

DELEGATED DECISION OFFICER REPORT

| AUTHORISATION | INITIALS | DATE |
|---|-----------------|---------------------------|
| File completed and officer recommendation: | AC | 13 th Nov 2020 |
| Planning Development Manager authorisation: | SCE | 17.11.2020 |
| Admin checks / despatch completed | CC | 17.11.2020 |
| Technician Final Checks/ Scanned / LC Notified / UU Emails: | BB | 17/11/2020 |

Application: 20/00926/FUL **Town / Parish:** Brightlingsea Town Council

Applicant: Mr Mustak Miah

Address: 33 - 35 High Street Brightlingsea Colchester

Development: Proposed conversion from one 4 bed dwelling in to two x 2 bedroom dwelling houses, with separate gardens.

1. Town / Parish Council

No comments received.

2. Consultation Responses

Essex County Council
Heritage

The property is located in the Brightlingsea Conservation Area. Given the age of the property this could be considered a non-designated heritage asset under the NPPF.

There has been no heritage statement provided as part of this application. Therefore, this application does not have sufficient information regarding the significance of the heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance (Para.189).

As this application currently stands, I recommend the application is refused under paragraph 189 and 196 of the NPPF as it fails to preserve or enhance the character and appearance of the Conservation Area based on the information received.

UU Open Spaces
24.09.2020

Response from Public Realm Open Space & Play

Current Position

There is currently a deficit of 13.68 hectares of play and formal open space in Brightlingsea.

Recommendation

Although there is a deficit of open space and play within Brightlingsea, this development is for the conversion of an existing building. Therefore it is unlikely it will have an impact on the current facilities. No contribution is being requested from Open Spaces on this occasion.

Building Control and
Access Officer
01.09.2020

No comments at this time.

ECC Highways Dept

The observations below are based on submitted material, google earth image dated September 2018. The site is in a central location and it is noted that there are several existing residential properties in the vicinity with no off-street parking. There are existing parking restrictions present outside the existing building and in part on the surrounding streets. There is existing public transport links and a car park close to the premises. Considering these factors, the Highway Authority would not deem the introduction of one additional dwelling at this location to have a severe impact.

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to mitigation and conditions.

3. Planning History

| | | | |
|--------------|---|----------|------------|
| 02/00202/TCA | Fell White Poplar tree in rear garden | Approved | 28.02.2002 |
| 96/01464/FUL | (35 High Street, Brightlingsea) New shop access and replacement shop window with internal alterations | Approved | 18.02.1997 |
| 20/00926/FUL | Proposed conversion from one 4 bed dwelling in to two x 2 bedroom dwelling houses, with separate gardens. | Current | |

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

COM6 Provision of Recreational Open Space for New Residential Development

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

EN17 Conservation Areas

HG1 Housing Provision

HG9 Private Amenity Space

LP1 Housing Supply

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

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

SP1 Presumption in Favour of Sustainable Development

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

HP5 Open Space, Sports & Recreation Facilities

PPL4 Biodiversity and Geodiversity

PPL8 Conservation Areas

Local Planning Guidance

Essex Design Guide

Essex County Council Car Parking Standards - Design and Good Practice

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

Site Description

The application site sits hard on the back-edge of the footpath and is the right hand of a pair of semi-detached buildings. Historically the ground floor was used as financial/professional services. The properties are finished externally in self-coloured roughcast render with a hipped roof over. Access in to the dwelling is through one door to the east flank, unlike its attached neighbour which has the entrance door direct from the pavement.

Description of Proposal

The application proposes the subdivision of the site from one four-bedroom dwelling to two two-bedroomed dwellings. The subdivision occurs through the depth of the building and the rear garden onwards. Externally changes proposed include creating a new entrance to the south elevation (facing the road) and the insertion of a first-floor side facing window.

Assessment

The main planning considerations are:

- Principle of Development;
- Layout, Scale and Appearance;
- Neighbouring Amenities;
- Highway Considerations;
- Biodiversity;
- Financial Contributions - RAMS;
- Financial Contributions - COM6;
- Representations; and,
- Other Considerations.

Principle of Development:

The site is located within the Development Boundary therefore there is no principle objection to the proposal, subject to the detailed considerations discussed below.

Layout, Scale and Appearance:

The Government attach great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people. One of the core planning principles of The National Planning Policy Framework (NPPF) as stated at paragraph 130 is to always seek to secure high quality design.

