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Item No: 7.6

Application: 183028

Applicant: Hornchurch Construction

Agent: Michael Smith

Proposal: Creation of a four bedroom, detached house.

Location: Land at the corner of Tufnell Way and adjacent to, 188 Bergholt Road, Colchester, CO4 5AJ

Ward: Mile End

Officer: Benjy Firth

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application has been called into Planning Committee by Councillor Goss on the following basis:

The application is over development for the size of land, the area will be dangerous for traffic access due to it coming out onto a main junction and the area is used for a main route to school.

2.0 Synopsis

- 2.1 The key issues for consideration are the design of the proposal, its impact on public amenity and its impact on neighbouring amenity.
- 2.2 The application is subsequently recommended for Approval, subject to the payment of an appropriate contribution to the Essex Coast Rams scheme.

3.0 Site Description and Context

- 3.1 The site comprises a piece of relatively well-maintained vacant land on the corner of Axial Way and Tufnell Way. A Willow tree is located to the rear of the site. A PRow runs along the rear boundary (outside of the site). A substation is located beyond that.
- 3.2 In effect this site marks one side of the gateway to the New Braiswick Park recently constructed residential development. The wider area is generally residential in character with a number of turn of the century dwellings plus later infill.

4.0 Description of the Proposal

- 4.1 The application seeks permission for the construction of a two-storey detached dwelling, associated landscaping and garage.

5.0 Land Use Allocation

- 5.1 The application site is unallocated.

6.0 Relevant Planning History

- 6.1 The application site previously contained a pair of semi-detached dwellings prior to forming part of the application site for planning permission O/COL/03/1019. This permission approved the demolition of the two dwellings as part of the scheme to redevelop the former Flakt Woods site.
- 6.2 Since the completion of the Flakt Woods development application 160048 has been refused for flats at the site, this decision was appealed and the appeal was subsequently dismissed. A further application for a dwelling at the site has also subsequently been refused by the Council, application 180096.

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
H1 - Housing Delivery
UR2 - Built Design and Character
ENV1 - Environment

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

7.4 The Neighbourhood Plan for Myland & Braiswick is also relevant. This forms part of the Development Plan in this area of the Borough.

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;
1. The extent to which there are unresolved objections to relevant policies in the emerging plan; and
2. 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
Backland and Infill
Managing Archaeology in Development.
Myland Parish Plan AND Myland Design Statement

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 The Council's Urban Design Officer made the following comments:

I have no objection to the application which is reasonably designed in response to the context and prominent corner/gateway location, and given the leftover nature of the landscaping. However I would suggest the verge is widened more neatly in line with the building line, retaining a good sense of greenery and to ensure adequately sized trees can be planted having regard to proximity to the boundary wall. I would also suggest key materials and details are conditioned consistent with the context, in accordance with the Essex Design Guide and befitting the prominent location, ensuring a good local type stock brick with handmade type qualities, slim-line 'slate', and 100mm recess to masonry openings. The tree officer should also be consulted over the proposed loss of trees.

- 8.3 The Council's Archaeological Officer made the following comments:

This proposal is located in an area of archaeological interest, defined in the Colchester Historic Environment Record (HER). There is a dwelling within the red line boundary marked on the Lexden Tithe Map, i.e. the building is mid 19th century or earlier in date. Consequently, there is high potential for encountering buried archaeological remains relating to this earlier dwelling at this location. Groundworks relating to the proposed development would cause significant ground disturbance that has potential to damage any archaeological deposits that exist.

There are no grounds to consider refusal of permission in order to achieve preservation in situ of any important heritage assets. However, in accordance with the National Planning Policy Framework (Paragraph 199), any permission granted should be the subject of a planning condition to record and advance

understanding of the significance of any heritage asset before it is damaged or destroyed.

- 8.4 The Council's Arboricultural Officer is in agreement with the tree report provided and is satisfied with the arboricultural content of the proposal subject to compliance with the submitted tree report.

- 8.5 The Council's Landscape Officer made the following comments:

The landscape content/aspect of the revised strategic proposals lodged on 08/04/19 would appear satisfactory. However it should be noted that currently the head of Tufnell Way is characterised by what would appear to be a deliberately designed 'gated' feature (i.e. the free standing scalloped walls either side of the junction) to the Flakt woods development, here. The application would appear to propose the removal of the eastern half of this feature, which may result, in urban design terms, in the access having a lop-sided feel. It is recommended therefore the Urban Design Officer be consulted on the proposed removal of this feature.

- 8.6 Natural England identified that this development falls within the 'Zone of Influence' (Zol) for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS).

- 8.7 The Highway Authority made the following comments:

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the mitigation and conditions recommended.

9.0 Parish Council Response

- 9.1 The Parish Council have stated that:

MCC would object to this application as it has done to previous applications for this site.

The proposed dwelling will disrupt light amenity to and overlooks 188 Bergholt Road.

