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Item No: 7.5

Application: 211821

Applicant: Colchester Borough Council

Agent: Brandon Kirk

Proposal: The proposed fence is 2.4m high palisade fencing and will cover an areas of 20m and placed along side of the existing palisade fence. Second section of fence approximately 4m in width

Location: Open Spaces, Pondfield Road, Colchester, CO4

Ward: St Anne's & St John's

Officer: Mr Daniel Cooper

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the applicant is Borough Council and in the interests of transparency.

2.0 Synopsis

- 2.1 The key issues for consideration are any impact on the surrounding area visually and also any impact on the landscape character of the area.
- 2.2 The application is subsequently recommended for Approval

3.0 Site Description and Context

- 3.1 The site is an open green space/recreation ground within Colchester. The northern section of the site borders the railway line as can be seen in the above site plan. Trees are located to the east and housing to the west and far south.
- 3.2 The location proposed for the new fencing is near a small footpath that leads to a foot bridge over the railway.
- 3.3 The site is not located within a Conservation Area and no listed buildings will be affected.

4.0 Description of the Proposal

- 4.1 This application seeks consent for the installation of a 26m length of fencing 2.4m in height alongside existing palisade fencing in order to prevent public access to the railway line. The proposals are sought in the interests of public safety.
- 4.2 The proposed location is at the far north of the public recreation ground that borders the railway line and contains a small path to a foot bridge over the railway.
- 4.3 There are two locations for the fencing proposed, the first and longest section would be located alongside the existing palisade fencing on the north boundary and the second shorter length would be to the east close to the trees and runs in a north to south direction and where there is a stream.

5.0 Land Use Allocation

- 5.1 The current land use allocation is Open Space.

6.0 Relevant Planning History

- 6.1 There is no planning history relevant to this application however, the most recent on record is the following:
- 6.2 F/COL/06/0673 24/04/2006 - Full

Pondfield Open Space, Harwich Road, Colchester
Multi-use games area (MUGA) with CCTV and floodlights .
Approve Conditional - 19/06/2006

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
SD2 - Delivering Facilities and Infrastructure
UR2 - Built Design and Character
PR1 - Open Space
TA3 - Public Transport
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
DP17 Accessibility and Access
DP18 Transport Infrastructure Proposals

7.4 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 for Section 2 of the plan with Section 1 formally adopted in February 2021.

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 submitted in October 2017 is at an advanced stage, with Section 1 now adopted and Section 2 progressing 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 it is yet to undergo examination, 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.

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

The Essex Design Guide
External Materials in New Developments

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 Network Rail

Recommendation: Approve
Dear Sir/Madam,

Network Rail strongly recommends the developer complies with the following comments and requirements to maintain the safe operation of the railway and protect Network Rail's infrastructure.

The developer must ensure that their proposal, both during construction and after completion does not:

- encroach onto Network Rail land
- affect the safety, operation or integrity of the company's railway and its infrastructure
- undermine its support zone
- damage the company's infrastructure
- place additional load on cuttings
- adversely affect any railway land or structure
- over-sail or encroach upon the air-space of any Network Rail land
- cause to obstruct or interfere with any works or proposed works or Network Rail development both now and in the future

- 8.3 There have been no objections to this proposal.

9.0 Parish Council Response

- 9.1 Non Parish

10.0 Representations from Notified Parties

10.1 The application resulted in a number of notifications to interested third parties including neighboring properties. The full text of all of the representations received is available to view on the Council's website. However, no objections have been received.

11.0 Parking Provision

11.1 N/A

12.0 Accessibility

12.1 N/A

13.0 Open Space Provisions

13.1 N/A

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

16.1 The main issues in this case are:

- The Principle of Development
- Design and Layout
- Scale, Height and Massing
- Impact on the Surrounding Area
- Impacts on Neighbouring Properties
- Landscape and Trees

16.2 The site location for the new fencing is at the far north of the large recreation ground and in an area of scrub and in close proximity to trees. It is also adjacent to the railway line and the foot bridge over the railway hence the requirement of the high fence for safety reasons.

16.3 Given the location of the proposed fence, the impact on any nearby neighbouring dwellings is considered negligible with minimal impact to their private amenity.

- 16.4 With regards to Landscape Character, Core Strategy ENV1 Environment seeks to conserve and enhance Colchester's natural and historic environment. Core Strategy UR2 Built Design and Character promotes high quality design and better places for residents and visitors. Development Policy DP1 Design and Amenity states that all development must respect and enhance the character of the site, its context and surroundings in terms of, inter alia, landscape setting. Development Policy DP17 Accessibility and Access states that access to all development should be created in a manner which maintains the right and safe passage of all highway users.
- 16.5 With the above policies in mind, it is clear that the proposed fencing is unattractive. However, it is justified for the specific purpose to prevent trespass onto railway land for reasons of public safety. It is also typical in design and height of similar fencing along the railway line Borough wide.
- 16.6 Given the location and context of the site, the proposed fencing would not be out of character with the location of the existing fence and metal foot bridge. It is also located to the far rear of the open space and would not therefore be overly dominant within the street scene.
- 16.7 Although some of the fencing (4m section) is proposed to be close to nearby established trees, these trees are within Council ownership and given their location close to the railway would undergo regular pruning and cutting back or removal in the interests of railway safety. In addition, there are no Tree Protection Orders on any of the trees. Therefore, it is not considered that an Arboricultural Impact Assessment or a Tree Protection Plan is required.
- 16.8 With the above taken into consideration, it is considered that while unsightly, the fencing will serve the important purpose of providing enhanced public safety around the railway line at a well-used crossing point. The proposal is therefore considered to outweigh any concerns regarding impact to the landscape character of the area and/or impact to trees.

17.0 Conclusion

- 17.1 To summarise, the proposal would result in publicly beneficial safety fencing at a high risk location. The design of the fencing is typical of this type of fencing used Borough wide and, given the location, would not be considered out of context or incongruous within the landscape character or wider public realm.

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 - *Development to Accord With Approved Plans*

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawings labelled Site Location Plan dated 13th July 2021, Fence Locations and Fence Elevation received 16th July 2021.

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 fence 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

19.1 Informatives

19.1 The following informatives are also recommended:

(1) Non Standard Informative

The applicant's attention is drawn to the letter from Network Rail received 13th August 2021 within the file and stating the following:

Network Rail strongly recommends the developer complies with the following comments and requirements to maintain the safe operation of the railway and protect Network Rail's infrastructure.

The developer must ensure that their proposal, both during construction and after completion does not:

- encroach onto Network Rail land
- affect the safety, operation or integrity of the company's railway and its infrastructure
- undermine its support zone
- damage the company's infrastructure
- place additional load on cuttings
- adversely affect any railway land or structure
- over-sail or encroach upon the air-space of any Network Rail land
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