In this instance, there are conifer trees located along the rear of the site. These trees are not protected and could be removed from site without prior notification to the Council. Further to this, the proposal is to be constructed on existing hardstanding, as such any impact upon vegetation is considered to be minimal. The proposal is not considered to result in the loss of any vegetation of any significance. In this regard, the proposal is considered to be acceptable on balance.

### Flooding:

- 16.19 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 less than a hectare and as such a FRA is not required to support the application. While the concerns in relation to flooding are appreciated, 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.

### Ecology:

- 16.20 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. The proposal has been assessed in line with the NPPF and Natural England Standing Advice. The site is not considered to encompass suitable habitat for protected species, nor is the proposal considered likely to have an impact upon protected species. The proposal is therefore acceptable in regards to biodiversity.

### Highways and Parking:

- 16.21 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. Paragraph 109 of the NPPF confirms development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. 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).
- 16.22 It is noted that the applicant has parked along the highway, causing a nuisance to neighbouring properties. However, as this is unrestricted and it is legal to do so, causing an inconvenience to neighbouring properties would not be a robust reason for refusal.
- 16.23 In this instance, the proposal provides one off road car parking space and a garage. This provision is considered to comply with the aforementioned Vehicle

Parking Standards SPD. It is noted the Highway Authority does not raise any concerns in relation to this application and therefore the scheme is not considered to create a harmful impact upon the highway network. The concerns in relation to the impact upon the highway are noted, however the proposal does not result in the net loss of parking on site.

## **17.0 Conclusion**

- 17.1 To summarise, the site is allocated in a sustainable, urban area of West Mersea and is therefore acceptable in principle and in accordance with policy. The development is also considered to be acceptable in terms of the design, parking, amenity, flooding and in terms of the landscape impact. Conditions are recommended to ensure the proposal is undertaken in accordance with the approved drawings and does not result in harm to neighbouring amenity.

## **18.0 Recommendation to the Committee**

- 18.1 The Officer recommendation to the Committee is for APPROVAL of planning permission subject to the following conditions:

### **1. 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 – Approved drawings**

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 29/PA002A, 29/PA003 and 29/PA001.

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

### **3. ZBB – Materials**

The external facing and roofing materials to be used shall be those specified on the submitted application form and drawings.

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

### **4. Z00 – Balcony Screening**

Prior to first use, the side screen (south facing) and rear screen (east facing) to the balcony hereby permitted, shall be obscure glazed to a minimum of level 4 on the Pilkington scale. The obscure glazing shall be to a height of 1.8 metres as measured from the internal finished floor level. The glazed balcony shall not thereafter be altered in any way without the prior written approval of the Local Planning Authority.

Reason: To protect residential amenity.

## **19.0 Informatives**

19.1 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.

**INS – Highways**

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](mailto:development.management@essexhighways.org) or by post to:

SMO1 – Development Management

Essex Highways Ardleigh Depot,

Harwich Road,

Ardleigh,

Colchester,

Essex

CO7 7LT

## Appeal Decision

Site visit made on 16 December 2019

by **G Pannell BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10<sup>th</sup> January 2020

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**Appeal Ref: APP/A1530/D/19/3239650**

**19 Shears Crescent, West Mersea CO5 8AR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by D Cook against the decision of Colchester Borough Council.
  - The application Ref 191956, dated 25 July 2019, was refused by notice dated 10 October 2019.
  - The development proposed is extension of previously granted balcony (ref 17552) with access and additional doors on front elevation.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are the effect of the development on:
  - the character and appearance of the dwelling and area; and
  - the living conditions of 20 Shears Crescent with particular regard to privacy and outlook.