The proposed development would impair driver vision at the Tufnell Way & Bergholt Road junction (this junction is increasingly busy and the only route to and from New Braiswick Park school).

The trees should be valued as should the site as a small but important green and welcoming entry to the estate.

The proposed development is unnecessary infill.

MCC also notes that no bat survey has been performed despite notification of their presence.

10.0 Representations from Notified Parties

10.1 The application resulted in 44 letters of objection. The full text of all the representations received is available to view on the Council's website. However, a summary of the material considerations is given below:

- Increased traffic generation
- Overdevelopment of the site
- Loss of green space
- Substandard access arrangements
- Design out of keeping with the character of the areas
- Detriment to neighbouring amenity
- Lack of parking
- Highway safety
- Construction traffic
- Impact on wildlife

11.0 Parking Provision

11.1 The proposal includes the provision of policy compliant parking in accordance with adopted standards.

12.0 Accessibility

12.1 The proposed dwelling is relatively accessible and could accommodate adaptation to increase its accessibility were this to be required by future occupants.

13.0 Open Space Provisions

13.1 The proposal does not include, nor is it required by policy to make any open space provisions.

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 The application site is located within the settlement limits in a predominantly residential area. On this basis the proposed development is acceptable in principle. Notwithstanding the residents' concerns, the space does not enjoy any protection as public or private open space so although many residents would like it to stay as such there is no policy reason to refuse this scheme on that basis.

Design

- 16.2 During the previous appeal relating to the development of the site, the Planning Inspector stated:

The two storey Block A would face Bergholt Road. The front of the block would follow the local building line and its scale and form would be generally consistent with the adjoining two storey semi-detached pairs and short terraces.

The footprint of the proposed building has been reduced in contrast to the previous proposals, though its scale and form remain largely the same.

- 16.3 The footprint and height of the proposed building are not dissimilar to existing buildings surrounding the application site. The size and scale of the proposed dwelling is therefore considered reflective of existing buildings in the vicinity of the application site. It is noted that a large number of dwellings within the street scene are semi-detached or terraced, however there are examples of larger detached dwellings and as such the proposal is not considered out of keeping with the existing character of the area. Additionally, it is held that the general architectural approach adopted reflects the character of the area and is acceptable.
- 16.4 Similarly the proposed double garage adopts a traditional architectural approach, appears well proportioned and is of a size befitting of its purpose and setting.
- 16.5 The layout of the proposed development has been altered since the previous application was refused, addressing two of the reasons for refusal. Firstly, the proposed garage has not only been reduced in size but has also been set back within the plot, thus reducing its prominence within the street scene to an acceptable level. Secondly the footprint of the proposed dwelling has been reduced, allowing the dwelling to be set back from the site's boundaries.

- 16.6 During the previous appeal relating to the development of the site, the Planning Inspector stated:

It is notable that, at junctions giving access to significant areas of later residential development, such as Fernlea and Enid Way, the adjoining buildings are set back to provide more open, well planted layouts. These arrangements provide attractive, green relief to the tighter grain of development elsewhere along Bergholt Road and contribute positively to local distinctiveness.

It is considered that the proposed site layout delivers a sufficient level of space between the boundary and the building, to provide adequate separation. Enabling the proposal to maintain the junction's open and spacious character and reflect the local distinctiveness previously identified by the Planning Inspectorate.

- 16.7 It is noted that the level of green relief provided will not be identical to that on the other side of the junction, however the layout of the pavement also differs on the other side of the junction. It should also be noted that the Planning Inspector previously stated that *it would not necessarily be appropriate to seek a high degree of balance between the two sides of the road.*

- 16.8 In light of the above, and having consideration to previous comments made by the Planning Inspectorate, the design and layout of the proposed development are considered acceptable. Additionally, by virtue of its design and layout the proposal would not cause significant harm to the amenity of the surrounding area. The specific details of materials will be agreed by condition to ensure that an optimal design quality is achieved.

Residential Amenity

- 16.9 The application site, by virtue of its position adjacent to the junction, is isolated from neighbouring residential land uses, with the exception of number 188 Bergholt Road.

- 16.10 With regard to the neighbor at 188 Bergholt Road and in light of the Inspectors conclusions on the matter, the dwelling itself would not be materially oppressive to the neighbour at 188 Bergholt Road. As before it would however result in an unpleasant feeling of being overlooking from the new side facing windows. The windows in question are all proposed to be fixed shut and obscure glazed but this will not prevent the 'feeling' of being overlooked. When standing in the well-used part of their garden nearest to the rear elevation the residents will see the windows in the flank facing down towards them in an unacceptably unpleasant manner.

- 16.11 This issue was also dealt with by the Inspector and he did not consider side facing windows of this nature to be materially harmful in terms of overlooking or a perception of such. On that basis it is not held to warrant a refusal.

