

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AP	25/05/2021
Planning Development Manager authorisation:	JJ	28/05/2021
Admin checks / despatch completed	DB	28.05.2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	ER	28/05/2021

Application: 21/00482/FUL **Town / Parish:** Frinton & Walton Town Council
Applicant: Mr and Mrs J Trigg
Address: 4 Cliff Way Frinton On Sea Essex
Development: Erection of roof extension to form additional floor and creation of roof terrace

1. Town / Parish Council

FRINTON & WALTON
TOWN COUNCIL
26.04.2021

Recommends: REFUSAL - out of keeping with the street scene and within a conservation area.

This property is one of the finest examples of the original architects work.

In complete agreement with the objections made by Frinton & Walton Heritage Trust.

2. Consultation Responses

Essex County Council
Heritage
28.04.2021

The application is for erection of roof extension to form additional floor and creation of roof terrace.

The building is considered a non-designated heritage asset with regard to the NPPF and located in a Conservation Area.

I do not support this application and recommend it its refused.

Whilst there has been some unfortunate upwards extension of adjacent buildings this should not be considered as a precedent for this scheme. The applicant's Heritage Statement states that Frinton's Seafront is probably one of the best collections of 1930s modern houses in the country. I consider the proposal will detract from this composition.

Considering the individual building, the proposal detracts from the modernist character and architectural quality of the structure. The elevation currently terminates at the parapet of the flat roof with the sky view above. The horizontal emphasis of the design and the lack of vertical emphasis through the sharpe termination of the elevation is a key characteristic of modernist architecture, this proposal does not respect this and detracts from the appreciation of the building's architectural quality.

This building forms a group with adjacent contemporary buildings which are of similar design and height. The installation of a roof extension will detract from the appreciation of this group, views of the streetscape and the special interest of the Conservation Area in this

location.

This proposal will fail to preserve or enhance the character and appearance of the Conservation Area. This harm to a designated heritage asset should be considered under paragraph 196 of the NPPF. The harm to the Conservation Area should also be considered under paragraph 200 and 192 (c) of the NPPF. Harm to the architectural interest of the building as a non-designated heritage asset should be considered under paragraph 197 of the NPPF.

I recommend this application is refused.

3. Planning History

00/01868/FUL	Alterations and extensions to include new "Granny Annexe" and relocate existing kitchen	Approved	26.01.2001
TPC/96/17	Works to 1 Poplar and 1 Beech tree	Current	14.05.1996
01/02108/TCA	Fell Poplar tree	Approved	02.01.2002
03/00004/TCA	Remove one Eucalyptus tree	Approved	10.01.2003
03/00417/TCA	Reduce Beech tree to approx. 2 metres, prune Beech tree, remove small Elderberry and Laburnum trees and prune hedge.	Approved	16.05.2003
06/01897/CON	Proposed rear extension		23.11.2006
06/01898/FUL	Proposed rear extension	Approved	14.02.2007
21/00482/FUL	Erection of roof extension to form additional floor and creation of roof terrace	Current	

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019
National Planning Practice Guidance

Adopted Tendring District Local Plan 2007 (part superseded)
QL9 Design of New Development
QL10 Designing New Development to Meet Functional Needs
QL11 Environmental Impacts and Compatibility of Uses
HG14 Side Isolation
EN17 Conservation Areas
EN23 Development Within the Proximity of a Listed Building

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) (Section 1 adopted on 26th January 2021)
SPL3 Sustainable Design
PPL8 Conservation Areas
PPL9 Listed Buildings

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. In this latter regard, as of 26th January 2021, 'Section 1' of the emerging Local Plan for Tendring (Tendring District Local Plan 2013-2033 and Beyond Publication Draft) has been adopted and forms part of the 'development plan' for Tendring.

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 10th 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 has now formally adopt Section 1 of the Local Plan, in its modified state, at the meeting of Full Council on 26th January 2021, at which point it became part of the development plan and carries full weight in the determination of planning applications – superseding, in part, some of the more strategic policies in the 2007 adopted plan.

The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) will proceed in early 2021 and two Inspectors have 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.

