

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	CC	16.07.2020
Planning Development Manager authorisation:	AN	20/07/2020
Admin checks / despatch completed	CC	20/07/2020
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CD	20/07/2020

**Application:** 20/00555/LUPROP                      **Town / Parish:** Frinton & Walton Town Council

**Applicant:** Mrs Pauline Jefferys

**Address:** 39 Hadleigh Road Frinton On Sea Essex

**Development:** Proposed extension on the ground floor by 3m across the width of the property.

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

Frinton and Walton Town Council      No Comment

### **2. Consultation Responses**

Not Applicable

### **3. Planning History**

20/00321/HHPNO T	Proposed extension on the ground floor by approximately 4m deep and 3.55 m high across the width of the property.	Refused	09.04.2020
20/00555/LUPRO P	Proposed extension on the ground floor by approximately 3m across the width of the property.	Current	

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

Not Applicable

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

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF.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, with further hearing sessions in January 2020. The Inspector issued his findings in respect of the legal compliance and soundness of the Section 1 Plan in May 2020. He confirmed that the plan was legally compliant and that the housing and employment targets for each of the North Essex Authorities, including Tendring, were sound. However, he has recommended that for the plan to proceed to adoption, modifications will be required – including the removal of two of the three Garden Communities ‘Garden Communities’ proposed along the A120 (to the West of Braintree and on the Colchester/Braintree Border) that were designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033.

The three North Essex Authorities are currently considering the Inspector’s advice and the implications of such modifications with a view to agreeing a way forward for the Local Plan. With the Local Plan requiring modifications which, in due course, will be the subject of consultation on their own right, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications – increasing with each stage of the plan-making process.

The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) will progress once modifications to the Section 1 have been consulted upon and agreed by the Inspector. 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.

In relation to housing supply:

The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years’ worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.

At the time of this decision, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF (which applies until such time that the figures in the new Local Plan are adopted).

In addition, the actual need for housing (as set out in the emerging Local Plan) was found to be much less than the figure produced by the standard method when tested at the recent Examination in Public of the Local Plan, as recently endorsed by the Local Plan Inspector. Therefore, in weighing the benefits of residential development against the harm, the Inspector’s endorsement of the lower housing requirement figure is a strong material consideration which tempers the amount of weight that can reasonably be attributed to the benefit of additional new housing to address the perceived shortfall – given that, against the Local Plan housing requirement there is, in fact, a surplus of supply as opposed to a shortfall.

## **5. Officer Appraisal (including Site Description and Proposal)**

The application seeks a Lawful Development Certificate for a Proposed Development, in this case a proposed extension on the ground floor by 3m across the width of the property at 39 Hadleigh Road Frinton on Sea Essex CO13 9HQ.

The proposed extension will measure 3 metres deep by 6.2 metres deep and have an overall height of 3 metres.

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.'

The plans submitted with the application show the proposed rear extension.

### Assessment

The main considerations when determining this application are the site's Planning History and the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

### Planning History

There were no applications found which restrict the permitted development rights of the property.

### General Permitted Development Order

This application seeks a Lawful Development Certificate for a proposed development, relating to the construction of a rear extension. The aim of this application is to establish whether or not this development would require planning permission. The certificate issued would state that the development is lawful and not at risk of being subject to enforcement action.

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, as amended.

The proposed rear extension has been assessed under schedule 2, Part 1, Class A of the Order addressing the enlargement, improvement or other alteration of a dwellinghouse.

A.1 Development not permitted by Class A if;

(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);

Permission to use the dwellinghouse as a dwelling house has not been granted only by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use); the proposal complies.

(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 total area of ground covered by buildings within the curtilage of the dwellinghouse (other than the original dwellinghouse) does not exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse); the proposal complies.

(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 height of the part of the dwellinghouse enlarged, improved or altered does not exceed the height of the highest part of the roof of the existing dwellinghouse; the proposal complies

(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 part of the dwellinghouse enlarged, improved or altered do not exceed the height of the eaves of the existing dwellinghouse; the proposal complies

(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 enlarged part of the dwellinghouse does not extend beyond a wall which fronts a highway nor forms either the principal elevation or a side elevation of the original dwellinghouse; the proposal complies

(f) subject to paragraph (g), 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 enlarged part of the dwellinghouse does have a single storey and—

(i) Does not extend beyond the rear wall of the original dwellinghouse by more than 3 metres in the case of any other dwellinghouse,

(ii) Does not exceed 4 metres in height;

The proposal complies

(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;

The dwellinghouse is not on article 2(3) land nor on a site of special scientific interest, the enlarged part of the dwelling house does have a single storey and

(i) Does not extend beyond the rear wall of the original dwellinghouse by more than 6 metres in the case of any other dwellinghouse, or

(ii) Does not exceed 4 metres in height

The proposal complies

(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 being enlarged which is opposite the rear wall of that dwellinghouse;

The enlarged part of the dwellinghouse does not have more than one storey. The proposal complies.

(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 enlarged part of the dwellinghouse is within 2 metres of the boundary of the curtilage of the dwellinghouse, however the height of the eaves of the enlarged part does not exceed 3 metres. The proposal complies.

- (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

(ja) any total enlargement (being the enlarged part together with any existing enlargement of the original dwellinghouse to which it will be joined) exceeds or would exceed the limits set out in sub-paragraphs (e) to (j);

The enlarged part of the dwellinghouse does not extend beyond a wall forming a side elevation of the original dwellinghouse.

Any total enlargement (being the enlarged part together with any existing enlargement of the original dwellinghouse to which it will be joined) does not exceed the limits set out in sub-paragraphs (e) to (j). The proposal complies.

- 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 does not consist of nor include the construction or provision of a veranda, balcony or raised platform; the installation, alteration or replacement of a microwave antenna; the installation, alteration or replacement of a chimney, flue or soil and vent pipe; nor an alteration to any part of the roof of the dwellinghouse. The proposal complies.

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.
- (d) any total enlargement (being the enlarged part together with any existing enlargement of the original dwellinghouse to which it will be joined) exceeds or would exceed the limits set out in sub-paragraphs (b) and (c).”;

The dwellinghouse is not on article 2(3) land. The proposal complies.

Conditions

A.3 development is permitted by Class B subject to the following 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;
- (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

(c) where the enlarged part of the dwellinghouse has more than a single storey, or forms an upper storey on an existing enlargement of the original dwellinghouse, the roof pitch of the enlarged part must, so far as practicable, be the same as the roof pitch of the original dwellinghouse.”;

The proposal complies with conditions A.3 (a), (b) (i) (ii) and (c).

Other considerations

Frinton and Walton Town Council have made no objections to the proposal.

No other letters of representation have been received.

Conclusion

The proposed rear extension meets all the relevant criteria as set out above; it is concluded therefore that the proposed development constitutes Permitted Development and the Lawful Development Certificate should therefore be issued.

## 6. Recommendation

Lawful Use Certificate Granted

## 7. Conditions / Reasons

- 1 The proposed development constitutes Permitted Development by virtue of the provisions of Schedule 2, Part 1 Class A of the Town & Country planning (General Permitted Development) (England) Order 2015 (as amended).

## 8. Informatives

Not Applicable

<b>Are there any letters to be sent to applicant / agent with the decision? If so please specify:</b>	YES	NO
<b>Are there any third parties to be informed of the decision? If so, please specify:</b>	YES	NO