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Item No: 7.6

Application: 210384

Applicant: Mr David Lockyer

Agent: Simon Tankard

Proposal: Proposed first floor rear extension & alterations & detached annex for carer.

Location: Box Cottage, The Avenue, West Bergholt, Colchester, CO6 3HD

Ward: Lexden & Braiswick

Officer: Chris Harden

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it has been called in by Cllr Willetts who states “A self-contained annex crammed into such a small plot, with very limited access, and no additional parking appears to be contrary both to the West Bergholt Neighbourhood Plan and CBC planning policy, Furthermore, if approved it would set a precedent for inappropriate developments in rear gardens in the area. The scope of this call-in relates only to the self-contained annex and does not apply to the proposal to extend the main dwelling.”

2.0 Synopsis

- 2.1 The key issues for consideration are the principle of the development as well as issues such as design, scale, form, size of plot, highways aspects and neighbouring residential amenity.
- 2.2 The application is subsequently recommended for approval. It is considered that the design, scale and form of the proposed works is acceptable and that the need for the annexe has been justified. It is not considered there would be a detriment to neighbouring residential amenity from an overbearing impact or loss of light. Revisions received to the scheme plus conditions would ensure there will not be a potential overlooking problem. It is not considered the proposal can be refused on parking provision grounds, particularly given the circumstances of the need for the annexe. It is suggested that a construction management plan condition would be applied given the constrained nature of the context.

3.0 Site Description and Context

- 3.1 The site lies within the village settlement limits and contains a detached dwelling and garden that is surrounded by other residential properties. Vehicular access is taken from the single width Avenue. There are two parking spaces available at the front of the site.

4.0 Description of the Proposal

- 4.1 The proposal is for the erection of a first-floor rear extension and alterations and for a detached annexe to provide for a carer. The annexe would be positioned at the end of the rear garden and would replace an existing shed.
- 4.2 The annexe would be single storey with a pitched roof and would be 7 metres in length and 3.7 metres in width. It would have a bathroom, bed sitting area, a sink and room for basic kitchen facilities.
- 4.3 The agent states that the annexe is required for a carer to help care for the needs of one of the household. Essex County Council have confirmed in writing the details of the case.

5.0 Land Use Allocation

- 5.1 Residential curtilage

6.0 Relevant Planning History

- 6.1 F/COL/00/1622
13/10/2000 - Full
Box Cottage, The Avenue, West Bergholt Colchester CO6 3HD
Proposed conservatory and garden shed
Approve Conditional - 07/11/2000
- 6.2 F/COL/99/0797
Demolition of bungalow and erection of one No. three bedroom dwelling
Approved conditional- 09/08/1999

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
- 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
DP13 Dwelling Alterations, Extensions and Replacement Dwellings
DP14 Historic Environment Assets
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP17 Accessibility and Access
DP19 Parking Standards
DP21 Nature Conservation and Protected Lanes
- 7.4 The Neighbourhood Plan for West Bergholt carries statutory weight and forms part of the Development Plan in this area of the Borough.

7.5 Submission Colchester Borough Local Plan 2017-2033:

Adopted Local Plan and Emerging Local Plan Status – March 2021

Overview

The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The Section 2 Emerging Local Plan has completed examination, with hearing sessions recently completed. 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.

Core Strategy Policy SD1 is fully superseded by policies SP5 and SP6 of the Section 1 Local Plan. Policies SD1, H1 and CE1 are partially superseded by policies SP3, SP4 and SP5 in relation to the overall housing and employment requirement figures. The remaining elements of policies SD1, H1 and CE1 are relevant for decision making purposes.

The Council can demonstrate a five year housing land supply.

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 completed examination hearing sessions in April. Section 1 of the plan carries full weight.

Section 2 will be afforded some weight due to its advanced stage. However, 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.

7.6 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
Sustainable Construction
Managing Archaeology in Development.
West Bergholt Parish Plan & West Bergholt Village 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 Health and Safety Executive states: “The proposed development site which you have identified does not currently lie within the consultation distance (CD) of a major hazard site or major accident hazard pipeline; therefore at present HSE does not need to be consulted on any developments on this site. However, should there be a delay submitting a planning application for the proposed development on this site, you may wish to approach HSE again to ensure that there have been no changes to CDs in this area in the intervening period.”

