

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	MP	28/01/19
Planning Development Manager authorisation:	AN	11/2/19
Admin checks / despatch completed	RJ	12/2/19

*gk*

**Application:** 18/02095/LUPROP **Town / Parish:** Great Oakley Parish Council

**Applicant:** Mr B Woods

**Address:** 3 Skighaugh Clacton Road Stones Green

**Development:** Proposed rear & side extension, dormer & porch, hip to gable extension & roof lights to the front elevations.

### 1. Town / Parish Council

Great Oakley Parish Council      No comment.

### 2. Consultation Responses

N/A

### 3. Planning History

16/01346/FUL	Replacement dwelling, creation of garage, workshop and storage space and extension to curtilage.	Refused	17.03.2017
17/01686/FUL	Replacement dwelling, extension to remaining building to provide ancillary cycle store and storage, and change of use of agricultural land to residential.	Refused (Dismissed at appeal)	04.12.2017
18/01692/FUL	Additional front elevation dormer.	Approved	12.12.2018

### 4. Relevant Policies / Government Guidance

N/A

### 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 Paragraph 213 of the NPPF (2018) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF.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 located to the south-west of Clacton Road, and falls within the Parish of Great Oakley. Having regard to both the Saved Tendring District Local Plan (2007) and Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017), the site lies outside of any defined Settlement Development Boundary.

The site has an area of 0.10 hectares and forms the right side of a pair of semi-detached chalet style properties, constructed of black weatherboarding and pantile clay tile, whilst each property benefits from a front elevation cat slide style dormer. The site is well set back, with the character of the surrounding area being predominantly rural, although there are examples of some semi-detached residential properties nearby. Approximately 25 metres to the south is a Public Right of Way.

### **Proposal**

The application seeks a Lawful Development Certificate for a Proposed Development, in this case for numerous alterations as highlighted below:

1. Erection of a porch to the front elevation, measuring 3m height, 2.3m width and 1.3m depth;
2. 2 x roof lights to the front elevation;
3. Single storey side and rear extension measuring 4m height, 4.8m width and 9.4m depth;
4. Single storey rear extension measuring 3m height, 8.6m width and 3m depth;
5. Rear elevation dormer measuring 3.6m height, 9m width and 3m depth; and
6. A conversion of the hipped roof to form a gable extension.

A lawful use certificate is, 'a certificate issued by a local planning authority, on application, stating that an existing (LDC 191) or proposed use (LDC 192), or other forms of development, can be considered as lawful for planning purposes'.

### **Assessment**

#### **Planning History:**

The property was built prior to 1947. There is no planning history for the property that restricts permitted development rights, meaning the permitted development rights for the property still exist.

Under planning reference 16/01346/FUL, permission was refused for a replacement dwelling as it would appear unbalanced and incongruous within this location.

Under planning reference 17/01686/FUL, permission was again refused for a replacement dwelling, which had an amended design to that previously refused due to its unsympathetic appearance not in-keeping with the areas character. This decision was also dismissed at appeal under appeal reference APP/P1560/W/18/3204200.



Under planning reference 18/01692/FUL, planning permission was granted for the erection of a dormer to the front elevation.

#### General Permitted Development Order:

This application seeks a lawful development certificate for a number of proposed amendments to the property, each of which shall be individually assessed below. The aim of this application is to establish whether or not these developments would require planning permission. The certificate issued would state that the developments are lawful and not at risk of being subject to enforcement action.

#### 1. Porch

To establish whether the proposed development is permitted development reference needs to be made to The Town and Country Planning (General Permitted Development) (England) Order 2015.

Class D - The erection or construction of a porch outside any external of a dwelling house.

(a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use);

*Not applicable.*

(b) the ground area (measured externally) of the structure would exceed 3 square metres;

*The external ground area will be 2.99 square metres.*

(c) any part of the structure would be more than 3 metres above ground level; or

*The structure will measure 3 metres in height.*

(d) any part of the structure would be within 2 metres of any boundary of the curtilage of the dwellinghouse with a highway.

*The structure will not be within 2 metres of any boundary adjacent to the highway.*

#### 2. Rooflights

To establish whether the proposed development is permitted development reference needs to be made to The Town and Country Planning (General Permitted Development) (England) Order 2015.

