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Item No: 7.3

Application: 181734

Applicant: Mrs D Wright

Proposal: Proposed Garage / Games room

Location: Thrupenny Cottage, 3 Pit Lane, Tiptree, Colchester, CO5
OEG

Ward: Tiptree

Officer: James Ryan

Recommendation: **Conditional Approval**

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because a call-in request has been received from Councillor Loveland, to enable the Committee to consider the proposals. The following comments are made by Councillor Loveland:

‘Overbuilding on the site, the height of the proposed building is too high which would dominate the site, some concern regarding the proposed use of the building.’

2.0 Synopsis

- 2.1 The key issues for consideration are the design, location and impact of the proposed development, both on the amenity of the area in general and that of the adjoining neighbours. It is considered that the development would be acceptable in planning terms, subject to the imposition of conditions as listed at the end of this report.
- 2.2 The application is subsequently recommended for approval.

3.0 Site Description and Context

- 3.1 The site for this proposal currently forms part of the curtilage area of No. 3 Pit Lane, originally a modestly-sized cottage, that has been extended. The dwelling sits in an approximate central position within a curtilage that is irregularly-shaped and relatively level. Notable features include large trees within the front garden. The site is located within an established residential area within the village of Tiptree. To the south of Pit Lane is a large open space known as Windmill Green. The lane itself is unmade and links to Maypole Road.

4.0 Description of the Proposal

- 4.1 This planning application seeks permission to erect an outbuilding in the front garden area of the existing dwelling. It would have dimensions of 7m x 7m floor area and an overall height of 6 metres (scaled from the submitted plans). The application drawings show the building containing a garage, WC and ‘Chill Out Zone’ on the ground floor and a games room at first floor level, accessed via an internal stair at the northern end of the building.
- 4.2 The building would be constructed using Eternit weatherboarding walls in conjunction with a pitched roof clad in clay plain tiles. In terms of location, the proposed building would be positioned towards the south-eastern corner of the application site, adjacent to the shared boundary with the neighbouring dwelling at No. 2 Pit Lane. The submitted plan shows the building being in line with the dwelling at No. 2 and the provision of a 6 metre space between the front (south-west) facing wall and the front boundary of the site with Pit Lane. The plan also shows a gap of 1.75 metres being provided between the proposed building and the shared boundary with No. 2.

In order to provide space to erect the proposed building, it would be necessary to remove an existing single garage on the site, and an established tree (identified on plan as a magnolia) and associated vegetation.

5.0 Land Use Allocation

5.1 The site for this proposal is located in an area that identified as predominantly residential within the adopted Local Plan.

6.0 Relevant Planning History

6.1 Prior to the submission of this application the site has been subject to a series of planning applications as follows:

- 080745 – Erection of two storey side extension – approved via notice dated 13th May 2008.
- 110271 – Demolition of existing pre-cast concrete single garage and erection of replacement double garage with store over – approved via notice dated 11th April 2011.
- 121374 – Alteration of existing conservatory – approved via notice dated 17th September 2012.
- 144898 - Demolition of existing pre-cast concrete single garage and erection of replacement double garage with store over – approved via notice dated 4th August 2014.

6.2 Members are advised that the permissions granted under application refs. 110271 and 144898 proposed a double garage and associated store in approximately the same position as that proposed under the current application. The size of the building under these previous applications was smaller than the current proposal, having a height of 5.764 m and floor dimensions of 6 m x 6 m.

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

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
DP12 Dwelling Standards
DP13 Dwelling Alterations, Extensions and Replacement Dwellings
DP19 Parking Standards

7.4 Some “allocated sites” also have specific policies applicable to them. However, there are no adopted Site Allocations (adopted 2010) policies that are applicable to the consideration of this planning application.

7.5 The application site is not within an area currently included within a neighbourhood plan

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
Backland and Infill

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 The Archaeological Adviser states that:

‘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.’

8.3 The Arboricultural Officer has advised that a tree protection condition should be added to a grant of planning permission.

9.0 Parish Council Response

9.1 The following comment has been received from Tiptree Parish Council:

‘Tiptree Parish Council objects to this planning application on the ground that it is overdevelopment of the site.

If the application is permitted, the Parish Council would like the following conditions placed on the permission:

That soundproofing should be installed to prevent a noise nuisance to the neighbouring property

That the building remains ancillary to the existing 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 As a result of notification two representations of objection have been received – from the occupiers of no.s 1 and 2 Pit Lane. The objections received from the occupier of no. 1 relate to the size of the proposed building, and the possibility that a future change of use may cause an increase in traffic movements along Pit Lane. Concern is also expressed regarding the potential impact of the building on the amenity of the occupiers of no. 2 Pit Lane.