- 16.12 The scheme has one significant difference in terms of residential amenity when compared to the previously refused scheme, that being the removal of the raised terrace to the rear of the property. This adequately deals with this aspect of the previous refusal reason and removes any issue of overlooking from the rear garden.

Private Amenity Space

- 16.13 The proposal makes provision for adequate and policy compliant private amenity space in line with DP16.

Landscaping & Trees

- 16.14 The Council's Tree Officer is satisfied with the Tree Report, in that the trees proposed to be removed are not of significance and that those to be retained will not be affected by the proposed development and can be protected during its construction.
- 16.15 The Council's Landscape Officer is satisfied with the submitted landscaping scheme, in that it will ensure the proposal makes a positive contribution to the amenity of the local area.

Highway Safety and Parking Provisions

- 16.16 The proposal contains adequate and policy compliant parking provision. It is also considered that the proposed garage would suffice in provided cycle storage facilities.
- 16.17 The Highways Authority are satisfied with the proposed access arrangements. The access is a sufficient distance from the junction and adequate site splays are provided.
- 16.18 The impact of the proposal on visibility at the junction has also been raised as an issue. When this junction was originally granted permission as part of the wider Flakt Woods redevelopment site splays of 90 x 2.4m were required. The proposed development would not impinge on said site splay.

Other Matters

- 16.19 The applicant has agreed to make an appropriate contribution to the Essex Coast RAMS scheme, subject to the application gaining a positive outcome at Planning Committee. It is considered that said payment would provide appropriate mitigation for the impact of recreational disturbance caused on European Sites by the proposed development.
- 16.20 The site has been surveyed for bats and the subsequent report recommends no further action is required.

17.0 Conclusion

- 17.1 To summarise, the proposed development is acceptable in principle, achieves an appropriate standard of design and would not significant harm to public or residential amenity has been identified. As a result, the proposal complies with adopted policy and is considered acceptable.

18.0 Recommendation to the Committee

- 18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the agreed Essex Coast RAMS contribution and 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 Drawing Numbers OC071-PL-01 Rev.A, OC071-OP5-PL-02 Rev. I, OC071-SE-01 Rev. C, OC071-HT-02 Rev. A, OC071-DG-01 Rev. A, JCN/1537/19 and Arboricultural Impact Assessment dated 26th February 2019.

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

3. ZBB - Materials To Be Agreed

No works shall take place until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction have been submitted to and approved, in writing, by the Local Planning Authority. Such materials as may be approved shall be those used in the development.

Reason: In order to ensure that suitable materials are used on the development as there are insufficient details within the submitted planning application.

4 Non Standard Condition - Archeology

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.

5. Non Standard Condition - Construction Method Statement

No development shall take place, including any ground works or works of demolition, until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and under body washing facilities

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety.

6. Non Standard Condition - Landscape Management Plan

Prior to the first occupation of the development, a landscape management plan including long term design objectives, management responsibilities and maintenance schedules for all landscape areas other than small, privately owned, domestic gardens shall be submitted to and agreed, in writing, by the Local Planning Authority. The landscape management plan shall thereafter be carried out as approved at all times.

Reason: To ensure the proper management and maintenance of the approved landscaping in the interests of amenity and the character and appearance of the area.

7. Non Standard Condition - Landscape Plan

No groundworks shall take place until a scheme of hard and soft landscape 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 existing trees, shrubs and hedgerows on the site, proposed planting, 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 or in such other phased arrangement as shall have previously been agreed, in writing, by the Local Planning Authority. 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.

8. Non Standard Condition - Obscure Glazed & Non-Opening

Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), the first floor windows in east elevation shall be non-opening below 1.7m from finished floor level 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 neighbouring properties in the interests of the amenities of the occupants of those properties.

9. Non Standard Condition - Provision of Access

Prior to first occupation of the proposed development, the proposed vehicular access shall be constructed at right angles to the highway boundary and to a width of 3.7 metres 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 vehicles using the site access do so in a controlled manner, in the interests of highway safety.

10. Non Standard Condition - Unbound Materials

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.

11. Non Standard Condition - Visibility Splays

Prior to the proposed access being brought into use, a 1.5m. x 1.5m. pedestrian visibility splay, relative to the highway boundary, shall be provided on both sides of that access and shall be retained and maintained free from obstruction clear to ground thereafter. These splays must not form part of the vehicular surface of the access.

Reason: To ensure adequate intervisibility between drivers of vehicles using the proposed access and pedestrians in the adjoining highway, in the interests of highway safety.

12. Non Standard Condition - Car Parking

The development shall not be occupied until such time as the car parking and turning area, has been provided in accord with the details shown in Drawing Numbered OC071-OP5-PL-02 REV I. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety.

13. Non Standard Condition - 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.

19.0 Informatives

19.1 The following informatives are also recommended:

1. 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. 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. 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.