Class C - Any other alteration to the roof of a dwellinghouse

(a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use);

*Not applicable.*

(b) the alteration would protrude more than 0.15 metres beyond the plane of the slope of the original roof when measured from the perpendicular with the external surface of the original roof;

*The roof lights would not protrude more than 0.15 metres beyond the plane of the slope of the original roof.*

(c) it would result in the highest part of the alteration being higher than the highest part of the original roof; or

*The proposal does not affect the height of the original roof.*



(d) it would consist of or include—

- (i) the installation, alteration or replacement of a chimney, flue or soil and vent pipe, or
- (ii) the installation, alteration or replacement of solar photovoltaics or solar thermal equipment.

*The proposal does not include the installation, alteration or replacement of a chimney, flue or soil and vent pipe or the installation, alteration or replacement of solar photovoltaics or solar thermal equipment.*

### C.2 Conditions:-

Any window located on a roof slope forming a side elevation of the dwellinghouse shall be:

- (a) obscure-glazed; and
- (b) non-opening, unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed.

*There are no windows located on a roof slope forming a side elevation.*

### 3. Single storey rear/side extension

To establish whether the proposed development is permitted development reference needs to be made to The Town and Country Planning (General Permitted Development) (England) Order 2015.

Class A - the enlargement, improvement or other alteration of a dwellinghouse

- (a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use);

*Not applicable.*

- (b) the total area of ground covered by buildings within the curtilage of the dwellinghouse (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse);

*The proposed extension, and the other amendments being assessed, will not exceed 50% of the total area of the curtilage.*

- (c) the height of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the highest part of the roof of the existing dwellinghouse;

*The proposed extension will not exceed the highest part of the existing dwelling.*

- (d) The height of the eaves of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the eaves of the existing dwellinghouse;

*The height of the eaves of the proposed extension will not be higher than the eaves of the existing dwelling.*

- (e) The enlarged part of the dwellinghouse would extend beyond a wall which
  - (i) fronts a highway, and
  - (ii) forms either the principal elevation or a side elevation of the original dwellinghouse;

*The proposed extension will form part of the side elevation of the original dwelling but will not extend beyond a wall which fronts a highway.*

- (f) The enlarged part of the dwellinghouse would have a single storey and
  - (i) extend beyond the rear wall of the original dwellinghouse by more than 4 metres in the case of a detached dwellinghouse, or 3 metres in the case of any other dwellinghouse, or
  - (ii) exceed 4 metres in height;



*The proposed extension will not extend beyond the rear wall of the original detached dwellinghouse by more than 3 metres or exceed 4 metres in height.*

- (g) until 30th May 2019, for a dwellinghouse not on article 2(3) land nor on a site of special scientific interest, the enlarged part of the dwellinghouse would have a single storey and—
- (i) extend beyond the rear wall of the original dwellinghouse by more than 8 metres in the case of a detached dwellinghouse, or 6 metres in the case of any other dwellinghouse, or
  - (ii) exceed 4 metres in height;

*Not applicable.*

- (h) The enlarged part of the dwellinghouse would have more than one storey and would
- (i) extend beyond the rear wall of the original dwellinghouse by more than 3 metres, or
  - (ii) be within 7 metres of any boundary of the curtilage of the dwellinghouse opposite the rear wall of the dwellinghouse;

*The proposal is single storey.*

- (i) The enlarged part of the dwellinghouse would be within 2 metres of the boundary of the curtilage of the dwellinghouse, and the height of the eaves of the enlarged part would exceed 3 metres;

*The rear extension is not within 2 metres of a boundary.*

- (j) The enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would
- (i) exceed 4 metres in height,
  - (ii) have more than one storey, or
  - (ii) have a width greater than half the width of the original dwellinghouse; or

*The extension is single storey and will measure 4 metres in height. The width of the original dwelling is 9.6 metres and therefore the proposals width of 4.8 metres is exactly 50% of this.*

- (k) It would consist of or include
- (i) the construction or provision of a veranda, balcony or raised platform,
  - (ii) the installation, alteration or replacement of a microwave antenna,
  - (iii) the installation, alteration or replacement of a chimney, flue or soil and vent pipe, or
  - (iv) an alteration to any part of the roof of the dwellinghouse.