8.3 Contaminated Land Officer states:

Environmental Protection’s files indicate that the proposed annexe will be located adjacent or very close to a former Smithy. Consequently, should this application be approved, we would recommend inclusion of the following precautionary Condition:

Reporting of Unexpected Contamination:

In the event that historic land contamination is found at any time when carrying out works in relation to the development, it must be reported in writing immediately to the Local Planning Authority and all development shall cease immediately. Development shall not re-commence until such times as an investigation and risk assessment has been submitted to and approved in writing by the Local Planning Authority, and where remediation is necessary, a remediation scheme has been submitted to and approved in writing by the Local Planning Authority. Development shall only re-commence thereafter following completion of measures identified in the approved remediation scheme, and the submission to and approval in writing of a verification report. This must be conducted in accordance with all relevant, current, best practice guidance, including the Essex Contaminated Land Consortium’s ‘Land Affected by Contamination: Technical Guidance for Applicants and Developers’.

Reason – The site lies on or in the vicinity of a former Smithy where there is the possibility of contamination.

The Local Planning Authority has determined the application on the basis of the information available to it, but this does not mean that the land is free from contamination. The applicant is responsible for the safe development and safe occupancy of the site.

8.4 Archaeologist states:

No material harm will be caused to the significance of below-ground archaeological remains by the proposed development. There will be no requirement for any archaeological investigation.

8.5 Tree officer: if concerns about vegetation, applicant could provide baseline data in line with BS5837: 2012; in this case a simple survey and constraint plan is all that would be required initially.

9.0 Parish Council Response

9.1 The Parish Council have stated:

Reason for comment: Object to the proposal

Comment: The Parish Council has no objection in principle but would like to see a different window arrangement on the first-floor extension at the rear to avoid overlooking the neighbours. With regards the annexe, the Council is content, subject to approval being conditional on the annexe only ever being occupied by a family member or carer for the main house and that it is not sold or let separately to the applicant's main property.

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 material considerations is given below.

10.2 5 letters of objection have been received which make the following points:

- Only high level windows were allowed at the back of the property when first built in 1999, Application No. F/COL/99/0797. Proposal shows full-length windows, approx. 3 metres closer to this property. Will reduce the privacy of the back of the house and garden.
- Extended roof height will further overshadow this property.
- Annexe wall is very close to the garage and garden wall of this property. It is a 19th century 9" softbrick wall, probably with only shallow foundations that could be made unstable by the new foundations.
- Access to gutters on both properties and wood cladding to the garage wall will be needed.
- Access to the rest of that side of the roof and gutter of the annexe will need to be obtained from that property.
- Lane unsuitable for parked cars and cars already park in Chapel Road opposite the bus stop causing a hazard and there is no additional space for parking for more vehicles at the property.
- Plot proposed is too tight and narrow at the bottom of the garden.
- surely there is space for a live in carer in the main property anyway.
- Overdevelopment.
- In 1999 building was originally a bungalow, as are five of the nearby properties (F/COL/99/0797). Conditional planning permission was given protecting amenities of adjoining residents and to prevent overdevelopment of the site.
- Site has already been doubled in size plus a large conservatory being added in October 2000 (F/COL/00/1622).
- West Bergholt Village Design Statement, when referring to The Essex Design Guide and the Core Strategy guidelines on size of garden says: Garden sizes may need to be substantially larger than these minimum standards in order that garden sizes reflect the size and shape of gardens in the area (DG5).

- Contrary to Policy PP10 of Neighbourhood Plan.
- Space for adequate surface water drainage?
- Narrow access road. How will heavy machinery access site?
- Does main access to annexe comply with Fire regs?

10.3 4 letters of support have been received which make the following points:

- Aware of personal circumstances surrounding the applicant's need to make provision for ongoing care and fully support the application. Believe that the applicant should be applauded for doing his best to ensure that the individual in need of care can stay at their home for as long as possible. The annexe will have minimal impact on any other property.
- aware how much this will benefit the family for now and in the future. We are a neighbouring property and this application does not impact on any of the surrounding homes.
- Extension will be of immeasurable benefit to the resident family, faced, as they are, with problems so complex that those of us more fortunate could hardly begin to comprehend.
- Condition proposed by the Parish Council (that the annex should only be occupied by a carer or family member) provides adequate restraint on the intention creating this application.
- Support juliet balcony- experiencing treasure of the warmth of the sun would not want to deny it to the one who feels it.
- It will help the owner in his caring duties

11.0 Parking Provision

11.1 2 car spaces.

12.0 Accessibility

12.1 The proposal has the ability to comply with the provisions of the Equalities Act in respect of access for yeh new build elements. However, as the dwelling is existing these elements are fixed and the proposals do not extend to adapting the existing dwelling for accessibility.

