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Item No: 7.3

Application: 221730

Applicant: Perry

Agent: Mr Jack Wilkinson

Proposal: Change of Use of HMO comprising of 6 no. bedrooms (C4) to HMO comprising of 7 no. bedrooms (Sui Generis).

Location: 48 Wimpole Road, Colchester, CO1 2DL

Ward: New Town & Christ Church

Officer: John Miles

Recommendation: Approval of planning permission subject to conditions and a financial contribution to the Essex Coast RAMS being secured.

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee due to a call in by Cllr Cox. The following reasons have been given for the call in:
A similar proposal relating to the same property raised significant local and formal concerns recently on the grounds that the proposed bedrooms were very small and the negative impact on local parking was likely to be significant (as noted by local highways leads). The fact that 7 bedrooms are now requested instead of 8 does not allay these concerns.

2.0 Synopsis

- 2.1 The key issues for consideration are the principle of the development, impact on the character and appearance of the area (including impact on the Conservation Area specifically), future occupier amenity, impacts on neighbouring amenity, highways matters and off-site ecology.
- 2.2 This report describes the site, its setting and planning history, the proposal itself and any consultation responses received. The planning merits of the case are then assessed, leading to the conclusion that the proposal is acceptable in planning terms and that a conditional approval is recommended.

3.0 Site Description and Context

- 3.1 The application building is an attractive semi-detached villa in the New Town Conservation Area. The site is accessed off Wimpole Road, a reasonably busy road, close to the centre of Colchester. The wider site comprises a small raised front garden, sloped hardstanding to the side of the dwelling with vehicular access, and a relatively generous rear garden. The area is predominantly residential, with residential dwelling's to either side of the site. The front of the building looks out towards Old Heath Recreational Ground, which is on the opposite side of Wimpole Road. The existing lawful use of the building is as a 6 bedroom House in Multiple Occupation [HMO].

4.0 Description of the Proposal

- 4.1 The application seeks planning permission for a change of use from a 6 bedroom HMO (Use Class C4) to a 7 bedroom HMO (Use Class Sui Generis).

5.0 Relevant Planning History

- 5.1 At the beginning of this year application 220107 was submitted, seeking a change of use from a C3 Dwellinghouse to an 8 bedroom HMO. This application was withdrawn on 17th February 2022.
- 5.2 This was then followed by application 220700 which sought a Lawful Development Certificate for a change of use from C3 Dwellinghouse to C4 House in Multiple Occupation (6 Bedrooms). The proposed change of use was lawful under the permissions granted by the Town and Country Planning (General Permitted Development) (England) Order 2015 Schedule 2, Article 3,

Part 3, Class L (Change of use – C3 to C4). Accordingly, a Lawful Development Certificate was granted on 5th September 2022.

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 Local Plan 2017-2033 Section 1

The shared Section 1 of the Colchester Local Plan covers strategic matters with cross-boundary impacts in North Essex. This includes a strategic vision and policy for Colchester. The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The following policies are considered to be relevant in this case:

- SP1 Presumption in Favour of Sustainable Development
- SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
- SP3 Spatial Strategy for North Essex
- SP4 Meeting Housing Needs
- SP7 Place Shaping Principles

6.3 Colchester Borough Local Plan 2017-2033

The Section 2 Local Plan was adopted on 4th July 2022. Policies relevant to this application include:

- SG1 Colchester's Spatial Strategy
- SG7 Infrastructure Delivery and Impact Mitigation
- ENV1 Environment
- CC1 Climate Change
- PP1 Generic Infrastructure and Mitigation Requirements
- DM10 Housing Diversity
- DM12 Housing Standards
- DM13 Domestic Development
- DM15 Design and Amenity
- DM16 Historic Environment
- DM19 Private Amenity Space
- DM20 Promoting Sustainable Transport and Changing Travel Behavior
- DM21 Sustainable Access to development
- DM22 Parking

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

The Essex Design Guide
EPOA Vehicle Parking Standards

7.0 Consultations

- 7.1 The stakeholders who have been consulted and who have given consultation responses are as set out below.

Cllr Pam Cox

Objects:

I object to this proposal. A similar proposal relating to the same property raised significant local and formal concerns recently on the grounds that the proposed bedrooms were very small and the negative impact on local parking was likely to be significant (as noted by local highways leads). The fact that 7 bedrooms are now requested instead of 8 does not allay these concerns.

Environmental Protection

No objection. Condition to limit hours of construction work recommended.

Highway Authority

No objection. Recommended informative regarding any work within or affecting the highway.