*The proposal for the single storey side/rear extension does not include the construction or provision of a veranda, balcony or raised platform or the installation, alteration or replacement of a microwave antenna, the installation, alteration or replacement of a chimney, flue or soil and vent pipe or an alteration to any part of the roof of the dwellinghouse.*

A.2 In the case of a dwellinghouse is on article 2(3) land development is also not permitted by Class if: -

- (a) It would consists of or include the cladding of any part of the exterior of the dwellinghouse with, artificial stone, pebble sash, render, timber, plastic or tiles;
- (b) The enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse; or
- (c) The enlarged part of the dwellinghouse would have more than one storey and extend beyond the rear wall of the original dwellinghouse.

*The application site is not situated within a Conservation Area (article 2 (3) land).*

A.3 Conditions:-



(a) the materials used in any exterior work (other than materials used in the construction of a conservatory) shall be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;

*The proposed materials to be used will match those used in the existing dwelling.*

(b) any upper-floor window located in a wall or roof slope forming a side elevation of the dwellinghouse shall be

(i) obscure-glazed, and

(ii) non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed; and

*Not applicable.*

(c) where the enlarged part of the dwellinghouse has more than one storey, the roof pitch of the enlarged part shall, so far as practicable, be the same as the roof pitch of the original dwellinghouse.

*Not applicable.*

#### 4. Single storey rear extension

To establish whether the proposed development is permitted development reference needs to be made to The Town and Country Planning (General Permitted Development) (England) Order 2015.

Class A - the enlargement, improvement or other alteration of a dwellinghouse

(a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use);

*Not applicable.*

(b) the total area of ground covered by buildings within the curtilage of the dwellinghouse (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse);

*The proposed extension, and the other amendments being assessed, will not exceed 50% of the total area of the curtilage.*

(c) the height of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the highest part of the roof of the existing dwellinghouse;

*The proposed extension will not exceed the highest part of the existing dwelling.*

(d) The height of the eaves of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the eaves of the existing dwellinghouse;

*Technical guidance relating to Permitted Development rights state that the eaves height is measured from ground level at the base of the outside wall to the point where that wall would meet the upper surface of the roof slope. Therefore the eaves height will not exceed the eaves height of the existing dwelling.*

(e) The enlarged part of the dwellinghouse would extend beyond a wall which

(i) fronts a highway, and

(ii) forms either the principal elevation or a side elevation of the original dwellinghouse;

*The proposed extension will not front a highway or form either the principal or side elevation.*

(f) The enlarged part of the dwellinghouse would have a single storey and



- (i) extend beyond the rear wall of the original dwellinghouse by more than 4 metres in the case of a detached dwellinghouse, or 3 metres in the case of any other dwellinghouse, or
- (ii) exceed 4 metres in height;

*The proposed extension will not extend beyond the rear wall of the original detached dwellinghouse by more than 3 metres or exceed 4 metres in height.*

- (g) until 30th May 2019, for a dwellinghouse not on article 2(3) land nor on a site of special scientific interest, the enlarged part of the dwellinghouse would have a single storey and—
- (i) extend beyond the rear wall of the original dwellinghouse by more than 8 metres in the case of a detached dwellinghouse, or 6 metres in the case of any other dwellinghouse, or
- (ii) exceed 4 metres in height;

*Not applicable.*

- (h) The enlarged part of the dwellinghouse would have more than one storey and would
- (i) extend beyond the rear wall of the original dwellinghouse by more than 3 metres, or
- (ii) be within 7 metres of any boundary of the curtilage of the dwellinghouse opposite the rear wall of the dwellinghouse;

*The proposal is single storey.*

- (i) The enlarged part of the dwellinghouse would be within 2 metres of the boundary of the curtilage of the dwellinghouse, and the height of the eaves of the enlarged part would exceed 3 metres;

*The rear extension is not within 2 metres of a boundary.*

- (j) The enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would
  - (i) exceed 4 metres in height,
  - (ii) have more than one storey, or
  - (iii) have a width greater than half the width of the original dwellinghouse; or

*The extension is to the rear elevation only.*

- (k) It would consist of or include
  - (i) the construction or provision of a veranda, balcony or raised platform,
  - (ii) the installation, alteration or replacement of a microwave antenna,
  - (iii) the installation, alteration or replacement of a chimney, flue or soil and vent pipe, or
  - (iv) an alteration to any part of the roof of the dwellinghouse.

