

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AP	18/08/2020
Planning Development Manager authorisation:	SCE	19.08.2020
Admin checks / despatch completed	DB	19.08.20
Technician Final Checks/ Scanned / LC Notified / UU Emails:	BB	19/08/2020

Application: 20/00689/FUL **Town / Parish:** Brightlingsea Town Council
Applicant: Mr A Williams
Address: 42 Mill Street Brightlingsea Colchester
Development: Proposed rear balcony and screening.

1. Town / Parish Council

Brightlingsea Town
Council
14.07.2020

Brightlingsea Town Council do not wish to support this application, due to overlooking issues to neighbouring properties and the size of the decking area.

2. Consultation Responses

n/a

3. Planning History

84/00694/OUT	Detached dwelling	Refused	31.07.1984
84/01208/FUL	One detached bungalow	Refused	13.11.1984
85/00485/FUL	One detached dwelling	Refused	10.09.1985
86/00710/FUL	One detached dwelling with integral garage	Approved	20.08.1986
89/00889/FUL	Erection of one detached dwelling with integral garage (renewal of TEN/710/86)	Approved	15.08.1989
90/00101/FUL	Dwelling with integral garage.	Approved	20.03.1990
20/00689/FUL	Proposed rear balcony and screening.	Current	

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019
National Planning Practice Guidance

Tendring District Local Plan 2007

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)

SPL3 Sustainable Design

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 Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF.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.

5. Officer Appraisal

Proposal

The application seeks permission for a balcony leading from the existing conservatory and increase in the size of the existing kitchen window to a house located within the settlement development boundary of Brightlingsea.

Design and Appearance

The host dwelling is a detached brick built dwelling with an integral garage at lower ground level at the front of the property, however the hill at this part of Mill Street means that the living accommodation ordinarily at ground floor level is not at ground level and steps lead up to the rear conservatory from the garden. The amended design of the balcony which leads out from the existing conservatory reduces the depth of the balcony from the rear elevation to 2.075 metres,

with a width from the existing steps down to the garden of 4.45 metres. The height of the floor of the balcony is 1.8 metres above the ground level at the rear of the house. The balcony will convey a modern appearance with steel posts and glazed balustrades, at an increased height on the southern and eastern sides enclosing the decked area.

The kitchen window will increase in height to match the height of the existing bathroom window.

The design and scale of the balcony and increased window size would result in no material harm to visual amenity.

Impact on Residential Amenity

The proposed balcony is a distance of 3.4 metres from the southern side boundary shared with 44 Mill Street, this distance along with the proposed obscure glazed screening at a height of 1.7 metres from the level of the balcony deck on the southern and eastern sides of the balcony will ensure that there is no significant loss of privacy or increased risk of overlooking to the neighbour at 44 Mill Street. The proposal is a distance of 6.5 metres from the northern side boundary shared with 40 Mill Street. As a result of the increased height of the ground at 40 Mill Street when compared to the height of ground at 42 Mill Street and the proposed balcony there is not considered to be a significant loss of privacy to this neighbour that warrants screening on the northern side of the balcony. The view from the balcony to the rear is across a paddock and the back gardens of properties on the south side of Hurst Green, however given the distance that the proposal is from these properties there is not considered to be any significant loss of privacy and the view is no different to that from the rear of the existing conservatory.

The increase in the size of the kitchen window will not significantly increase the risk of overlooking to the property and garden of 44 Mill Street as a result of the room it serves and the distance of 4.8 metres that this part of the southern elevation is, from the southern side boundary. The kitchen is a practical space and not one that is lived in for long periods during the day.

The balcony is part of the private amenity space offered at the application site. The parking at the front of the property on the driveway and the integral garages remain unaffected by the proposal.

Other Considerations

Two objections were received to the originally submitted plans which raised concerns of overlooking, loss of privacy, objection to the increase in size of the kitchen window, direct views into gardens and paddock to the rear, disturbance and noise from the use of the balcony affecting the neighbours and horses in the paddocks. Brightlingsea Town Council object to the proposal due to the size of the decking area and overlooking. One of the neighbours noted that the conservatory was once a balcony.

Noise and disturbance has not been considered as part of the planning application in this instance as the property known as 42 Mill Street is used for residential purposes within a residential area and it is not considered that a residential use would emit above normal noise levels.

One objection has been received to the revised plans which still raises the concern of the balcony being intrusive with the proposal causing overlooking and loss of privacy. Brightlingsea Town Council objections remain following the submitted amendments being considered. These concerns have been addressed in the report.

No further letters of representation have been received.

Conclusion

In the absence of any material harm resulting from the development, the application is recommended for approval.

6. Recommendation

Approval - Full

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 plan: Drawing No. P01c.

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

- 3 Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), the balcony shall be glazed in obscure glass to a height of 1.7 metres on the eastern and southern sides as shown on drawing no. P01c prior to the balcony's first use and shall thereafter be permanently retained in this approved form.

Reason - To protect the privacy and amenities of the occupiers of the neighbouring property.

8. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

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