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

Key issues

16.1 Whilst there are special health related circumstances regarding this application, as outlined above, nevertheless, consideration of the proposed extension and annexe will still need to have regard to the planning merits of the case whilst paying due regard to the protected characteristics of residents. The most significant planning issues are the design, scale and form of the proposed development, as well as any impact on neighbouring amenity in terms of outlook, light and privacy. The extent of overall development on the site needs to be assessed, as well as any highway issues and the extent of garden space retained.

Design, scale, form and layout of extension and annexe

- 16.2 The two storey extension would project 4 metres rearwards from the existing dwelling and would be 4 metres in width. Its ridge height would be lower than the height of the existing dwelling. In terms of width it would be stepped in either side of the existing dwelling and approximately 1.7 metres from the neighbouring side boundaries. Accordingly the extension would appear recessive and subordinate to the existing dwelling and its overall design, scale and form is considered visually satisfactory. The extension would not detract from the appearance of the original building and would not be detrimental to the character of the street scene.
- 16.3 The design scale and form of the single storey annexe building is also considered to be visually acceptable. It is relatively modest in scale, being approximately the size of a single garage, measuring 7.3 metres in length and 3.7 metres in width. It would not be visually prominent in the street scene, being set at the end of the garden. Accordingly the extension and annexe are considered to comply with Policy DP1 which provides that such proposals should respect and enhance the character of the site, its context and surroundings.
- 16.4 It is not considered that the annexe and two storey extension represent an overdevelopment of the plot. Whilst the plot is narrow it is lengthy and approximately 90m² of private garden space would be retained. This exceeds the amenity standard of 60m² for a 3 bedroom dwelling as defined in Policy DP16. It is not considered the overall layout and extent of retained amenity space is out of character with its surroundings. In addition the extension is stepped in from the side boundaries so would not appear cramped. Whilst the annexe is stepped in from the rear boundary, it is close to the side boundaries so the neighbour's comments in respect of foundations of their wall and other such issues can be brought to the attention of the applicant as an informative. This matter is dealt with under the Party Walls Act.

Impact upon neighbouring residential amenity

- 16.5 With regard to the impact upon neighbouring residential amenity, the extension and annexe would not appear overbearing on the outlook of neighbours. The Council 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.
- 16.6 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.
- 16.7 Additionally, the proposal does not include any new windows at first floor level that would offer an unsatisfactory angle of overlooking that potentially harmed the privacy of the neighbouring properties, including their protected sitting out areas as identified in the above SPD. This however, is the result an amendment received to the proposed 1st Juliette balcony on the rear elevation of the extension which will be non-opening and obscure glazed up to a height of 1.7 m above floor level. Whilst this reduces outlook from the bedroom, without this revision there could be overlooking of neighbouring private amenity spaces from short distances in this tightly knit area and this is not considered reasonable. Similarly the first floor side rooflights should also be obscure glazed up to 1.7 m in height to avoid overlooking from the side elevation. Whilst not ideal for the occupants of the proposed bedroom, the openings would still offer some high level outlook whilst not undermining neighbouring privacy.

Use of the annexe

- 16.8 As this is a proposed annexe (for a carer) within the settlement limits, the principle of an annexe should be judged on its merits. It is relatively modest in size and has primary facilities. Normally, an annexe is for a relative of the host dwelling. However, in this case it is required for a carer who may be unrelated to the occupants of the host dwelling. However, it is considered that the requirement for a carer has been justified by the applicant, including with the background information received in writing from the County Council. A condition would thus be applied to limit the use of the annexe to either a relative of the family of the host dwelling or a carer engaged in care of the occupants of the host dwelling. The protected characteristics of the resident and meeting their needs is a material consideration and a statutory duty under the Equality Act 2010.

Highway Issues, including parking

- 16.9 Whilst the proposed built development does not affect the level of parking provision on site, it could be argued that the provision of an annexe could add to parking pressure. Two car parking spaces would be retained at the front of the site although it is fair to say that this space is tight and probably best suited to one large car and one smaller car. The lane serving the property is also narrow and could not be expected to provide on street parking provision in the immediate vicinity. Nevertheless, given the demonstrated need for the carer, it is not considered, on balance, that it would be reasonable to refuse permission on the grounds of inadequate parking provision. Policy DP 19 provides that two spaces should be provided for dwellings of 2 or more bedrooms. It should be noted that the garage at the front of the property has previously been converted to a study,

although this would not have met the current standard of 7m x 3m internal dimensions.

- 16.10 It is considered that a construction management plan condition should be applied given the narrowness of the lane serving the property and the relatively tightly knit nature of the surroundings.

