

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	CC	21.10.2020
Planning Development Manager authorisation:	SCE	23.10.2020
Admin checks / despatch completed	DB	23/10/20
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CD	23/10/2020

Application: 20/01177/LUPROP **Town / Parish:** Great Bentley Parish Council
Applicant: Mr L Hyde
Address: 30 Abrey Close Great Bentley Colchester
Development: Proposed loft Conversion and rear extension.

1. Town / Parish Council

Great Bentley Parish Council No Comment

2. Consultation Responses

Not Applicable

3. Planning History

14/00431/FUL	Erection of 32 dwellings with associated outbuildings and landscaping, with a new access from Sturrick Lane.	21.08.2014
20/01177/LUPRO P	Proposed loft Conversion and rear extension.	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 Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF.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.

5. Officer Appraisal (including Site Description and Proposal)

Proposal

The application seeks a Lawful Development Certificate for a Proposed Development, in this case a loft conversion and rear extension at 30 Abrey Close, Great Bentley, Colchester, Essex, CO7 8FA.

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 loft conversion and proposed rear extension.

Assessment

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

Planning History

There have been no applications found with conditions attached which would restrict permitted development rights. The property's permitted development rights are therefore intact.
General Permitted Development Order

This application seeks a lawful development certificate for a proposed development. 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. The proposal falls to be considered under Schedule 2 Part 1 Class A and Class B.

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

A.1 Development is 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 dwellinghouse has not been granted only by virtue of Class M, N, P or Q of Part 3 of this Schedule. **The proposal complies.**

(b) as a result of the works, 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).

As a result of the works, the total area of ground covered by buildings within the curtilage of the dwellinghouse (other than the original dwellinghouse) would not exceed 50% of the total area of the curtilage. **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 would 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 would 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) forms the principal elevation of the original dwellinghouse; or
- (ii) fronts a highway and forms a side elevation of the original dwellinghouse;

The enlarged part of the dwellinghouse would not extend beyond a wall which forms the principal elevation of the original dwellinghouse or fronts a highway and forms 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;

Subject to paragraph (g), the enlarged part of the dwellinghouse would have a single storey and not extend beyond the rear wall of the original dwellinghouse by more than 4 metres in the case of a detached dwellinghouse or exceed 4 metres in height. **The proposal complies.**

(g) 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 a single storey and -
- (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;

Not applicable.

- (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 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 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 a single storey, or
- (iii) have a width greater than half the width of the original dwellinghouse;

Not applicable.

- (k) it would consist of or include
- (i) the construction or provision of a verandah, 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 or;

The development would not consist of or include any of the developments listed in points (i) to (iv). **The proposal complies.**

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

- (a) it would consist of or include the cladding of any part of the exterior of the dwellinghouse with stone, artificial stone, pebble dash, 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 a single 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 site is not on article 2(3) land.

Conditions

A.3 Development is permitted by Class A subject to the following conditions -

- (a) the materials used in any exterior work (other than materials used in the construction of a conservatory) must 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 must 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.

Class B - The enlargement of a dwellinghouse consisting of an addition or alteration to its roof.

Development not permitted

B.1 Development is not permitted by Class B 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 dwellinghouse 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) any part of the dwellinghouse would, as a result of the works, exceed the height of the highest part of the existing roof;

No part of the dwellinghouse would, as a result of the works, exceed the height of the highest part of the existing roof. **The proposal complies.**

(c) any part of the dwellinghouse would, as a result of the works, extend beyond the plane of any existing roof slope which forms the principal elevation of the dwellinghouse and fronts a highway;

No part of the dwellinghouse would, as a result of the works, extend beyond the plane of any existing roof slope which forms the principal elevation of the dwellinghouse and fronts a highway. **The proposal complies.**

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

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

The cubic content of the resulting roof space would not exceed the cubic content of the original roof space by more than 50 cubic metres. **The proposal complies.**

(e) it would consist of or include -

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

The proposal would not consist of or include the construction or provision of a verandah, balcony or raised platform, or the installation, alteration or replacement of a chimney, flue or soil and vent pipe. Whilst a Juliet balcony is proposed this is not considered to be a balcony for the purposes of permitted development. The permitted development rights define a balcony as 'a platform with a rail, balustrade or parapet projecting outside an upper storey of a building', in this case no platform is proposed. The proposal complies.

(f) the dwellinghouse is on article 2(3) land; or

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

Conditions

B.2 Development is permitted by Class B subject to the following conditions -

- (a) the materials used in any exterior work must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;
- (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
 - (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
 - (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
- (c) any window inserted on a wall or roof slope forming a side elevation of the dwellinghouse must 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.

Conditions (a), (b) and (c) are met.

Interpretation of Class B

B.3 For the purposes of Class B, "resulting roof space" means the roof space as enlarged, taking into account any enlargement to the original roof space, whether permitted by this Class or not.

B.4 For the purposes of paragraph B.2(b)(ii) -

- (a) roof tiles, guttering, fascias, barge boards and other minor roof details overhanging the external wall of the original dwellinghouse are not to be considered part of the enlargement; and
- (b) "rear or side extension" includes an original part of, or a subsequent extension of, the dwellinghouse that extends from the rear or side of the principal part of the original dwellinghouse.

6. Recommendation

Lawful Use Certificate Granted

7. Conditions / Reasons

- 1 The proposed loft conversion and rear extension complies with the criteria laid out in The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended); Schedule 2, Part 1, Class A and Class B. An express grant of planning permission is not therefore required.

The side dormers comply with the criteria laid out in The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended); Schedule 2, Part 1, Class B and an express grant of planning permission is not therefore required.

8. Informatives

Not Applicable.

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