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Item No: 7.1

Application: 181579

Applicant: D G Rose Limited

Agent: Mr P Johnson

Proposal: Application to vary condition 2 of planning permission 171067.

Location: 4 Park Road, Colchester, CO3 3UL

Ward: Lexden & Braiswick

Officer: Chris Harden

Recommendation: Approval subject to conditions

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 Barber who states “This has been called in primarily because of 'design, appearance and layout' but also because it is important for committee to be aware of the wider planning and enforcement breaches involved in the original application.”

2.0 Synopsis

- 2.1 The key issues for consideration are the differences between the approved scheme for the replacement dwelling compared to the revised scheme. The revisions, which have partly already been implemented relate to the following:
- (i) the addition of a 1st floor obscure glazed window on the side (South) elevation serving a landing.
 - (ii) the rear facing first floor bedroom window serving the main bedroom being wider than as approved.
 - (iii) the rear first floor window serving bedroom two being wider than as approved.
 - (iv) the ground floor rear facing window being wider than as approved.
 - (v) The omission of the ground floor French windows serving the living room on the North elevation.
 - (vi) the enlargement of the front porch compared to what was approved.
- 2.2 It will need to be assessed whether the windows are visually acceptable and also whether there is any detriment to neighbouring residential amenity from overlooking.
- 2.3 The application is subsequently recommended for approval. The amendments are considered acceptable in design terms and would not detract from the character of the replacement dwelling, street scene or nearby Conservation Area. It is not considered there would be any significant impact upon neighbouring residential amenity from overlooking compared to the previously approved scheme subject to conditions.

3.0 Site Description and Context

- 3.1 The site lies within the physical limits, is directly adjacent to the Conservation Area and in an Area of High Archaeological Potential. There are neighbouring dwellings either side. A replacement two storey dwelling is in the final stages of construction on the site.

4.0 Description of the Proposal

- 4.1 The proposal is for variation of Condition 2 (approved drawings) of Planning Permission 171067 which was for the demolition of the existing dwelling and its replacement with a two storey dwelling in a similar in location but with a larger footprint, projecting further rearwards.

- 4.2 The variation involves the widening of the rear facing windows serving 1st floor bedroom windows and the introduction of an additional first floor obscure glazed landing window on the side (South elevation). The ground floor rear facing kitchen window would be widened and the front porch would be wider, as listed in the synopsis above.

5.0 Land Use Allocation

- 5.1 Settlement Limits
Adjacent to Conservation Area
Area of high Archaeological Importance.

6.0 Relevant Planning History

- 6.1 171067 - Demolition of existing dwelling and replacement with new dwelling. Approved

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
DP19 Parking Standards
DP21 Nature Conservation and Protected Lanes

- 7.4 Some "allocated sites" also have specific policies applicable to them. The adopted Site Allocations (adopted 2010) policies set out below should also be taken into account in the decision making process:

N/A

- 7.5 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.

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** have no objections to the application.
- 8.3 **Environmental Protection** has no objections.
- 8.4 **Archaeologist** states: No material harm will be caused to the significance of below-ground archaeological remains by the application to change condition 2 of 171067. The applicant is, however, reminded of condition 4, relating to archaeological investigation. This condition has been partially discharged subject to implementation compliance.
- 8.5 **Tree Officer**: “No comments required.”

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 material considerations is given below.

5 letters of objection (from the neighbours at number 4) have been received and these make the following points:

- Variations have already been made to the dwelling and have had considerable impact on our privacy and loss of amenity.
- Feel unable to use en-suite bathroom - window installed directly opposite. No privacy.
- Drawing is inaccurate. Window is larger than other approved windows.
- Adverse overshadowing contrary to Policy DP12.
- Size of window on East elevation has already been increased without correct planning consent. This has resulted in our rear garden being significantly

overlooked. Planting scheme offered on original application offers little if any privacy.

- Applicant has already breached conditions on original application with some breaches still being managed by Enforcement Officers. These breaches included removal of trees without consent.
- Another breach is that the windows on the South elevation should be non-opening but they open and two windows look into our bathroom. Original conditions were applied for a reason.
- Applications have been made to remove conditions 3 and 4 (172689) and to remove conditions 6 and 7 (172773). Sends message that applicant can pick and choose which conditions they adhere to.
- Retrospective nature of applications should be material consideration.

11.0 Parking Provision

11.1 Two spaces.

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

Principle:

15.1 The main issues for consideration are the differences between the approved scheme for the replacement dwelling compared to the revised scheme. The revisions to the replacement dwelling relate to the addition of a 1st floor obscure glazed window on the side (South) elevation serving a landing and the widening of the rear facing first floor bedroom windows, the widening of the rear facing kitchen window and the increase in size of the porch. French windows serving the living room on the ground floor have been omitted. Accordingly, the principle of the replacement dwelling in this location and of this scale and layout has already been agreed. It will now need to be assessed whether the windows are visually acceptable and also whether there is any detriment to neighbouring residential amenity from overlooking.

Design and appearance :

- 15.2 The design and appearance of the window revisions and enlarged porch is considered acceptable and would not detract from the character of the dwelling, streetscene or nearby Conservation Area. The first floor side window serving the landing is modest in size and is similar in style to the other two obscure glazed side windows serving bathrooms on this elevation. It is therefore not visually out of keeping.
- 15.3 Similarly the alterations to the two rear facing bedroom windows and rear facing kitchen window are in keeping with the character of the dwelling and are not obtrusive. The porch, whilst larger than that approved, is of an appropriate design, scale and form for the front elevation of the property.
- 15.4 The revisions therefore represent appropriate design and accord with Policy DP1 and DP12 of the Local Plan in respect of the quality of detailed design features.
- 15.5 The scale of the replacement dwelling itself remains as before.

