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Item No: 7.5

Application: 211079

Applicant: Mr D Nezhad

Agent: Mr John Pearce, Brooks Leney

Proposal: Application for variation of a condition 2 following grant of planning permission of application 182603 (Resubmission of 202718)

Location: 73 All Saints Avenue, Colchester, CO3 4PA

Ward: Prettygate

Officer: Annabel Cooper

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the application has been called-in by Cllr Buston.

Reasons for Call-In:

The application furthers unacceptable and out of place side and rear aspect development to 73 All Saints Avenue detracting from the structure form and presence of the original property - a former Council House, on an estate where all were built to a common and accepted traditional pattern that was and remains generally pleasing to the eye (which included a conformity of peg tiles, hipped roofs and no Dormers).

The Application fails the tests of adopted CBC policies:

(i) UR2: high quality and inclusive design in all developments to make better places for both residents and visitors.

(ii) DP1: development must be designed to a high standard, including layout, avoid unacceptable impacts on amenity and respect and enhance the character of the site, its context and surroundings: existing residential amenity should be protected, particularly with regard to noise, disturbance, overlooking and light pollution. The size and design of the development is both out of keeping with and is detrimental to the character of the immediate area, which neither does it conform to, nor does it respect.

By overlooking it does not respect any amenity or privacy as residents of existing neighbouring properties should be entitled to enjoy in their rear gardens and in the rear rooms of their properties.

(iii) DP12: high standards for design and layout. The size and design of the development already improperly dominates the surrounding gardens from where it appears as a three-storey block, not a two-storey house with a dormer, and which forms a distinct and unwarranted ugly obstruction to the outlook and rear aspect of several adjoining residents' properties from several angles

(iv) (SPD) Backland and Infill: This backland development neither respects nor reflects the character of the area and will have an adverse impact on local character.

This development will occasion both loss of amenity as well as severely compromise the privacy and security of adjoining residents.

Planning Officer comments: The SPD is not relevant in this instance as this is to guide development of new dwellings on backland and infill plots.

2.0 Synopsis

- 2.1 The application relates to a rear dormer roof addition and seeks to vary the 'as built' dormer. The proposed dormer falls within permitted development and is considered to be acceptable in terms of design, scale, form as well as with regards to impact on neighbouring amenity.
- 2.2 The planning merits of the case have been assessed leading to the conclusion that the proposal is acceptable and that a conditional approval is recommended.

3.0 Site Description and Context

- 3.1 The site contains a semi-detached residential property which is within the Colchester settlement boundary, located in a predominantly residential area where development such as that now proposed is considered to be acceptable in principle.
- 3.2 Planning permission was granted for a 'hip to gable' roof conversion, a rear dormer and a ground floor extension, under planning reference 182603.
- 3.3 The dormer was not built as per the planning permission 182603. The dormer is taller (closer to the roof ridge line) and the windows on the dormer are not as per the approved scheme.
- 3.4 An enforcement case was opened and investigated. The applicant submitted a planning application to regularise the outstanding matters. Planning application 202718 was refused.
- 3.5 The applicants are now seeking to vary permission 182603, which would result in changes to the 'as built' structure.

4.0 Description of the Proposal

- 4.1 The proposal is to vary condition 2 of planning permission 182603 which would permit the dormer design to be varied and the dormer not built-in accordance with the previously approved scheme.

5.0 Land Use Allocation

- 5.1 Predominantly residential.

6.0 Principal Policies

- 6.1 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.

- 6.2 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

- 6.3 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

- 6.4 There are no relevant policies within the adopted Borough Site Allocations Policies (adopted 2010, amended 2014).

- 6.5 There are no relevant Neighbourhood Plans.

- 6.6 Submission Colchester Borough Local Plan 2017-2033:

Adopted Local Plan and Emerging Local Plan Status – March 2021

The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The Section 2 of the Emerging Local Plan has yet to complete the examination process, with hearing sessions concluded in April 2021. The Inspector's report is now awaited. Section 2 policies must be assessed on a case by case basis in accordance with NPPF paragraph 48 to determine the weight which can be attributed to each policy.

Emerging Section 2 Local Plan

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 submitted in October 2017 is at an advanced stage, with Section 1 now adopted and Section 2 progressed to examination hearing sessions in April. Section 1 of the plan is therefore considered to carry full weight.

Section 2 will be afforded some weight due to its advanced stage. However, as comments from Planning Inspector has yet to be issued, the exact level of weight to be afforded will be considered on a site-by-site basis reflecting the considerations set out in paragraph 48 of the NPPF. Proposals will also

be considered in relation to the adopted Local Plan and the NPPF as a whole.