10.3 The objections raised by the occupiers of no. 2 Pit Lane may be summarised as follows:

1. The use of the building, including a games room, would impact adversely on amenity, particularly when the proximity to no. 2 is considered.
2. The proposal would create an unacceptable degree of overlooking of the rear garden of no. 2.
3. The building would create an unacceptable level of overshadowing.
4. The proposal would be unacceptable overdevelopment of the site, involving the loss of garden land.
5. The development proposes the loss of a modest garage and its replacement with a large new building which will impact detrimentally on visual amenity.
6. The loss of trees in the front garden is not acceptable.
7. The development is overbearing and out of scale and character with its surroundings.
8. The result of the development taking place would be that the occupiers of no. 2 would feel hemmed-in, the building would constantly be in their eye line and would reduce the usability of their garden.

10.4 Members are advised that the representation from no. 2 also includes photographs that can be viewed on the Council’s website.

11.0 Parking Provision

11.1 The submitted plan shows the provision of a parking space within the proposed garage that has dimensions of 3.2m x 6.4m (as scaled from the submitted plans). In addition a 6m space, across the width of the building, would be available between the front wall of the garage and the boundary of the site with the lane.

12.0 Open Space Provisions

12.1 The nature of the scheme means it does not generate a need for public open space provision.

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

15.1 The key planning issues to be considered in this case are the design of the proposed development, as well as its impact on neighbouring amenity in terms of outlook, light and privacy.

15.2 The proposed position of the building would mean that it had some prominence in the street. In consideration of the design of the building itself, this follows a vernacular approach incorporating a simple plan form with a pitched roof. It is noted that several dwellings along Pit Lane (including No. 3) have a traditional form and appearance. On this basis it is considered that the design of the building would be an appropriate response to the context of the surroundings. In further consideration of its position on the application site, it would sit forward of the existing dwelling. However, it would be in line with the adjacent dwellings at No.s 1 and 2, and would therefore continue this ‘frontage’ of development having a visually-immediate relationship with the lane. Therefore, it is considered that the building would not appear overly prominent, particularly when viewed from the east. Its prominence would increase when viewed from the west, but it would be viewed against the built form that comprises No.s 1 and 2 Pit Lane. Overall, it is considered that the appearance of the building, and its location, would be satisfactory in planning terms. As identified previously in this report, the proposed building on the site would be of larger size than that previously approved, but its cumulative impact would, in your officers view, not be harmful as a result.

15.3 Turning to the impacts of the development on the amenity of neighbours, the comments received from the residents of adjoining properties are fully acknowledged and appreciated. As well as a site visit, undertaken following

receipt of the application, a visit to the neighbour's property at No. 2 Pit Lane has also taken place, following a request from the occupiers.

15.4 Concerns regarding potential noise nuisance are noted. The proposed building is close to the shared boundary and whereas the previously-approved schemes under planning applications 110271 and 144898 proposed a garage and associated first floor storage area, this scheme does propose ancillary residential use in lieu of storage. It is also noted that the scheme proposes the inclusion of a W.C. facility on the ground floor. The issue of noise nuisance could, it is felt, be reasonably dealt with by way of condition and it is therefore proposed that a condition could be imposed that would require the submission of sound attenuation details. It is noted that the Parish Council does recommend the inclusion of this type of restriction, in the event that a planning permission is granted contrary to its recommendation.

15.5 The position of the rear facing window is such that immediately to the rear (within the building) would be a stairwell, providing access to the first floor games room. On this basis, it is considered that the potential for overlooking from this position would be limited. That said, the potential to overlook is acknowledged and on this basis it is recommended that this particular opening incorporates obscure glazing and the frame of the window is fixed shut. Such an approach would enable light to be gained within the stairwell while protecting amenity. As regards other openings at first floor level it is considered that the position of these i.e. facing Pit Lane and across the front gardens of No.s 3 and 4 would mean that privacy etc. was not adversely affected. A condition precluding further openings could also be imposed on a grant of planning permission.

15.6 Impacts in relation to overshadowing are noted and it is apparent that the building would be located adjacent to a door serving the kitchen area of No. 2. However, the kitchen is not lit solely via the identified door; the room gaining the majority of its light from the window/conservatory to the rear of the dwelling. While there would be an impact on the amount of light gained by the door, it is considered that the position of the proposed building would mean that light levels obtained by rear facing windows and associated conservatory windows would not be adversely affected. The 45 degree 'test' in the Essex Design Guide would be complied with. In this regard the EDG comments as follows:

'...The Building Research Establishment's report 'Site Layout Planning for Daylight and Sunlight' 1991 suggests that obstruction of light and outlook from an existing *window* (officer emphasis) is avoided if the extension does not result in the centre of the existing window being within a combined plan and section 45 degree overshadowing zone...'

