



**Application No:** 160603

**Location:** Ivy Cottage, 4 Leech's Lane, Colchester, CO4 5EP

**Scale (approx):** 1:1250

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**7.3 Case Officer: Carl Allen****MINOR****Site:** Ivy Cottage, 4 Leechs Lane, Colchester, CO4 5EP**Application No:** 160603**Date Received:** 23 March 2016**Agent:** Michael McGarr, English Architectural**Applicant:** Trinity House Developments**Development:** Demolition of existing large detached residential unit split into two flats ,to create site for two new one and half storey dwellings. Resubmission 152594 Council recommending re submission for two units**Ward:** Mile End**Summary of Recommendation:** Conditional Approval**1.0 Reason for Referral to the Planning Committee**

- 1.1 This application is referred to the Planning Committee because Cllr Goss has called-in the application for the following reasons: 'Loss of public amenity by residents of 8 properties in the permanent loss of the only 2 shared parking spaces for all visitors/contractors to the Lane. Loss of safety barrier hedge which protects nr 44 Howards Croft from reversing impact damage experiences. Local conflicts will be generated by the seriously flawed design for vehicle turning in and out of Property A, and there has been no attempt by the Applicant to negotiate offers to solve a permanent vehicular turning in terms of a ECCH minimum recommended, type 5 turning head in this location.
- There has been no construction period plan submitted to show how contractors personnel, lorries and materials can be safely delivered and accommodated on site in this location'.

**2.0 Synopsis**

- 2.1 The key issues explored below are that of design and amenity. The design of the dwellings is acceptable and there are no amenity issues. Car parking would be provided to the required standard and although there maybe issues in regards to Leech's Lane itself, this is a private lane and any issues that need to be resolved need to agreed with the owner(s) of the lane and not Planning. Approval is recommended with conditions.

### **3.0 Site Description and Context**

3.1 Number 4 Leeches Lane is a detached dwelling located at the end of Leeches Lane – on the southern side. The plot is approximately 29 metres long by 28 metres deep. To the east of the plot is the neighbour of no.2, to the south is the rear garden of no.50 Nayland Road, to the west the gardens and dwellings of 46 and 44 Howards Croft. Leech's Lane is a private lane that leads off from Nayland Road and is a cul-de-sac which ends in front of no.4. The site is in the settlement boundary.

### **4.0 Description of the Proposal**

4.1 To demolish the existing dwelling and replace with two detached 4 bedroom houses. Each dwelling would have three off-street parking spaces and the dwellings would be set back 6m from Leech's Lane. The proposed dwelling 'B' would be 4m from the boundary with the neighbour at no.2, whilst dwelling 'A' would be 3m from the boundary with no. 44 Howards Croft. Materials would be; painted render walls, slate roof and permeable shingle vehicle areas.

### **5.0 Land Use Allocation**

5.1 Residential.

### **6.0 Relevant Planning History**

6.1 151494 - Demolition of existing dwelling and erection of 3no. new dwellings with gardens and parking. REFUSED.

6.2 152594 - Demolition of existing dwelling and erection of 3no. new dwellings with gardens and parking. (Resubmission of 151494). REFUSED. It is noted that this scheme is currently being appealed.

### **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 also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations  
UR2 - Built Design and Character

7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):

DP1 Design and Amenity

DP16 Private Amenity Space and Open Space Provision for New Residential Development

DP19 Parking Standards

7.4 Further to the above, 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 Guidance/Documents:

Backland and Infill

Vehicle Parking Standards

The Essex Design Guide

External Materials in New Developments

## **8.0 Consultations**

8.1 Environmental Protection – No objection, recommend condition regarding demolition and construction working hours.

8.2 Colchester Cycling Campaign – Cycle parking to be provided to the standard.

8.3 Highways – No objection and refer to previous comments on past applications..

In addition to the details reported above, the full text of all consultation responses is available to view on the Council's website.

