

## DELEGATED DECISION OFFICER REPORT

| AUTHORISATION   | INITIALS | DATE                      |
|---|----------|---------------------------|
| File completed and officer recommendation:                  | AC       | 12 <sup>th</sup> Jan 2021 |
| Planning Development Manager authorisation:                 | SCE      | 12.01.2021                |
| Admin checks / despatch completed                           | ER       | 13/01/2021                |
| Technician Final Checks/ Scanned / LC Notified / UU Emails: | CC       | 13.01.2021                |

**Application:** 20/01471/FUL **Town / Parish:** Brightlingsea Town Council  
**Applicant:** Mr Stephen Beaty  
**Address:** 13 Tower Street Brightlingsea Colchester  
**Development:** Replace partially demolished garage with annexe.

### 1. Town / Parish Council

Brightlingsea Town Council      Contradicts the current policy for Lime Street, also back land development.

### 2. Consultation Responses

No comments received

### 3. Planning History

|                 |  |          |            |
|-----------------|--|----------|------------|
| 13/01041/FUL    | Loft conversion with dormer.                     | Approved |            |
| 20/30169/PREAPP | Habitable lodge.                                 |          | 10.11.2020 |
| 20/01471/FUL    | Replace partially demolished garage with annexe. | 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

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

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 Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF.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) has been examined by an Independent Planning Inspector who issued his final report and recommended 'main modifications' on 10<sup>th</sup> December 2020. The Inspector's report confirms that, subject to making his recommended main modifications (including the removal from the plan of two of the three 'Garden Communities' proposed along the A120 i.e. those to the West of Braintree and on the Colchester/Braintree Border), the plan is legally compliant and sound and can proceed to adoption. Notably, the housing and employment targets in the plan have been confirmed as sound, including the housing requirement of 550 dwellings per annum in Tendring.

The Council is now making arrangements to formally adopt Section 1 of the Local Plan in its modified state and this is expected to be confirmed at the meeting of Full Council on 26<sup>th</sup> January 2021 – at which point will become part of the development plan and will carry full weight in the determination of planning applications – superseding, in part, some of the more strategic policies in the 2007 adopted plan. In the interim, the modified policies in the Section 1 Local Plan, including the confirmed housing requirement, can be given significant weight in decision making owing to their advancement through the final stages of the plan-making process.

The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) is now expected to proceed in 2021 and two Inspectors have already been appointed by the Secretary of State to undertake the examination, with the Council preparing and updating its documents ready for the examination. In time, the Section 2 Local Plan (once examined and adopted in its own right) will join the Section 1 Plan as part of the development plan, superseding in full the 2007 adopted plan.

Where emerging policies are particularly relevant to a planning application and can be given 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.

## **5. Officer Appraisal**

### Site Description

The enquiry relates to rear (east) boundary of the domestic curtilage of 13 Tower Street which is the right-hand of a pair of semi-detached dwellings. An unmade track (known as Lime Street) runs along the rear of the properties on this east side of Tower Street and many of these properties have access and garaging/storage on to Lime Street.

### Description of Proposal

The enquiry relates to the erection of detached single storey annex on the east boundary. The building would have a dual-pitched roof with a ridge height in the region of 5m and eaves just under 2.4m. The footprint of the building is in the region of 5.6m x 10m. Externally the building would be timber-clad and it would have a clay-tiled roof which would contain three rooflights in each slope. Planning permission is required for the building by reason of its height and because it would contain primary living accommodation (in conflict with the requirements of the General Permitted Development Order 2015 (as amended)).

### Principle

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

### Design & 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.

The siting of detached buildings with access on to Lime Street is commonplace in the locale, many of these buildings are of similar height (for example at 73 Tower Street). The scale, siting and external appearance of the proposed building closely reflects other similar approvals in the locale.

### Impact to Neighbouring Amenities

The NPPF, at paragraph 127 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).

Whilst the building is 5m high, it is nonetheless sited at the bottom of the garden which faces easterly and separation distances in excess of 30m from the rear of neighbouring dwellings exist. Although roof-lights are proposed in the north and south roofslopes, no windows are proposed in the west elevation of the mezzanine level. For these reasons the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

### Highway Issues

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 proposal neither generates an additional need for parking nor diminishes the existing parking provision at the site.

## 6. Representations

When a decision is made on a planning application, only certain issues are taken into account that may be relevant to the decision; these are often referred to as 'material planning considerations'.

The weight attached to material considerations in reaching a decision is a matter of judgement for the decision-taker however the decision-taker is required to demonstrate that in reaching that decision that they have considered all relevant matters. Generally greater weight is attached to issues raised which are supported by evidence rather than solely by assertion.

Problems arising from the construction period of any works, e.g. noise, dust, construction vehicles, hours of working (covered by Control of Pollution Acts) are not a material planning consideration.

Land/boundary disputes, damage to property, private rights of access, covenants, ancient and other rights to light etc are not a material planning consideration.

Two objections have been received and the contents are summarised as:-

|  |  |
|--|--|
| Our concern is with the increase in heavy traffic in Lime Street whilst excavation and building works are carried out. | Not a material consideration in the determination of this planning application.  |
| Concerned how the term annex could be interpreted  | Planning permission is sought for an annex, as established by the description of the development on the application form. Planning law defines an annex as 'Accommodation which is ancillary to the main residential dwelling and used for this purpose'; any deviation from the use as an annex may well require an express grant of planning permission. |
| Covenant preventing the use of the lane  | Covenants are not imposed by the Planning Authority as such they are not enforceable by the Planning Authority and for this reason are not a material consideration in the determination of this planning application.   |

The Parish Council object to the application stating the development contradicts the current policy for Lime Street, also back land development.

In response to this; Policy BR4 provides the criteria for determining planning applications for storage of caravans and boats and their trailers on land located immediately to the east of Lime Street. The application does not propose the storage of caravans and boats and their trailers and the site is located to the west of Lime Street; as such an assessment of the development against Policy BR4 would not be relevant in this case.

In response to this; the preamble for Policy HG13 states that applications for "Backland" developments are, for the purposes of the Policy, defined as the proposed erection of one or more dwelling houses on a parcel of land. The application is for a householder annex and not a new dwellinghouse.

## 7. Recommendation

Approval - Full

## 8. 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:- PROPOSED ELEVATIONS (received 16 Oct 2020), PROPOSED FLOOR PLANS (received 05 Nov 2020) and BLOCK PLAN (received 18 Nov 2020).

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

## 9. 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.

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