- 15.7 The existing dwelling on the site has been extended previously. It is apparent from the site visit that the original dwelling that comprised No. 3 was a modest cottage set in a relatively substantial curtilage. The extension that was granted under application ref. 080745 did extend it significantly to the east. A conservatory enlargement has also taken place. Notwithstanding these enlargements, it is the case that a large curtilage area remains and, in the case of No. 3, there is a large front garden area in comparison with the other dwellings in the lane. It is considered that the new building, although substantial in size, could be accommodated in this location without it appearing cramped in the street scene. Furthermore a feature tree in the front garden would remain; a feature that would continue to enhance visual amenity in this location.
- 15.8 The proposed development would include the removal of a magnolia and two elders (as indicated in the drawing) and their loss will impact on the appearance of the site. This aspect of the development has been considered by the Council's Arboricultural Officer and no objection is raised. It is also the case that the largest tree off the frontage (identified as a 7 metre high cherry on the submitted plans) would remain. The Arboricultural Officer has requested this tree is protected by fencing during the construction process and this aspect could be secured by condition.
- 15.9 As noted, the size of the building is substantial but it could be accommodated on the site without appearing cramped or incongruous in its setting. Its location in relation to No. 2 will mean that the environs of that dwelling will be altered. However, the overall impact would not, it is felt, be harmful. The building would be seen but it is not agreed that it would be '...constantly in [the occupiers'] eye line...' In addition, it would not be possible to sustain an objection to the proposal on the basis that usage of the neighbour's garden may reduce as a result.
- 15.10 Finally, in terms of other planning considerations the proposed development does not raise any concerns. The neighbour's objection received regarding traffic generation is noted but the proposal has been considered on the basis of the submission and, as an ancillary building serving an existing residential use, it is not expected that traffic generation would be excessive. Were a change of use proposed at a later date that could potentially alter traffic levels, this would be properly judged via a new planning application. The ancillary nature of the current development proposal could be reinforced by condition. In addition, it is felt that the on-site parking provision that would result from the development i.e. 3 spaces, would meet the adopted standards of the Council.

16.0 Conclusion

- 16.1 To summarise, it is considered that a conditional planning permission for this development proposal can reasonably be granted, subject to the imposition of conditions. The concerns of neighbouring residents and the Parish Council are fully acknowledged and appreciated. However, the individual and cumulative impacts are deemed to be acceptable and where appropriate, can be properly mitigated through use of conditions.

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 Drawing Numbers 2124-01, 2124-02 and 2124-03.

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 external facing and roofing 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.

4. ZDF - *Removal of PD - Obscure Glazed & Non-Opening *

Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), the first floor window in the rear (north-facing) elevation 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.

5. ZDI - *Removal of PD for Windows Above Ground Floor Level*

Notwithstanding the provisions of Classes A, B and C of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or the equivalent provisions of any Order revoking and re-enacting that Order), no windows, rooflights or other openings shall be installed above ground floor level within the rear (north facing) or side (east facing) elevation WALL(S) or roof FACE(S) of the building hereby permitted unless otherwise approved, in writing, by the Local Planning Authority.

Reason: To protect the privacy of adjacent dwellings.

6. ZDR - *Ancillary to Host Dwelling*

The development hereby permitted shall not be occupied or used at any time other than for purposes ancillary to the residential use of the dwelling known as no. 3 Pit Lane Tiptree.

Reason: For the avoidance of doubt as to the scope of the permission as this is the basis on which the application has been considered and any other use would need to be given further consideration at such a time as it were to be proposed.

7. ZFQ - Tree and Natural Feature Protection: Protected Areas

No works shall take place until all trees, shrubs and other natural features not scheduled for removal on the approved plans have been safeguarded behind protective fencing to a standard that will have previously been submitted to and agreed, in writing, by the Local Planning Authority (see BS 5837). All agreed protective fencing shall thereafter be maintained during the course of all works on site and no access, works or placement of materials or soil shall take place within the protected area(s) without prior written consent from the Local Planning Authority.

Reason: To safeguard existing trees, shrubs and other natural features within and adjoining the site in the interest of amenity.

8. ZFS - Tree and Hedgerow Protection: General

All existing trees and hedgerows shall be retained throughout the development construction phases, unless shown to be removed on the approved drawing and all trees and hedgerows on and immediately adjoining the site shall be protected from damage as a result of works on site in accordance with the Local Planning Authorities guidance notes and the relevant British Standard. All existing 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.

9. ZGI - Sound Insulation on Any Building

Prior to the first use or occupation of the development as hereby permitted, the building shall have been constructed or modified to provide sound insulation against internally generated noise in accordance with a scheme devised by a competent person and agreed, in writing, by the Local Planning Authority. The insulation shall be maintained as agreed thereafter.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue noise emission and/or unacceptable disturbance, as there is insufficient information within the submitted application.

10. Z00 – Non-standard condition

No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety.

18.0 Informatives

18.1 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) 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.

(3) Non Standard Condition

In relation to conditions 07 and 08 it should be noted that any technical interpretation of the detailed requirements by the applicant or their agent should be sought externally from/through the relevant professional (i.e. Arboricultural consultant – details of local practices available through Arboricultural Officer on 01206 282469 (am only). In the interest of efficiency any clarification of technical requirement should initially be discussed between the relevant professionals (to whom copies of all relevant landscape consultations must be forwarded for reference), i.e. the Applicant's Arboricultural Consultant and the Council's Arboricultural Officer.

(4) Non Standard Condition

All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works.