Saved Policies QL9, QL10 and QL11 aim to ensure that all new development makes a positive contribution to the quality of the local environment, relates well to its site and surroundings particularly in relation to its form and design and does not have a materially damaging impact on the amenities of occupiers of nearby properties. Emerging Policy SP1 reflects these considerations.

There is a mix of commercial, retail and residential properties in the locale; the residential dwellings vary in size – the attached neighbour is an example of a small-scale property. The installation of the new front entrance would replicate that of the attached neighbour. For these reasons the proposal is considered to make a neutral contribution to the quality of the local environment, relates well to its site and surroundings particularly in relation to its form and design.

Amenities of Existing & Future Occupiers:

The NPPF, at paragraph 17 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, 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).

Different dwelling sizes and types provide accommodation for individuals and families with a wide range of expectations and need for private amenity space. "Private amenity space" comprises a private outdoor sitting area not overlooked by adjacent or opposite living rooms or outdoor sitting areas. It will therefore not necessarily always amount to the entire rear garden. Apart from its private recreation function, private amenity space is also important in achieving well laid out development.

Private amenity space shall be provided to new dwellings in accordance with the following standards:- a two bedroom house - a minimum of 75 square metres. In accordance with the policy requiring the area to not be overlooked by adjacent or opposite living rooms or outdoor sitting areas, the proposed dwellings would have sufficient private amenity space.

Although a first-floor side facing window is proposed to the east elevation, this serves a bathroom. As the existing building is a residential dwelling, the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

Overall the proposal is considered to secure a good standard of amenity for future occupants of the proposed dwelling.

Conservation Area

Heritage assets range from sites and buildings of local historic value to those of the highest significance. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations. The character of an area is made up not only by individual

buildings but also their relationship to each other and the sense of place that they create. The setting of a building is therefore a material consideration when assessing the suitability of development proposals in Conservation Areas.

Paragraph 192 of the NPPF requires the Local Planning Authority, when determining applications for development, to take account of the desirability of sustaining and enhancing the significance of heritage assets, the positive contribution that conservation of heritage assets can make to sustainable communities and the desirability of new development making a positive contribution to local character and distinctiveness.

When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Policy EN17 of the Saved Plan (Development within a Conservation Area) requires that development must preserve or enhance the character or appearance of the Conservation Area. Development will be refused where it would harm the character or appearance of the Conservation Area, including historic plan form, relationship between buildings, the arrangement of open areas and their enclosure, grain, or significant natural or heritage features. Emerging Policy PPL8 reflects this consideration.

The Brightlingsea promontory framed by salt marshes, the river and its creeks was settled from an early date. Indeed, the parish was an island until the later 16th century. Brightlingsea was a Royal vill in late Saxon times, the parish church appearing to date from this time or the early Norman period. Medieval Brightlingsea is a typical Essex polyfocal settlement, with the church and hall providing one focus overlooking Arlesford Creek, further foci at Hearse Green and North End Green, and a number of isolated large farmsteads, connected by a network of lanes. Brightlingsea's High Street is framed by triangular greens. To the east was Hearse Green with three windmills: to the west, Street Green stretched to the south west into Gandergoose Green and into the marshes. Lanes ran from the High Street down a gentle slope to the water's edge, where trade was carried on in oysters, fish, copperas (green pigment from naturally-occurring bisulphide of iron) salt and bricks from the brickfields between Brightlingsea and St Osyth. Roman cement created from local septaria (metamorphosed clay nodules) was also traded following its discovery and patenting in 1796. Brightlingsea is still a non-corporate member of Sandwich, the Cinque Port, and the only Cinque Port member outside Sussex and Kent.

The application site is specifically mentioned in the Brightlingsea Conservation Area in the following context:- "Opposite, and significant on the back edge of the footpath is a financial management office, a two storey hipped roof building finished in modern rough render, although some original windows remain at first floor level."

In regards to the development proposed, it is considered that replicating the siting of an entrance door in the forward-facing elevation benefits how the buildings are read. Currently it is not entirely clear that the building is two separate building. The new entrance is considered to improve the presentation of the façade to the streetscene. The proposal introduces one first floor side-facing window; it is considered appropriate to attach a condition to any forthcoming approval that requires the frame to be timber and the window to be panelled to closely reflect some of the original first floor windows.

Overall the proposal is considered to have a neutral impact on the character and appearance of Brightlingsea Conservation Area.