## **9.0 Parish Council Response**

9.1 The Parish Council have stated that; 'MCC are pleased that progress has been made since the previous application for this site (152594). MCC still have concerns about the parking provision and would suggest that the current configuration on Site A is impractical. We would suggest that if the parking spaces and the front garden are switched, manoeuvring in and out of the spaces would be greatly eased and the visitors' spaces at the end of the Lane would be retained.

The spaces on Site B are in very close proximity to the neighbouring property and we have concerns about the potential for damage to this property.

MCC feel that it is very important that the Lane is protected from the impact of construction traffic.

MCC is pleased to see that the number of proposed dwellings has been reduced to two and the height of the properties has been lowered'.

## **10.0 Representations**

- 10.1 Four objections. Comment that; design of property A is unworkable and will cause long-term friction between neighbours, impossible for 2 vehicles to reverse out of the drive, would lose the 2 visitor parking areas at the end of the lane, loss of hedge which protects 46 Howards Croft from reversing damage, services such as water, sewerage could be damaged in the lane, no type 5 turning head provided, how will neighbours have access to the lane during construction deliveries etc, how will it impact on the boundary wall of no.2 Leech's Lane, could damage the side of their property by car doors opening, need access to their gutters, the paving will impact on dampness to their dwelling, how will air-gap be maintained, how will run-off be collected, wood burners as the air will smell of smoke .
- 4.2 Want conditions that a residents representative should be allowed access for monthly site meetings, that residents will have the power to obstruct construction traffic if access needs are not met, a considerate contractor method statement be provided, that there is insurance in place, hours of working, maintenance of the lane, structural survey of no.2 Leech's Lane before and after construction, developers to inform potential purchasers of legal constraints on the lane, a S106 towards the repair of the lane, that the owner of Property B allows access to 2 Leech's Lane for maintenance.

The full text of all of the representations received is available to view on the Council's website.

## **11.0 Parking Provision**

- 11.1 Each dwelling would have three off-street parking 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 Development Team and 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 (S106) of the Town and Country Planning Act 1990.

## 15.0 Report

### Amenity

- 15.1 Given the distance and orientation to the neighbours to the east (2 Leech's Lane) and west (44 Howards Croft) there would be no potential for the proposed dwellings to overshadow these existing properties. The only proposed side elevations that would have first floor windows would be dwelling 'B'. This would have three roof lights to no.2 Leech's Lane but would serve non-habitual rooms (en-suite, bathroom and stairs). As such, there would be little opportunity for any overlooking from these windows, especially if the bathroom and en-suite are conditioned to be obscure glazed. The comment regarding the loss of the hedge between the site (dwelling 'A') and 46 Howards Croft that protects no.46 from reversing damage is a little strange as no.46 is approximately 10m from the proposed parking area and no vehicle access would be near no.46. There has been concern raised that car doors opening near no.2 would result in damage to the wall of no.2. The parking space shown for dwelling 'B' is approximately 3.2m wide so this is wider than the Parking Standard and there is no good reason to believe that this width would result in car doors damaging the neighbours property. The suggested working hours by Environmental Protection are considered reasonable given the number of residential neighbours around the site. Comment has been made on how the proposal may impact on dampness to the neighbour (no.20). It is noted that the proposed dwelling would be 3m from the neighbours home at the closest point and that permeable shingle would be between the two dwellings (as a parking space). Given this arrangement the proposal would not increase dampness to the neighbour. Environmental Protection have requested a working hours condition which is reasonable. Considered that the proposal complies with DP1.

### Design.

- 15.2 Leech's Lane has a mix of dwelling types with bungalows mainly on the northern side of the lane and houses/cottages on the southern side. Both the proposed houses would have a more contemporary design than any of the surrounding neighbours, but the contemporary approach is somewhat understated and it would not wildly contrast with its neighbours. The proposed materials are considered acceptable. It is noted that the Parish have not raised any comments with regards to the design and so it must be concluded that they view it as conforming with their Village Design Statement. Complies with UR2 and DP1.