Impact upon neighbouring residential amenity:

- 15.6 It is not considered the revised proposal incorporating window revisions would have any significant impact upon neighbouring residential amenity from overlooking. The first floor side window serving the landing is to be obscure glazed and a condition will be applied to ensure this is obscure glazed to level 4 obscurity and retained as such and also that the window is non-opening (as per the other windows on that side elevation). This will ensure there will be no overlooking of the neighbour's property from this window, including side windows and rear garden.
- 15.7 Similarly, the enlarged rear facing first floor windows are not considered to make a significant difference in respect of the overlooking of neighbouring property compared to the previously approved windows. There were already planned to be rear first floor windows facing down the garden of the dwelling and an increase in width does not alter the fact that the occupants of the dwelling can still have views out of this window. It is normal for properties to have first floor rear facing bedroom windows including when dwellings are located side by side in a street. There is therefore no reason to object to the proposal on the grounds of detriment to neighbouring residential amenity from overlooking.
- 15.8 The enlarged porch does not have any impact on neighbouring residential amenity and neither does the omission of the ground floor side facing French windows that were to serve the living room.
- 15.9 The proposal therefore accords with Policy DP1 and DP12 of the Local Plan in respect of impact upon residential amenity.

Other:

15.10 It should be noted that a planting scheme has been implemented for both side boundaries of the site.

15.11 Two parking spaces are provided, as before.

15.12 There were some other Enforcement issues relating to commencement of development prior to clearance of the original conditions. The details reserved by condition were subsequently submitted and cleared.

16.0 Conclusion

16.1 To summarise, the revised proposal is acceptable in terms of impact on street scene and Conservation Area and there would be no significant detriment to neighbouring residential amenity subject to conditions. The same conditions can be applied as before subject to adaptation to reflect the fact that the development has already commenced and conditions have been previously cleared.

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. 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: location plan, 120/D received 11/7/18 and 121/F received on 24/8/18.

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

2. Non-Standard Condition: Materials

All materials used in terms of the manufacturer and types and colours of the external facing and roofing materials to be used in construction shall accord with the submitted details approved by the Local Planning Authority on 10/11/17. Only those materials 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.

3. Non-Standard Condition: Removal of PD Rights

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 first floor windows in the South and North elevations shall be non-opening 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.

4. Non Standard Condition: Tree/Hedge Retention

Notwithstanding the submitted details none of the existing trees and hedgerows on the North, South and East boundaries (side and rear boundaries) shall be removed unless specifically agreed in writing by the Local Planning Authority. Unless their removal is agreed in writing these trees and hedgerows, shall be retained throughout the development construction phases, and shall be protected from damage as a result of works on site in accordance with the Local Planning Authority's guidance notes and the relevant British Standard.

Unless agreed to be removed in writing these trees and hedgerows shall then be monitored and recorded for at least five years following contractual practical completion of the development. In the event that any trees and/or hedgerows die, are removed, destroyed, fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed, in writing, with the Local Planning Authority. Any tree works agreed to shall be carried out in accordance with BS 3998.

Reason: To safeguard the continuity of amenity afforded by existing trees and hedgerows and in the interests of neighbouring privacy.

5. Non-Standard Condition: Replacement Planting

The replacement planting that has been undertaken as approved on 22/1/18 shall be maintained for at least five years following contractual practical completion of the approved development. In the event that trees and/or plants die, are removed, destroyed, or in the opinion of the Local Planning Authority fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed in writing with the Local Planning Authority.

Reason: To ensure an appropriate standard of visual amenity in the local area and in the interest of neighbouring privacy.

6. Non Standard Condition: Hours of Work

No demolition or construction work shall take outside of the following times; Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working.

Reason: To ensure that the construction phase of the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise at unreasonable hours.

7. Standard Condition: Vehicular Access

Prior to the first occupation of the proposed dwelling, the proposed vehicular access shall be constructed to a width of 5.5m and shall be provided with an appropriate dropped kerb vehicular crossing of the verge to the specifications of the Highway Authority.

Reason: To ensure that all vehicles using the private drive access do so in a controlled manner and to ensure that opposing vehicles may pass clear of the limits of the highway, in the interests of highway safety.

8. Standard Condition: No Unbound Surface 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.

9. Standard Condition: Parking

Prior to the first occupation of the development hereby permitted, two car parking spaces (min 5.5 m x 2.9 m) shall have been laid out within the site in accordance with drawing 120/D. The agreed parking spaces shall thereafter be maintained free from obstruction and available for parking use at all times.

Reason: To ensure that a suitable parking layout is agreed and that there is satisfactory parking provision at the site at the time when the development becomes occupied.

10. Non-Standard Condition: Design Details

Prior to the installation of the relevant following works, precise details of the following (Scale 1:20 where applicable) shall be submitted to and agreed in writing by the Local Planning Authority:

- (i) Hard surfaces to the front of the new dwelling
- (ii) Any frontage boundary enclosures/walls/fences
- (iii) windows and doors, including materials and finishes and glazing bars/cills and surrounds.

Only the approved details shall be implemented and the doors and windows shall thereafter be retained as such.

Reason: To ensure the satisfactory appearance of the development.

11. Non-Standard Condition: Archaeological Programme of Works

The Archaeological Programme of Works received on 19/10/17 shall be implemented in complete compliance with the submitted details during the lifetime of the development works.

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, in accordance with Policy SD1 and ENV1 of Colchester Borough Council's Core Strategy (2008).

18.0 Informatives

18.1 The following informatives are also recommended:

(1) 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. The applicant should note that any damage to the public highway from construction works should be made good by the applicant.

(2) 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.

(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.