Historic Buildings and Areas Officer

No objection:

The external physical alterations to the building are minimal and not inappropriate for the character of the building. No direct harm to the character of the conservation area is likely to arise from the proposal. As such no objection is raised on conservation grounds.

Private Sector Housing

No objection. Advisory information provided.

8.0 Parish Council Response

- 8.1 The site is non-parished.

9.0 Representations from Notified Parties

- 9.1 The application resulted in a number of notifications to interested third parties including neighbouring properties and a site notice was also displayed. No consultation responses have been received from other notified third parties at the time of writing.

10.0 Parking Provision

- 10.1 The existing hardstanding to the side of the dwelling is understood to be used for vehicle parking and measures approximately 11.6 metres in depth and between 2.30 metres and 2.53 metres in width.

11.0 Accessibility

11.1 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.

12.0 Air Quality

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

13.0 Planning Obligations

13.1 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.

14.0 Environmental and Carbon Implications

14.1 The Council has declared a Climate Emergency and has committed to being carbon neutral by 2030. The purpose of the planning system is to contribute to the achievement of sustainable development as defined in the National Planning Policy Framework. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are economic, social and environmental objectives. The consideration of this application has taken into account the Climate Emergency and the sustainable development objectives set out in the NPPF. The application is considered to represent sustainable development, taking into account the conclusions drawn in the main body of the report.

15.0 Report

The main issues in this case are:

- The Principle of the Development
- Impact on the Surrounding Area
- Amenity Provisions
- Impacts on Neighbouring Properties
- Highway Safety and Parking Provisions (including Cycling)
- Off-site ecology impacts

Principle

15.1 The current Development Plan for Colchester comprises the North Essex Authorities’ Shared Strategic Section 1 Colchester Borough Local Plan (adopted 2021) and the Colchester Borough Section 2 Local Plan 2017-2033 (adopted 2022). The Development Plan is up-to-date and compliant with the Framework. The Council is also able to demonstrate an up-to-date 5 year housing land supply. As such, the presumption (at paragraph 11d) is not

engaged, and the development should be assessed against the Development Plan.

- 15.2 Policy SP3 of the Section 1 Plan sets out the Spatial Strategy for Colchester which retains the urban area of Colchester as a focus for growth. Policy SG1 of the Section 2 Plan sets out the Council's strategy for delivering housing ensuring that developments are directed towards accessible locations and also to ensure the character and vitality of villages is sustained. Policy SG2 sets out how this will be delivered with the majority of new housing development located in Colchester with a smaller proportion within the villages.
- 15.3 The application site is within the settlement boundary of Colchester, in a highly sustainable location, close to both public transport links, shops and other facilities. The principle of the use of the building as an HMO has also already been established, with the lawfulness of a (smaller) HMO use confirmed through the approved Lawful Development Certificate.
- 15.4 In the context outlined above there are considered to be no in principle objections to the use proposed.

Impact on the Surrounding Area (Including Heritage Assets).

- 15.5 Section 1 Policy SP7 states that all new development should respond positively to local character, provide buildings that exhibit individual architectural quality, and enhance the quality of existing places, while Section 2 Policy DM15 sets similar requirements for high quality design. The National Planning Policy Framework (the Framework) (2021) and the Planning Practice Guidance recognise the importance of good design, with specifically paragraph 130 of the NPPF requiring planning decisions to ensure development is sympathetic to local character. Paragraph 126 states that the creation of high quality and beautiful buildings and places are both fundamental to what the planning and development process should achieve.
- 15.6 With the site located within the New Town Conservation Area, consideration must also be given to potential impacts to the character and appearance of the conservation area. Section 1 Policy DM16 reflects the statutory obligations as set out in S.72(1) of the Listed Building and Conservation Area Act 1990, which requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. Section 1 Policy SP7 and Section 2 policy DM16 require development to protect and enhance assets of historical value with any harm being justified and outweighed by the public benefits of the proposals. In a similar vein, the Framework gives great weight to the conservation of designated heritage assets, noting that the more important the asset, the greater the weight should be. This is irrespective of the level of harm. The Framework also states that any harm should require clear and convincing justification.
- 15.7 The external alterations to facilitate the proposed change of use are minimal and not inappropriate for the character and appearance of the building. The bin store and cycle parking is positioned within the rear amenity space and is well

screened from wider public views by existing boundary treatments and other built and natural form.

- 15.8 Taken as a whole it is not considered any of the works required to facilitate a change of use from a 6 bedroom HMO to a 7 bedroom HMO would result in harm to the character and appearance of the conservation area, or the wider area more generally.