*The proposal for the single storey rear extension does not include the construction or provision of a veranda, balcony or raised platform or the installation, alteration or replacement of a microwave antenna, the installation, alteration or replacement of a chimney, flue or soil and vent pipe or an alteration to any part of the roof of the dwellinghouse.*

A.2 In the case of a dwellinghouse is on article 2(3) land development is also not permitted by Class if: -

- (a) It would consists of or include the cladding of any part of the exterior of the dwellinghouse with, artificial stone, pebble sash, render, timber, plastic or tiles;
- (b) The enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse; or
- (c) The enlarged part of the dwellinghouse would have more than one storey and extend beyond the rear wall of the original dwellinghouse.

*The application site is not situated within a Conservation Area (article 2 (3) land).*

A.3 Conditions:-



(a) the materials used in any exterior work (other than materials used in the construction of a conservatory) shall be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;

*The proposed materials to be used will match those used in the existing dwelling.*

(b) any upper-floor window located in a wall or roof slope forming a side elevation of the dwellinghouse shall be

(i) obscure-glazed, and

(ii) non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed; and

*Not applicable.*

(c) where the enlarged part of the dwellinghouse has more than one storey, the roof pitch of the enlarged part shall, so far as practicable, be the same as the roof pitch of the original dwellinghouse.

*Not applicable.*

## 5. Rear Dormer

To establish whether the proposed development is permitted development reference needs to be made to The Town and Country Planning (General Permitted Development) (England) Order 2015.

Class B - the enlargement of a dwellinghouse consisting of an addition or alteration to its roof:-

(a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use);

*Not applicable.*

(b) would exceed the height of the highest part of the existing roof;

*The proposed dormer on the rear roof slope will not exceed the height of the highest part of the roof of the existing dwelling.*

(c) would extend beyond the plane of any existing roof slope which forms the principal elevation and fronts a highway;

*The proposed dormer will not extend beyond the plane of any existing roof slope which forms the principal elevation and fronts a highway.*

(d) the cubic content of the resulting roof space would exceed the cubic content of the original roofspace by more than -

(i) 40 cubic metres in the case of a terrace house, or

(ii) 50 cubic metres in any other case;

*The proposed dormer does not exceed the cubic content or the original roof space by more than 50 cubic metres. The additional roof space created in this case is 38 cubic metres.*

(e) would consist of:

(i) the construction or provision of a veranda, balcony or raised platform, or

(ii) the installation, alteration or replacement of a chimney, flue or soil and vent pipe;

*The proposal does not include the construction or provision of a veranda, balcony or raised platform or the installation, alteration or replacement of a chimney, flue or soil and vent pipe.*

(e) the dwellinghouse is on article 2(3) land.



The application site is not situated within a Conservation Area (article 2 (3) land).

#### B.2 Conditions:-

(a) the materials used in any exterior work shall be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;

*The proposed materials to be used will be of a similar appearance to those used in the existing dwelling.*

(b) the enlargement must be constructed so that—

(i) other than in the case of a hip-to-gable enlargement or an enlargement which joins the original roof to the roof of a rear or side extension—

(aa) the eaves of the original roof are maintained or reinstated; and

*The eaves of the original roof will be maintained following the construction of the proposal.*

(bb) the edge of the enlargement closest to the eaves of the original roof is, so far as practicable, not less than 0.2 metres from the eaves, measured along the roof slope from the outside edge of the eaves; and

*The edge of the enlargement closest to the eaves of the original roof is not less than 0.2 metres from the eaves.*

(ii) other than in the case of an enlargement which joins the original roof to the roof of a rear or side extension, no part of the enlargement extends beyond the outside face of any external wall of the original dwellinghouse; and

*The enlargement does not join the original roof to a roof of a rear or side extension and therefore does not extend beyond the outside face of any external wall of the original dwellinghouse.*

(c) any windows inserted on a wall or roof slope forming a side elevation of the dwellinghouse shall be—

(i) obscure glazed, and

(ii) non-opening, unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed.