Highways

Paragraph 108 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. Saved Policy QL10 of the adopted Tendring District Local Plan 2007 states that planning permission will only be granted, if amongst other things, access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the

proposal will generate. These objectives are supported by emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

The observations below are based on submitted material, google earth image dated September 2018. The site is in a central location and it is noted that there are several existing residential properties in the vicinity with no off-street parking.

In main urban areas with frequent and extensive public transport, cycling and walking links, the EPOA Parking Standards recommend that a reduced parking standard provision may be applied to residential developments. A reduced parking standard provision level can be applied to this proposal as it is located very close to regular public transport services and public car parking facilities.

In regards to the proposed condition requiring that the applicant provide a financial contribution of £2,000 (index linked) towards the introduction of any future residents parking scheme for the surrounding roads subject to any scheme being put forward by the North Essex Parking Partnership. There are existing parking restrictions present outside the existing building and in part on the surrounding streets. There is existing public transport links and a car park close to the premises. Considering these factors, the Local Planning Authority would not deem the introduction of one additional dwelling at this location to have a severe impact. For this reason it is considered that such a condition would be contrary to Paragraph 55 of the NPPF, requiring that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority.

Recreational Disturbance Avoidance and Mitigation Strategy (RAMS)

Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation. The contribution is secured by unilateral undertaking.

The application scheme proposes a new dwelling on a site that lies within the Zone of Influence (Zol) being approximately 681metres from Colne Estuary (Mid-Essex Coast Phase 2) SPA and Ramsar. Since the development is for 1 dwelling only, the number of additional recreational visitors would be limited and the likely effects on Colne Estuary (Mid-Essex Coast Phase 2) SPA and Ramsar from the proposed development alone may not be significant. However, new housing development within the Zol would be likely to increase the number of recreational visitors to Colne Estuary (Mid-Essex Coast Phase 2) SPA and Ramsar er; and, in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.

A unilateral undertaking has been prepared to secure this legal obligation. This will ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Public Open Space

Paragraph 54 of the National Planning Policy Framework (2019) states Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Paragraph 56 of the NPPF states planning obligations must only be sought where they are necessary to make the development acceptable in

planning terms, directly relate to the development and fairly and reasonably relate in scale and kind to the development.

Policy COM6 of the adopted Tendring District Local Plan 2007 states "For residential development below 1.5 hectares in size, developers shall contribute financially to meet the open space requirements of the development in proportion to the number and size of dwellings built". These sentiments are carried forward within emerging Policy HP5.

In line with the requirements of saved Policy COM6 and emerging Policy HP5 the Council's Open Space Team have been consulted on the application to determine if the proposal would generate the requirement for a financial contribution toward public open or play space. The outcome of the consultation is that no contribution is being requested from Open Spaces on this occasion.

6. Representations

No contributions have been received as a result of the public consultation process.

7. Conclusion

For the reasons set out above, the proposal is considered to represent a sustainable form of development in a location supported by national and local plan policy that will not result in any material environmental or residential harm that warrants refusal of planning permission.

8. Recommendation

Approval – Full

9. 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:- P002 (Proposed Floor Plans And Elevations); received 13th July 2020.

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

- 3 The new first floor side facing window shall be a hardwood traditional casement window, be single glazed, be obscurely glazed and permanently fixed shut.

Reason - In the interests of a high quality design in the Conservation Area.

- 4 Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to first occupation and retained at all times.

Reason - To ensure appropriate cycle parking is provided in the interest of highway safety and amenity.

- 5 Prior to occupation of the proposed dwellings, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack per dwelling, for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator free of charge.

Reason - In the interests of reducing the need to travel by car and promoting sustainable development and transport.

- 6 Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the highway.

Reason - To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety.

10. **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.

Legal Agreement Informative - Recreational Impact Mitigation

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: mitigation against any recreational impact from residential developments in accordance with Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Highways

In main urban areas with frequent and extensive public transport, cycling and walking links, the EPOA Parking Standards recommend that a reduced parking standard provision may be applied to residential developments. A reduced parking standard provision level can be applied to this proposal as it is located very close to regular public transport services and public car parking facilities.

Highways

Steps should be taken to ensure that the Developer provides sufficient turning and off-loading facilities for delivery and site worker vehicles, together with an adequate parking area for those employed in developing the site.

Highways

All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to:

SMO1 - Development Management Team
Ardleigh Depot,
Harwich Road,
Ardleigh,
Colchester, CO7 7LT

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|---|--|----|
| Are there any letters to be sent to applicant / agent with the decision? | | NO |
| Are there any third parties to be informed of the decision? | | NO |