Other issues

- 16.11 With regard to impact upon vegetation, it is considered that the extension is far enough from any significant vegetation to avoid any material detrimental impact and that no further information is required in this respect. The proposed annexe. has been positioned an adequate distance from the rear boundary and the extension is set away from the side boundaries.
- 16.12 There are no archaeological issues (Policy DP14).
- 16.13 It is not considered a Unilateral Undertaking or RAMs payment is required as the annexe would be used ancillary to the existing dwelling.
- 16.14 The development would need to comply with the relevant Building Regulations, including in relation to fire safety and drainage. No concerns have been raised regarding proximity to gas pipelines. A contaminated land informative can be applied as the site lies close to the location of a former smithy.

Neighbourhood Plan and Village Design Statement

- 16.15 It is not considered the proposal conflicts with the West Bergholt Village Design Statement or The Essex Design Guide and the Core Strategy guidelines on size of garden for the reasons outlined above. The garden size retained is not out of keeping with the character of the area.
- 16.16 It is also not considered the proposal conflicts with the West Bergholt Neighbourhood Plan, including Policy PP10 of Neighbourhood Plan. The proposed extension and annexe are considered to be of an appropriate design for the reasons outlined above and would respect and be in harmony with their surroundings. The proposals would also respect neighbouring residential amenity. Furthermore, no objection was raised by the parish council identifying any conflict with the WBNP policies.

17.0 Conclusion

17.1 In conclusion it is considered that the design, scale and form of the proposed works is acceptable and that the need for the annexe has been justified. It is not considered there would be a detriment to neighbouring residential amenity including from an overbearing impact or loss of light. Revisions to the scheme already received plus suggested conditions will ensure there will not be an overlooking problem. It is not considered the proposal can be refused on parking provision grounds, particularly given the circumstances of the need for the annexe. A construction management plan condition would be applied given the constrained nature of the context.

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 in accordance with Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers: Location Plan, 24-2020-05P Rec'd 15.2.21, 24-2020-03 PA, 24-2020-04 PA Rec'd 3.3.21.

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

3. ZBB- Materials As Stated in the Application

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. ZPA- Construction Method Statement

No works shall take place, including any demolition, until a Construction Method Statement has been submitted to and approved, in writing, by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period and shall provide details for:

the parking of vehicles of site operatives and visitors;

hours of deliveries and hours of work;

loading and unloading of plant and materials;

storage of plant and materials used in constructing the development;

wheel washing facilities;

measures to control the emission of dust and dirt during construction;

and

a scheme for recycling/disposing of waste resulting from demolition and construction works.

Reason: In order to ensure that the construction takes place in a suitable manner and to ensure that amenities of existing residents are protected as far as reasonable.

5. ZDQ- Urban Annexes

The annexe hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Box Cottage, West Bergholt. This can include a carer or relative of the occupants of the host dwelling.

Reason: For the avoidance of doubt as to the scope of the permission, as this is the basis upon which the application has been submitted and subsequently considered and any subdivision of the site into independent units would require the careful consideration against the current policies of the Local Planning Authority at such a time as any proposal were to come forward as the annexe is constrained by the site characteristics and may not be satisfactory as a stand alone dwelling.

6. ZDF- Obscure Glazing

Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification), the 1st floor window in the rear elevation of the extension and the side rooflights in that extension shall be non-opening and glazed in obscure glass (both up to 1.7 m above floor level) 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.

19.0 Informatives

19.1 The following informatives are also recommended:

1.Reporting of Unexpected Contamination:

In the event that historic land contamination is found at any time when carrying out works in relation to the development, it must be reported in writing immediately to the Local Planning Authority and all development shall cease immediately. Development shall not re-commence until such times as an investigation and risk assessment has been submitted to and approved in writing by the Local Planning Authority, and where remediation is necessary, a remediation scheme has been submitted to and approved in writing by the Local Planning Authority. Development shall only re-commence thereafter following completion of measures identified in the approved remediation scheme, and the submission to and approval in writing of a verification report. This must be conducted in accordance with all relevant, current, best practice guidance, including the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

Reason – The site lies on or in the vicinity of a former Smithy where there is the possibility of contamination.

The Local Planning Authority has determined the application on the basis of the information available to it, but this does not mean that the land is free from contamination. The applicant is responsible for the safe development and safe occupancy of the site.

2. Non Standard Informative

The applicant should note that neighbours have raised concerns about the impact of the annexe upon the foundations of a boundary wall. In addition it would appear that permission from a neighbouring landowner may be required for maintenance of guttering and cladding.

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.