Amenity Provisions

- 15.9 Section 2 Policy DM12 states residential development will be supported where high standards of design, construction and layout are promoted, and sets general amenity standards for residential development, while Policy DM19 sets specific private amenity space standards.
- 15.10 All habitable rooms are served by at least one external opening and it is considered the internal layout and form of openings proposed will ensure adequate levels of natural light and ventilation to all habitable rooms.
- 15.11 The submitted plans detail a basement laundry/storage area and a communal kitchen/living/dining room. 6 of the 7 bedrooms are en-suite, while occupiers of the 7th room will benefit from an adjacent shower room.
- 15.12 The proposal has been assessed against the Essex HMO Amenity Standards and is considered to comply with the relevant standards regarding minimum room sizes. It is also noted that no objection has been received from Private Sector Housing.
- 15.13 A shared garden of around 250m² is provided to the rear of the building, in addition to the site being in close proximity to a number of local amenities, including Old Heath Recreation Ground.
- 15.14 Taking into account all the above factors, the proposed development is considered to provide acceptable levels of amenity for the intended future occupiers.

Neighbouring Amenity

- 15.15 Section 2 Policy DM15 states that all development must be designed to a high standard and protect and promote public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance. Section 1 Policy SP7 echoes these sentiments. The adopted Essex Design Guide also provides guidance on the protection of residential private amenity.
- 15.16 The proposal has been carefully considered with regard to retaining the privacy of neighbouring properties and it is not considered the proposed internal reconfiguration will result in a harmful loss of privacy to any neighbouring dwellings. The site is within a dense urban environment and it is not considered the proposed development will result in overlooking of a materially different nature or intensity than any currently observed.

- 15.17 In terms of the potential for noise and disturbance it is important to note that the building has an existing lawful use as a 6 bedroom HMO. Consideration must therefore be given to whether the proposed additional bedroom (and its associated occupation) will result in harm to neighbouring amenity by virtue of additional noise or disturbance.
- 15.18 In respect of issues of noise and disturbance it is noted that Environmental Protection have raised no objection to the proposal as it stands. It is also understood that given the number of bedrooms proposed an HMO Licence will be required from the Council, for which an application has been received. The HMO Licence will place restrictions on permitted occupancy levels and conditions in relation to the management of the HMO property. In accordance with Policy DM12 a management and maintenance plan has also been requested from the applicant to ensure the future maintenance of the building and external spaces.
- 15.19 Taking into account the above and the proportionally small increase in proposed resident numbers it is not considered that the proposal will give rise to any undue noise or disturbance that would be harmful to neighbouring amenity, or the amenity of the area more widely.

Highway Safety and Parking Provisions (including Cycling)

- 15.20 Section 2 Policy DM20 and DM21 seeks to improve accessibility and change travel behaviour and encourages development within highly accessible locations to reduce the need to travel, while promoting walking and cycling as an integral part of sustainable means of transport and managing the demand for car use. Section 2 Policy DM22 refers to the EPOA Parking Standards Document, but recognises a lower standard of parking may be acceptable or required where it can be clearly demonstrated that there is a high level of access to services (such as a town centre location) and in agreement with the Highway Authority. The NPPF provides guidance on transportation matters, including that applications should only be refused on highway grounds if there would be an unacceptable impact on highway safety, or the impact on highway capacity is severe.
- 15.21 Given EPOA parking standards do not outline specific parking standards for Sui Generis HMOs it is considered reasonable to assess the parking provisions proposed in light of the proposed use and the site's location, while giving due regard to adopted policy and the Highway Authority's consultation response.
- 15.22 In this instance the site is in a highly sustainable location, within walking distance of a number of services and situated close to several bus routes and Colchester Town Train Station. It is considered that the site is in a location where there is a reasonable prospect that future occupiers will not require the use of a private vehicle, but instead can rely on sustainable transport options such as walking, cycling and public transport.
- 15.23 Secure, convenient and covered cycle parking is provided and a condition can be imposed that the cycle parking provisions are retained in perpetuity.

15.24 It is appreciated that the existing parking provisions on site are not ideal in terms of their means of access and dimensions. However, it is important to note that the main consideration is whether the existing parking provisions on site, or the lack thereof, are such that an increase in the number of bedrooms within the HMO from 6 to 7 will have a materially harmful impact on highway safety or capacity.

15.25 In this case, taking into account the highly sustainable location, the cycle parking provisions outlined and with no objection received from the Highway Authority it is not considered there are grounds to refuse the application in respect of highways or parking matters.

15.26 Taken as a whole it is considered the proposed development is acceptable from a highway safety and parking provisions perspective, on balance.

