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Item No: 7.3

Application: 181794

Applicant: Warwick Estates

Agent: Mr Domenico Padalino, DPA (London) Ltd

Proposal: Replacement of existing dilapidated brick wall along the rear of the car park with a timber fence and steel posts

Location: St Augustine Mews, Colchester

Ward: Castle

Officer: Eleanor Moss

Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it is contrary to the Communal Parking Courts section in the Essex Design Guide.

2.0 Synopsis

- 2.1 The key issues explored below are the impact of the rear parking courtyard fence upon highway safety, the character of the area and neighbouring amenity. The Agent has provided details in relation to a proposed boundary wall instead however this option has been supported by viability concerns and therefore is not a cost which can be reasonably be imposed on residents to pay. Furthermore, contractors will not guarantee that the same collapse will not occur again, in the near future, should a masonry boundary wall be built. The Agent confirms the proposed fence is far lighter, with the loading spread.
- 2.2 The application is subsequently recommended for approval.

3.0 Site Description and Context

- 3.1 The application site relates to a car park located in Colchester Town Centre and is therefore located in the Conservation Area. The previous masonry wall is constructed of facing bricks located at the very edge of the car park area, at a point where there is substantial change in ground levels. The previous masonry wall has collapsed due to subsidence as a result of adjacent tree roots, or due to the wall being close to the edge of a steep slope.

4.0 Description of the Proposal

- 4.1 The proposal seeks planning permission for a rear fence surrounding a car park.

5.0 Land Use Allocation

- 5.1 Residential

6.0 Relevant Planning History

- 6.1 None relevant to this application.

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
TA5 - Parking
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
DP14 Historic Environment Assets
DP19 Parking Standards

- 7.4 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

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 Highways Authority – No objection.

- 8.3 The Ramblers - Public Right of Way footpath 132 Colchester runs along the south side of the wall. Users should not be endangered during any works.

9.0 Parish Council Response

- 9.1 Non Parished

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 notifications given below.

- Health and safety concerns

11.0 Parking Provision

- 11.1 No loss of parking

12.0 Open Space Provisions

12.1 N/A

13.0 Air Quality

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

14.0 Planning Obligations

14.1 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.

15.0 Report

Impact upon character of area:

15.1 In the exercise of Planning functions, the statutory test in relation to Conservation Areas is that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area. The objectives of Development Policy DP14 are consistent with this test. The revised National Planning Policy Framework (NPPF) advises, amongst other matters, that the conservation of the historic environment can bring wide social, cultural, economic and environmental benefits. The height of the rear boundary fence and location at the back of a parking court means that it is not readily prominent within the street-scene. Given that the proposal is located towards the end of the car park, the proposal boundary fence is not viewed centrally within the street-scene but at a pre-existing visual terminus. The proposal is not widely visible from many public vantage points and therefore it is considered the impact upon the Conservation Area will be minimal. As such, it is considered that any impact upon the street-scene will be marginal.

Highway safety:

15.2 The proposed rear boundary fence replaces a boundary wall which has now collapsed. The Highway Authority has not raised any objection to the scheme and therefore it is not considered that the proposal has a harmful impact upon highway safety.

Impact upon amenity:

15.3 The proposed rear boundary fence replaces a brick wall of the same height. It is not considered the replacement fence will result in a materially different impact upon neighbouring properties.

16.0 Conclusion

- 16.1 To summarise, the design of the proposed wall is appropriate and would not result in a harmful impact upon visual amenity, highways safety or residential amenity. The proposal would not appear out of character in the street-scene or as an overly-prominent addition. Your Officer therefore recommends approval.

17.0 Recommendation to the Committee

- 17.1 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 Numbered 1368_303 and 1368_305.

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

3. Non Standard Condition – Highways

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:

1. The means or method of protecting the travelling public within the highway whilst working from height above and adjacent to the highway (Ernulph Walk and Public Footpath No 132 (Colchester)).

Reason: To ensure the continued safe passage of pedestrians on the definitive right of way.

18.1 Informatives

- 18.1 The following informatives are also recommended:

- (1) The public's rights and ease of passage over Public Footpath No.132 (Colchester) shall be maintained free and unobstructed at all times.

- (2) 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 or by post to:
- SMO1 – Essex Highways
Colchester Highways Depot,
653 The Crescent,
Colchester
CO4 9YQ

(3) 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.

(4) ZTA - 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.

(5) 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.