

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	MP	28/01/19
Planning Development Manager authorisation:	AN	31/1/19
Admin checks / despatch completed	SB	04/02/19

**Application:** 18/01947/FUL **Town / Parish:** Mistley Parish Council

**Applicant:** Ms Feng

**Address:** Mistley Fisheries 1 Harwich Road Mistley

**Development:** Addition of first floor extension to provide additional habitable floor area.

### **1. Town / Parish Council**

Mr Andrew Lee                      Mistley Parish Council has no objection to the planning application.

### **2. Consultation Responses**

Environmental Protection      The following information is intended as guidance for applicants/developers and construction firms. In order to minimise potential nuisance to nearby existing residents caused by construction, Pollution and Environmental Control recommends that the following guidelines are followed. Adherence to this advisory note will significantly reduce the likelihood of public complaint and potential enforcement action by Pollution and Environmental Control:

o Working hours to be restricted between 08:00 and 18:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holidays.

It is also advised that the applicant refers to BS8233:2014 to ensure that the proposed works has the relevant insulation with respect to the potential noise of existing extraction systems serving the business.

### **3. Planning History**

18/01766/FUL                      Conversion of existing garage to create a new two bedroom residential unit.                      Approved

### **4. Relevant Policies / Government Guidance**

NPPF National Planning Policy Framework July 2018

National Planning Practice Guidance

Tendring District Local Plan 2007

EN17 Conservation Areas

HG14 Side Isolation

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)

PPL8 Conservation Areas

SPL3 Sustainable Design

### **Status of the Local Plan**

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2018) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.

With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

## **5. Officer Appraisal**

### **Site Description**

The application site is 1 Harwich Road within Mistley. The site is currently being utilised as a A5 Fish and Chip shop use to the front of the property and a residential property to the first floor. The character of the surrounding area is highly urbanised, with predominantly residential properties to all sides. Adjacent to the north is 'The Anchor Inn', a public house. The site sees a significant change in levels, with the front western section being approximately 2.5m higher than the eastern section.

The site falls within the Settlement Development Boundary for Mistley within both the Adopted Tendring Local Plan 2007 and within the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft. The site also lies adjacent to the Mistley Conservation Area.

### **Proposal**

This application seeks full planning permission for a first floor extension to the rear of the property to extend the existing residential unit, incorporating an additional two bedrooms each with an en-suite.

## Other Applications at this site

It is worth noting that under planning reference 18/01766/FUL there is a recently approved application at this address to convert the existing rear garage area into an additional residential dwelling, to serve two bedrooms.

## Assessment

### 1. Visual Impact

The adopted Tendring District Local Plan (2007) "Saved" Policies QL9, QL10 and QL11 seek to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to their setting and are of a suitable scale, mass and form. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

Policy EN17 of the Adopted Plan states development within a Conservation Area must preserve or enhance the character or appearance of the Conservation Area, and that for development located outside of a Conservation Area, it must not prejudice the setting and surroundings, or harm inward or outward views. The sentiments of this policy are carried forward within Emerging Policy PPL8.

The proposed development will be sited to the rear of the property, set away from the heavily urbanised street scene along Harwich Road to the west. That notwithstanding, there will be views of the proposal when looking south-east from the corner of Harwich Road to the north through the gap between Anchor House and the property.

In terms of the design of the proposed extension, it will incorporate a pitched roof sloping away in a design in-keeping with the host property, whilst the materials are also considered acceptable in relation to the host property.

Given the above, whilst the site is located on the edge of the Mistley Conservation Area, the proposal will preserve views to and from the Conservation Area, resulting in the areas character and appearance being preserved.

### 2. Impact upon neighbours

Policy QL11 of the Saved Plan states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

There are a number of residential properties within the surrounding area potentially impacted by the proposed development. In terms of the adjacent properties to the north, 'Anchor House', whilst the proposed side elevation dormer will directly overlook to the rear of the property, the property contains a number of flats and the area to the rear is served predominantly as a parking area. There is a small area designed for private amenity according to the approved plans from its original permission (planning reference 96/00129/FUL); however it is clear that the site boundary is marked with a 1 metre high fence that is already directly overlooked from the application sites first floor side elevation windows. Therefore, the additional dormer window, despite being sited at second floor level, will not result in significant additional overlooking to the existing arrangement.

In terms of the impacts to 131 Harwich Road, located to the south-east, and the property known as 'Vista', located to the north-west, it is accepted there will be a degree of additional overlooking via the additional rear elevation dormer serving a bedroom. However, given that there is already a first floor rear elevation lounge window that overlooks, that there is an approximate separation distance of 17m to each garden area, and that any views from the dormer window will be to the area

furthest rear of each garden (an area less likely to be regularly occupied), on balance the harm is not considered significant enough to warrant a reason for refusal.

Further, it is acknowledged that the proposal is in close proximity to Number 133 Harwich Road, located to the south of the proposal site. The works are likely to have the greatest impact on this property, particularly given the 1m increase in eaves height. However, while as previously noted the surrounding area has significant difference in levels, the rear levels of both these properties are similar; the application site being approximately 0.4m higher. Given that, there being an approximate separation distance of 5m and that the eaves height is only a small increase, this will ensure the development does not appear significantly imposing or fail the loss of sunlight tests as detailed within the Essex Design Guide. This is further emphasised given the neighbouring property has only ground floor windows to the elevation most closely related to the proposed works.

In terms of overlooking, the rear elevation dormer will only have partial views of the corner of the garden area, which is an area unlikely to be regularly occupied. The main private amenity area for the neighbouring garden is located west of the neighbouring property and includes a conservatory; however there are no additional windows that could directly overlook, just upward facing velux windows which result in no overlooking concerns. Therefore, the impacts to this neighbouring property are not considered excessive enough to justify refusing the application.

#### Other Considerations

Mistley Parish Council has no objections.

There has also been one letter of objection received, with the following concerns;

1. Loss of light;
2. Overlooking concerns;
3. Loss of property value;

In answer to this, points 1 and 2 have been addressed within the main body of the report above, whilst point 3 is not a material planning consideration.

The objection letter also made a number of requests with regard to the hours of construction works, minimising dust and noise pollution, and that works will not encroach onto their property.

#### **6. Recommendation**

Approval.

#### **7. Conditions**

- 1 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 The development hereby permitted shall be carried out in accordance with the following approved plans, drawing numbers 1.1 Revision B, 1.2 and 1.3 Rev A.

Reason - For the avoidance of doubt and in the interests of proper planning.

## **8. Informatives**

### Positive and Proactive Statement

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.