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Item No: 7.6

Application: 191036

Applicant: Colchester Borough Council

Agent: Tree Box Living Walls

Proposal: Living wall created over existing facade on St Peters Street and ivy screen covering ducting at ground level along boundary..

Location: Papa Johns, 2 Middleborough, Colchester, CO1 1QS

Ward: Castle

Officer: Alistair Day

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the Council is the applicant.

2.0 Synopsis

- 2.1 The key issues for consideration are the impact that the proposed development would have on the character and appearance of the area, including the setting of heritage assets (listed buildings, locally listed buildings, the Colchester Conservation Area No.1 and potential archaeological remains).
- 2.2 The application is subsequently recommended for conditional Approval.

3.0 Site Description and Context

- 3.1 The application site is located on the east of Middleborough at the junction with St Peters Street. No.2 Middleborough is a two-storey gable fronted property with rendered walling and a tiled roof. The flank elevation to St Peters Street presents a dead frontage to the streetscene and is dominated by large extraction / ventilation equipment. This was previously screened by an advertisement hoarding.
- 3.2 To the south of the application site is no.1 Middleborough which is a re-fronted seventeenth century building and is listed grade II for its special architectural or historic interest. Sandwiched between No.1 and no.30 North Hill is the town wall. To the north of St Peters Street there are mostly modern buildings, although in nos. 6-9 there are remnants of the old street frontage concealing earlier buildings. The public realm outside these buildings has recently been improved as a part of the Fixing the Link project. Nos 32-34 North Hill (opposite the application site) are late Victorian two storey red brick properties with shop fronts on the ground floor. A drinking fountain is located to the north of these properties on Middleborough and the town wall address this street (running east / west).

4.0 Description of the Proposal

- 4.1 The application seeks planning permission for the erection of a living wall on the north elevation of 2 Middleborough and the installation of timber planters and screen hedging along part of the boundary.

5.0 Land Use Allocation

- 5.1 Central Area - Mixed Use

6.0 Relevant Planning History

- 6.1 C/COL/02/1209 Change of use from Betting Office (A2) to A3 (Food & Drink).
- 6.2 A/COL/05/1889 Retrospective application for display of advertisement banner, externally illuminated with 3 spotlights.
- 6.3 122147 Change of Use from Use Class A3 (Food and Drink) to Use Class A5 (Hot Food Takeaway)
- 6.4 131033 New Shop front in metal frame as per Papa Johns Design and also rear part of the building to be demolished to form more space for car parking.

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:
 - UR2 - Built Design and Character
 - 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
- 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:
 - SA TC1 Appropriate Uses within the Town Centre and North Station Regeneration Area
- 7.5 Submission Colchester Borough Local Plan 2017-2033:

The Council is developing a new Local Plan that has been submitted to the Planning Inspectorate (October 2017). An Inspector has been appointed and the formal examination commenced in January 2018. The examination is ongoing.

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;
1. The extent to which there are unresolved objections to relevant policies in the emerging plan; and
2. The degree of consistency of relevant policies to the policies in the Framework.

The Emerging Local Plan is at an advanced stage and is, therefore, considered to carry some weight in the consideration of the application, but as it is yet to undergo a full and final examination, it is not considered to outweigh the material considerations assessed above in accordance with up-to-date planning policies and the NPPF.

- 7.6 S.66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess. Section 72(1) of the same Act requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of conservation areas.
- 7.7 The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy.
- 7.8 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):
- Town Centre Public Realm Strategy
 - Air Quality Management Guidance Note, Areas & Order

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.

Archaeological Officer

- 8.2 This proposal is located in an area of high archaeological potential, close to the north gate into the walled town. Consequently, details about the extent and level of groundworks (if any) are required as it is currently unclear from the information submitted with this application.

Landscape Officer

- 8.3 There are no objections to this application on landscape grounds.

Environmental Protection

- 8.4 No comment

Highway Authority

- 8.5 From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to a condition requiring the development being located and maintained entirely clear of the highway.

Urban Design Officer

- 8.6 The application is supported as it can only improve this important gateway to the town centre.

9.0 Parish Council Response

- 9.1 Not Parish

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. No representations were received from residents.

11.0 Parking Provision

- 11.1 Not applicable

12.0 Accessibility

- 12.1 Please refer to Design & Access Statement regarding duties under the Equalities Act

13.0 Open Space Provisions

- 13.1 Not applicable

14.0 Air Quality

- 14.1 The site is inside the central Corridors Air Quality Management Area and but 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

- 16.1 The main issue raised by this application is the impact that the proposed development would have on the character and appearance of this part of the

Colchester town centre, including its effect on designated heritage assets (listed buildings and Colchester Conservation Area No.1) and non-designated assets (locally listed buildings and potential archaeological remains).