### Reasons

#### *Character and appearance*

3. The appeal site is a 2 storey detached dwelling located towards the end of Shears Crescent in a residential housing estate comprising other similar two storey detached development. Whilst the estate is modern the uniformity in the design of the properties is a notable feature that adds to the character of the area. Balconies are also a common feature within the locality, with a number of properties having balconies located over existing flat roof additions. In addition, the properties within Shears Crescent have a generous frontage, with vegetation creating a spacious pleasant character.
4. The proposal would include the construction of a single storey front extension with a balcony above. The balcony would be accessed from the first floor bedroom and via an external staircase located on the side of the existing dwelling.
5. The scale of the extension, due to its overall width, would be out of proportion and therefore not subservient to the existing dwelling. This would lead to a discordant form of development which would be uncharacteristic having regard

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to the uniformity of the other dwellings within the estate, harmful to the character and appearance of the dwelling.

6. In addition, I consider that the extension, with balcony over, owing to its overall scale would appear dominant within the street-scene detracting from the uniformity and openness that I have identified above which add positively to the character and appearance of the area.
7. I have taken account of the alterations and extensions that have taken place at 18 Shears Crescent which have resulted in a property which is not of the same uniform character which is displayed elsewhere within the estate. However, this dwelling does not follow the same linear pattern of development which is exhibited within 19 – 21 Shears Crescent due to its position within a corner plot set at an angle to the road and therefore it was already of a different character to the appeal property.
8. In addition, this example confirmed that such alterations and extensions do appear prominent within the street scene and are detrimental to the character and appearance of the area and therefore should not be used as a reason to allow a similar development such as that before me.
9. Whilst other balconies are present within Shears Crescent these consist of railings or glazing which are of a uniform height without external staircases and are well related to the size and scale of the host property. The side elevation of the property, due to the spacing between the properties, and the open frontages, is visible from within the estate and from the corner of Shears Crescent. The proposed external staircase and associated screening which would be at differing heights in order to mitigate the effects of overlooking, which I shall come onto, would be visible from the public realm and appear as a discordant and prominent feature which would be harmful to the character and appearance of the area.
10. I have had regard to the planning permission that has been granted under reference 172552 for the "Removal of single garage for two storey side extension and single storey rear extension with balcony to front." The appeal scheme differs from the approved scheme by increasing the footprint of the single storey extension and the balcony and the addition of an external staircase. It is this increased footprint and the external staircase, with the associated screening which results in the harm I have identified.
11. In conclusion the development would be detrimental to the overall character and appearance of the dwelling and area, resulting in an incongruous feature within the street scene, contrary to policy DP1 of the Colchester Borough Council Local Development Framework - Development Policies 2010 (LDF) and policy UR2 of the Colchester Borough Council Local Development Framework - Core Strategy 2008 (CS) which require developments to respect and enhance the character of the site and be of a high quality design.

#### *Living conditions*

12. The proposed balcony and external staircase would be adjacent to the boundary of 20 Shears Crescent. However, there is a good degree of separation between the properties and although No 20 has a side extension there remains a small area of amenity space between it and No 19 and the properties are subdivided by a boundary wall.

13. The side of the balcony and staircase would be fitted with privacy screening which would prevent overlooking of the neighbouring amenity space and any views from the balcony would be limited to the frontages of neighbouring properties which are already visible from the road and pavement. Therefore I do not consider that the proposal would result in any harmful degree of overlooking, perceived or actual.
14. However, the external staircase would encroach further along the side boundary with No 20 and includes privacy screening which would extend in height to just below the eaves of the original dwelling. As a result of its overall height the privacy screening would have an overbearing impact when viewed from the garden immediately to the rear and in my view that would be harmful to the living conditions of neighbouring residents.
15. In conclusion the proposed development would have a harmful effect upon the living conditions of the occupiers of 20 Shears Crescent, with particular regard to outlook. The proposal is therefore contrary to policy DP1 of the LDF which requires development to demonstrate that they will protect existing residential amenity and policy UR2 of the CS which promotes development which makes better places for residents.

**Conclusion**

16. For the reasons given above I conclude that the appeal should be dismissed.

*G. Pannell*

INSPECTOR