*Not applicable.*

#### 6. Hip roof to Gable Extension

To establish whether the proposed development is permitted development reference needs to be made to The Town and Country Planning (General Permitted Development) (England) Order 2015.

Class B - the enlargement of a dwellinghouse consisting of an addition or alteration to its roof:-

(a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use);

*Not applicable.*

(b) would exceed the height of the highest part of the existing roof;

*The proposed extension will not exceed the height of the highest part of the roof of the existing dwelling.*

(c) would extend beyond the plane of any existing roof slope which forms the principal elevation and fronts a highway;



*The proposed extension will not extend beyond the plane of any existing roof slope which forms the principal elevation and fronts a highway.*

(d) the cubic content of the resulting roof space would exceed the cubic content of the original roofspace by more than -

- (i) 40 cubic metres in the case of a terrace house, or
- (ii) 50 cubic metres in any other case;

*The proposed hip to gable extension does not exceed the cubic content or the original roof space by more than 50 cubic metres.*

(e) would consist of:

- (i) the construction or provision of a veranda, balcony or raised platform, or
- (ii) the installation, alteration or replacement of a chimney, flue or soil and vent pipe;

*The proposal does not include the construction or provision of a veranda, balcony or raised platform or the installation, alteration or replacement of a chimney, flue or soil and vent pipe.*

(e) the dwellinghouse is on article 2(3) land.

*The application site is not situated within a Conservation Area (article 2 (3) land).*

#### B.2 Conditions:-

(a) the materials used in any exterior work shall be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;

*The proposed materials to be used will be of a similar appearance to those used in the existing dwelling.*

(b) the enlargement must be constructed so that—

- (i) other than in the case of a hip-to-gable enlargement or an enlargement which joins the original roof to the roof of a rear or side extension—

(aa) the eaves of the original roof are maintained or reinstated; and

*The eaves of the original roof will be maintained following the construction of the proposal.*

(bb) the edge of the enlargement closest to the eaves of the original roof is, so far as practicable, not less than 0.2 metres from the eaves, measured along the roof slope from the outside edge of the eaves; and

*The edge of the enlargement closest to the eaves of the original roof is not less than 0.2 metres from the eaves.*

- (ii) other than in the case of an enlargement which joins the original roof to the roof of a rear or side extension, no part of the enlargement extends beyond the outside face of any external wall of the original dwellinghouse; and

*The enlargement does not join the original roof to a roof of a rear or side extension and therefore does not extend beyond the outside face of any external wall of the original dwellinghouse.*

(c) any windows inserted on a wall or roof slope forming a side elevation of the dwellinghouse shall be-

- (i) obscure glazed, and
- (ii) non-opening, unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed.

*Not applicable.*



### Other Considerations

There have been three letters of objection received with the following concerns:

1. Will harm the symmetry with the adjoining property;
2. Harm to street scene;
3. Not in-keeping with existing dwelling;
4. Rear element is actually a two storey extension; and
5. Overlooking concerns.

In answer to this, the application is to determine if the proposals meet Permitted Development rights. Points 1, 2, 3 and 5 are material planning considers; however this application is not seeking planning permission, it is instead seeking to determine if the proposals are Permitted Development.

With regards to point 4, the rear elements include a single storey rear extension and a rear dormer. The two do not meet and therefore does not constitute a two storey extension.

### Conclusion

The proposed amendments to the property all individually and collectively meet the relevant criteria as set out above and must be concluded to be permitted development. The Lawful Development Certificate for the proposed development can therefore be issued.

### **6. Recommendation**

Lawful Use Certificate Granted

### **7. Condition**

- 1 The proposed development constitutes permitted development by virtue of the provisions of Schedule 2, Part 1, Classes A, B, C and D of the Town & Country Planning (General Permitted Development) (England) Order 2015. This definition is subject to the conditions set out therein, namely that the materials used in any exterior work shall be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse.

### **8. Informatives**

N/A