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

The Essex Design Guide
External Materials in New Developments
Sustainable Construction

7.0 Consultations

- 7.1 There have been no consultation responses.

8.0 Parish Council Response

- 8.1 Non-parish

9.0 Representations from Notified Parties

- 9.1 The application resulted in a number of notifications to interested third parties including neighbouring properties.

- 9.2 12 objections have been received. Summary of objections:

- Adverse impact to character of the dwelling
- Poor design
- Overlooking /loss of privacy
- Outlook/overbearing
- Site is in a prominent location
- Juliet balcony is harmful to privacy
- Loss of light
- Increase in dormer height is not minimal
- Light pollution from additional windows
- Overdevelopment
- Visualisations are incorrect
(Planning Officer comments: the scheme has been negotiated since the visualisations were initially submitted, they are no longer relevant).
- Intentional breach of planning permission.
- The ground floor extension is higher than approved *(Planning Officer comments: The applicants have confirmed that the rear extension has been built as per the approved scheme)*

Planning Officer comments: Several objections refer to harm as a result of the as-built dormer which is not being assessed as part of this application.

9.3 1 comment in support has been received. Summary of support:

- No concerns about the size of the extension as currently built
- The dormer height is not overbearing or overshadowing

10.0 Planning Obligations

10.1 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.

11.0 Report

11.1 The main issues in this case are:

- Principle – Permitted Development
- Design, Scale and Form
- Impacts on Neighbouring Properties

Principle

11.2 The dormer is 0.41m taller than was approved under planning permission 182603. The current proposal is to reduce the width of the as-built dormer by 1.5m. This brings the dormer within the parameters of permitted development in accordance with the General Permitted Development Order, Schedule 2, Part 1, Class B. The Juliet Balcony is also permitted development.

Design Scale and Form

11.3 Dormer's are accepted features in the urban environment, and as they can be 'permitted development' they are widely used. The principle of a dormer at this location has been established.

11.4 The dwelling is in a prominent location and the dormer can be seen from a number of vantage points. The impact of the increase in height of the dormer is offset by the proposed reduction in width. The overall volume of the dormer would be reduced from what was previously approved. The width of the dormer has been reduced on the elevation that is most prominent from the public realm as such there would less impact on the character of the area when compared to the previously approved scheme. As such the dormer as proposed is acceptable in terms of design, scale and form. Consequently, the proposed is considered to comply with Development Policy DP1 and Core Strategy Policy UR2 of the adopted Local Development Framework.

Impact on Neighbouring Properties

- 11.5 Development Plan Policy DP1 requires all development to be designed to protect existing public and residential amenity, particularly with regard to privacy, overlooking, daylight and sunlight.
- 11.6 The proposed development would not appear overbearing on the outlook of neighbours. The Council's policy sets out that a 45-degree angle of outlook from the mid-point of the nearest neighbouring windows should be preserved and it is considered that this proposal satisfies this requirement.
- 11.7 Similarly, there are no concerns regarding loss of light. The combined plan and elevation tests are not breached, and the proposal therefore satisfies the Council's standards for assessing this issue as set out in the Essex Design Guide.
- 11.8 There are no side windows proposed that would offer an unsatisfactory angle of overlooking. It is acknowledged that neighbours are concerned with the proposed fenestration including the Juliet balcony. Windows on the front and rear elevations of dwellings facilitate loft conversions are acceptable in principle. The proposed windows will not result in any additional harm when compared to the previously approved scheme. Therefore, in terms of impact on neighbour's privacy the proposed is considered to be acceptable.

Other

- 11.9 As previously concluded (ref 202718) the as-built dormer is not acceptable therefore a condition will be imposed to ensure that the proposed changes to the dormer are undertaken in a timely fashion.

10.0 Conclusion

- 10.1 To summarise, the proposal accords with the Council's policy requirements concerning design and amenity and consequently the scheme is considered to be acceptable.

11.0 Recommendation to the Committee

- 11.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1) ZAA Time Limit

The amendments to the dormer hereby approved shall be begun before the expiration of three months from the date of this permission.

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

2) ZAM - Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawings:

Proposed elevations rev A indexed 8 July 2021;

Location Plan 106 Rev A dated August 2018;

Block Plan 107 Rev A dated August 2018 &

Flood Plans 103 rev D August 2018.

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

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) Non Standard Condition - Roof Lights

Only conservation roof lights to be installed.

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