- 16.2 The Planning (Listed Building and Conservation Areas) Act 1990 requires that special regard is paid to the desirability of preserving listed buildings and their setting and that special attention is paid to the desirability of preserving or enhancing the character or appearance of a conservation area. CS Policy ENV1 and DPD Policy DP14 seek to conserve and enhance Colchester's historic environment. With regard to design, CS Policy UR2 and DPD Policy DP1 seek to secure high quality and inclusive design in all developments, respecting and enhancing the characteristics of the site, its context and surroundings. The emerging plan policies reflects the requirements of the currently adopted policies in terms of design, place shaping principles and heritage matters.
- 16.3 The NPPF sets out the desirability of sustaining and enhancing the significance of heritage assets (paragraph 192). It establishes that great weight should be given to an asset's conservation and the more important that asset, the greater that weight should be (paragraph 193). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Any harm to, or loss of significance of a designated heritage asset (from its alteration or destruction, or from development within its setting) should require clear and convincing justification, (paragraph 194). Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, that harm should be weighed against the public benefits of the proposal, including securing its optimum viable use (paragraph 196). The NPPF also promotes good design advising that permission should be refused for development of poor design.
- 16.4 The application site is situated at the junction of Middleborough and St Peters Street. The front elevation of no.2 Middleborough is gable fronted with a shopfront at ground floor and two sash windows at first floor level. The flank elevation (north side) was exposed when the Middleborough junction was widened and now essentially presents a dead frontage to the street. Between the pavement and the No.2 Middleborough is an area of hardstanding delineated on the roadside by bollards and by a low timber fence and concrete posts on the boundary with the property. With the widening of the junction in the mid / late twentieth century the prominence of no.2 Middleborough has increased substantially, particularly when approaching the town centre from the north.
- 16.5 The application seeks planning permission for the erection of a living wall on upper section of the main part of the north flank of no. 2 Middleborough. The green wall will measure 7m (long) by 3m (high) and will be supported by horizontal uni-strut rails or timber battens using suitable fixings into supporting wall. It is understood the length of the screen has been determined by the need to avoid the enclosure of the existing extract equipment and height has been determined by the need to reduce the likelihood of damage caused by unauthorised tampering with the structure. Planters with an ivy screen (approx. 10m long and 2.7 high) are proposed along the majority of the flank elevation and will provide a partial screen to the extract equipment and the lower part of the building. It is considered that the proposed works will serve to enhance the

appearance of this important approach into the town centre and compliment the work being undertaken as a part of the Fixing the Link project. The comments made by the Archaeological Officer are noted. It is understood that the proposed works do not involve any ground disturbance works. As a precautionary measure, a condition has been recommended to cover the eventuality of ground works being required.

- 16.6 It is considered that the proposed development will not cause harm to identified heritage assets and would indeed to serve to enhance the character and appearance of this part of the town centre conservation area. Given this, the proposed development is considered to accord with the relevant statutory provisions, adopted local plan policy and national planning guidance.

Landscape

- 16.7 Policy ENV1 states that the Borough Council will conserve and enhance Colchester's natural and historic environment. Central Government guidance on conserving the natural environment is set out in the NPPF.
- 16.8 The green wall will comprise over 850 plants of mixed species, including herbaceous grasses, ferns, herbs, ground cover and small shrubs. The majority of the plants (90%) will be evergreen to provide year-round coverage; seasonal varieties interspersed throughout the wall are also proposed to add further interest. The application states that the proposal will be implemented in accordance with the relevant current British Standards: National Planting Specifications Guidelines: Horticultural Trades Association Standards: CPSE Plant Handling Standards and COSHH Regulations.
- 16.9 With regard to maintenance, the supporting information explains that an automated irrigation system is proposed which will be tuned to seasonal requirements and monitored remotely to alert of any issue with water or power supply. In addition to this, health check visits are proposed every 8 weeks to visually monitor the condition and health of the plants with two additional horticultural visits planned at the start and end of the growing season. It is recommended that the monitoring and management regime as set out in the supporting information are conditioned. The Council's Landscape Officer has not raised an objection to this application but has suggested that a hard and soft landscape scheme is conditioned. Details of the proposal are set out in the supporting statement, although it is acknowledged that this does not contain the precise details of the proposed plant species. In this instance, it is not considered necessary for the Local Planning Authority to control the precise make-up of the proposed planting; conditions are however recommended regarding the maintenance and to ensure that the planting does not encroach upon the highway.

Other Issues

- 16.2 Policy DP1 requires all development to take into account the potential users of the site and the amenity of near residents. The proposed development is not considered to have a direct impact on the amenity of nearby residents and will serve to improve the visual appearance of this part of the town centre. No representations have been received from local residents in respect of this

application. The Highway Authority has not raised an objection to this application and has recommended a condition to ensure that the proposal does not encroach on the highway.

17.0 Conclusion

17.1 To summarise, the erection of a green wall and associated screening at 2 Middleborough will serve to improve the visual appearance of this part of the conservation area, at this important gateway location into the town centre. The application is recommended for conditional approval.

18.0 Recommendation to the Committee

18.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following condition:

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. Non Standard

The development hereby approved shall be undertaken in accordance with the details set out in the document entitled Proposed Façade Greening

For Papa Johns at 2 Middleborough, Colchester dated February 2019 and prepared by Treebox Ltd. Following the installation of the approved landscape features, the living wall and associated screening planting shall be maintained strictly in accordance with management and maintenance regime set out the report.

Reason: For the avoidance of doubt as to the scope of the permission hereby permitted and to ensure the landscape features hereby approved are appropriately maintained.

3. Non Standard

All development shall be located and maintained entirely clear the limits of the highway.

To ensure that the future outward growth of the hedge does not encroach upon the highway or interfere with the passage of users of the highway and to preserve the integrity of the highway, in the interests of highway safety.

4. Non Standard

No works ground disturbance works shall take place, unless otherwise agreed in writing by the Local Planning Authority, until a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation that has been has previously been agreed in by the Local Planning Authority. The scheme of investigation shall include an assessment of significance and research questions; and:

a. The programme and methodology of site investigation and recording.

- b. Provision to be made for analysis of the site investigation and recording.
 - c. Provision to be made for reporting, publication and dissemination of the analysis and records of the site investigation.
 - d. Provision to be made for archive deposition of the analysis and records of the site investigation.
 - e. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
 - f. The scheme of investigation shall be completed as agreed and approved in writing by the Local Planning Authority.
- 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

19.1 Informatives

19.1 The following informatives are also recommended:

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.

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.

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.

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.