### Highways

- 15.3 Leech's Lane is a private lane, which is not an adopted highway and is an unmade lane. The proposal would provide six off-street parking areas. It is noted that two informal parking spaces are at the end of the lane and would be front of the proposed parking areas for dwelling 'A'. Whilst this is far from ideal and in theory the design of dwelling 'A' could be 'flipped' to provide the parking area on the other side of the plot, this would result in the proposed dwelling being much closer to the neighbour of 44 Howards Croft which could well result in amenity issues to this neighbour. Therefore, the proposed arrangement must be considered. As a private lane the applicant would need the consent of the owner(s) before making changes to the existing on-lane parking arrangement, so in this regard the proposal is out of the scope of Planning and

is in the control of the owners(s). Leech's Lane is reasonably wide with parking on the lane possible so the two existing visitor spaces could be relocated – with consent from the owner(s). The various comments about damage to the surface of the lane would be a private matter between the application and the owner(s) of the lane. How delivery lorries access the site and where they park is again, a private matter but the normal planning position would be that this is a temporary disturbance and would not justify a refusal. Given the nature of Leech's Lane a type 5 turning head is not a requirement (noted that Highways have not asked for one to be provided) and if vehicles were to reverse out onto the lane it would not be problematic given the character of the lane and position at the end of the lane. Considered that there are no issues in regards to DP19. The proposed rear gardens would have enough space for sheds for cycle parking and given the location in the settlement boundary, the site is in sustainable area where a cycle storage condition is not needed to make the proposal acceptable.

- 15.4 Comments that have been received but are not within the scope of planning include; damage to the services which are under the lane surface, allowing a neighbour to access the property to maintain their own, the smell of smoke from domestic wood burners. Conditions suggested by the objectors that are not within the remit of Planning are; giving the residents the right to obstruct contractor/delivery vehicles if their own access is obstructed, that the developer is insured, a structural survey of neighbours property, potential purchases to be informed of legal constraints on the lane, a S106 towards the repair of the lane, that the owner of dwelling 'B' allows access to no.2 Leech's Lane for maintenance.

## **16.0 Conclusion**

- 16.1 The design of the dwellings are acceptable and there are no amenity issues. Car parking would be provided to the required standard and although there maybe issues in regards to Leech's Lane itself, this is a private lane and any issues that need to be resolved need to be agreed with the owner(s) of the lane.

## **17.0 Recommendation**

- 17.1 APPROVE subject to the following conditions:

## **18.0 Conditions**

### **1 - 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 - \*Development to Accord With Approved Plans**

The development hereby permitted shall be carried out in accordance with the details shown on the submitted drawings.

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

### 3 - Non-Standard Condition/Reason

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 - Non-Standard Condition/Reason

Prior to the commencement of development, details of surface water drainage shall have been submitted to and approved, in writing, by the Local Planning Authority. No part of the development shall be first occupied or brought into use until the agreed method of surface water drainage has been fully installed and is available for use.

Reason: To minimise water being discharged onto the lane and neighbours property.

### 5 - Non-Standard Condition/Reason

Prior to the first occupation of the development, the vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, shall have been hard surfaced, sealed, marked out in parking bays and made available for use to the satisfaction of the Local Planning Authority. The vehicle parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles that are related to the use of the development.

Reason: To ensure that there is adequate parking provision to avoid on-street parking of vehicles in the adjoining streets in the interests of highway safety.

### 6 - Non-Standard Condition/Reason

All vehicular hardstanding shall have minimum dimensions of 2.9 metres x 5.5 metres for each individual parking space, retained in perpetuity.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety.

### 7 -Non-Standard Condition/Reason

No demolition or construction work shall take outside of the following times;

Weekdays: 8am to 6pm

Saturdays: 8am to 1pm

Sundays and Bank Holidays: No working at all.

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.

## 19.0 Informatives

### (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) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631.

(3) **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. Please pay particular attention to these requirements.

## **20.0 Positivity Statement**

20.1 The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.