Off-site impacts on Protected Areas

15.27 Under the Conservation of Habitats and Species Regulations 2017 (commonly referred to as the Habitat Regulations) a Habitat Regulations Assessment (HRA) is required for land use plans and for planning applications, which are likely to have significant effects on a Habitat Site.

15.28 Population growth in Essex is likely to significantly affect Habitat Sites through increased recreational disturbance in-combination with other Local Plans. Consequently, in partnership with Natural England, the government's advisor on the natural environment, and other LPAs in Essex, Colchester Borough Council is preparing a Recreational disturbance Avoidance and Mitigation Strategy (RAMS) for the Essex Coast. The RAMS identifies necessary measures to avoid and mitigate likely significant effects from recreational disturbance in-combination with other plans and projects. The RAMS sets out a tariff of £137.71, which applies to residential development within the Zone of Influence (Zoi).

15.29 In this instance however, given the proposal represents an increase in the number of bedrooms within an HMO specifically, it is necessary to apply the standard conversion rate for HMO bedrooms to the standard RAMS tariff, in order to ensure a fair and proportionate contribution. Applying the relevant conversion rate, a contribution figure of £55.98 is calculated and delegated authority is sought to oversee the securing of such a contribution via an appropriate mechanism (unilateral undertaking).

15.30 In accordance with the Habitats Regulations a Habitats Regulation Assessment has been undertaken and concludes that subject to the proportionate financial contribution outlined being secured, the project will not have an Adverse Effect on the Integrity of the Habitat sites included within the Essex Coast RAMS.

Other Matters

- 15.31 Taking into account the minor increase in bedroom numbers proposed it is not considered it would be reasonable to request financial contributions towards parks and recreation or community facilities in this instance.
- 15.32 While a condition restricting the hours of work has been recommended by Environmental Protection, given the limited works that will be required and that a majority of the works will be internal it is considered such a condition would be excessive in the circumstances and would fail to meet the tests for imposing conditions set out under Paragraph 56 of the NPPF.
- 15.33 Finally, in terms of other planning considerations (e.g. flood risk, archaeology, ecology, damage to trees etc.) the proposed development does not raise any concerns.

16.0 Conclusion

- 16.1 Local plan policy SP1 states that, when considering development proposals, the Local Planning Authorities will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. They will always work pro-actively with applicants to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.
- 16.2 In this case, the proposed development will provide additional residential accommodation in a sustainable location. For the reasons outlined in the main body of the report it is considered the proposed development will not result in material adverse impacts to neighbouring amenity, highways safety, off-site ecology or the character and appearance of the wider area. The scheme is also found to meet the statutory tests for the preservation or enhancement of Conservation Areas.
- 16.3 Taken as a whole, the proposed development is considered acceptable in terms of relevant local and national planning policy and represents sustainable development. The application is therefore recommended for approval, subject to conditions.

17.0 Recommendation to the Committee

- 17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to a proportionate financial contribution to the Essex Coast RAMS being secured and the imposition of 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 Drawing Numbers

S-01 REV 01,
S-07 REV 01,
S-08 REV 01,
S-09 REV 01,
S-10 REV 01 and
S-11 REV 01.

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

3. Z00 – Materials of Similar Appearance

Any external materials to be used shall be of a similar appearance to those used in the construction of the existing building.

Reason: To ensure that materials are of an acceptable quality appropriate to the area and as there is insufficient information with the submitted application.

4. Z00 – Use Restriction

The development hereby approved shall be used solely as a 7 bedroom House in Multiple Occupation (Sui Generis), with a maximum of 7 residents. The development shall be used for no other purpose, including any other sui generis uses, under the Schedule to the Town and Country Planning (Use Classes) Order 2015 (or in any provision equivalent to that Class in any Statutory instrument revoking and re-enacting that Order with or without modification).

Reason: This is the basis on which the application was submitted and subsequently considered and the Local Planning Authority would need to give further consideration to the impacts of a different use at this site at such a time as any future change of use were to be proposed.

5. Z00 – Cycle Parking

Prior to the first occupation of the development hereby permitted, cycle parking for a minimum of 6 bicycles shall have been laid out within the site in accordance with the approved plan 'S-08 REV 01'. The approved cycle parking shall thereafter be maintained and made available for this use at all times.

Reason: To ensure that adequate provision is made for cycle parking in order to encourage and facilitate cycling as an alternative mode of transport and in the interests of both the environment and highway safety.

18.1 Informatives

18.2 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.

2. Z00 – Highway Authority 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. The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org.

3. ZTB - Informative on Any Application With a Site Notice

PLEASE NOTE that a site notice was erected in a publicly visible location at the site. Colchester Borough Council would appreciate your co-operation in taking the site notice down and disposing of it properly, in the interests of the environment.