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.

With the adoption of the modified Section 1 of the emerging Local Plan, the Councils 'objectively assessed housing need' of 550 dwellings per annum has been found 'sound' and there is no housing shortfall. The Council is able to report a significant surplus of housing land supply over the 5 year requirement, in the order of 6.5 years.

5. Officer Appraisal

Proposal and Site Description

This application seeks planning permission for a second floor roof extension with a terrace area. The detached house of 4 Cliff Way is located within the settlement development boundary of

Frinton on Sea and lies within the Frinton Park area of the Frinton and Walton Conservation Area. The application property is a two storey dwelling in the modernist style. Heritage officers at ECC Place Service consider the property to be a non-designated heritage asset with regard to the NPPF and (as mentioned above), located in a Conservation Area.

Design, Appearance and Heritage Impact

The Local Planning Authority has a statutory duty to preserve or enhance the character and appearance of Frinton and Walton Conservation Area under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Policy EN17 of the adopted Tendring District Local Plan (2007) seeks to ensure that developments within a conservation area preserves and enhances the conservation area setting. Policy PPL8 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017) seeks to ensure that any new development within a designated Conservation Area, or which affects its setting, will only be permitted where it has regard to the desirability of preserving or enhancing the special character and appearance of the area, especially in terms of: any important views into, out of, or within the Conservation Area.

The adopted Tendring District Local Plan (2007) "saved" Policies QL9, QL10 and QL11 seek to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to their setting and area of a suitable scale, design and materials. Draft Policy SPL3 of the Tendring District Local Plan 2013 - 2013 and Beyond Publication Draft (June 2017) carries forward the sentiments of these saved policies stating that all new development must make a positive contribution to the quality of the local environment and protect or enhance local character.

The application site is located in a highly visible location facing the sea and comprises one of the original modern movement houses on the Oliver Hill planned estate of Frinton Park. It is considered that No. 4 Cliff Way makes a considerable contribution to the street scene and the Conservation Area by way of its modern movement design and architectural details in a prominent position on the sea front signifying its consideration as a non-designated heritage asset.

The proposal seeks to construct a second floor extension which is 11.98 metres in width, 4.995 metres in depth with a terrace area of approximately 42 square metres. The scale of the proposal is such that it dominates the dwelling and its angular design detracts from the curves of the original dwelling. The parapet wall will be raised thereby impacting on the height relationship of the neighbouring properties of 5 and 6 Cliff Way, and the Round House. The proposal introduces new materials such as the glass balustrade and aluminium framed louvre which fails to satisfactorily relate to the existing dwelling or the neighbouring dwellings of numbers 5 and 6 Cliff Way and the Round House to the detriment of the conservation area. It is accepted that an upward extension has been granted permission on the dwelling next door of 3 Cliff Way, however this house does not fall within the conservation area and has been historically altered. The dwellings of 4, 5, 6 Cliff Way and the Round House form a group of two storey modern movement houses however it is acknowledged that 5 Cliff Way did originally have a pitched roof.

The Conservation Area appraisal specifically refers to the modern movement houses along this part of Cliff Way as follows: *"On the corner with Cliff Way is the listed former Estate Office, now a dwelling known as the Round House...Cliff Way itself enjoys delightful prospects in all directions. Only the first four properties are in the Area: three of them are Modern Movement, and constitute one of the finest sequences combining the well-known cubical design aesthetic with large scale curved facades in the Round House itself and in the curved sun-trap projections of its neighbours"*.

Essex County Council Place Services have been consulted for their heritage advice. They confirm the following and recommend refusal of the application. *"This proposal will fail to preserve or enhance the character and appearance of the Conservation Area. This harm to a designated heritage asset should be considered under paragraph 196 of the NPPF. The harm to the Conservation Area should also be considered under paragraph 200 and 192 (c) of the NPPF. Harm to the architectural interest of the building as a non-designated heritage asset should be considered under paragraph 197 of the NPPF"*.

4 Cliff Way is a private dwelling and the proposal seeks to extend the dwelling for private use. There is no public benefit that outweighs the harm in this case. The significance of 4 Cliff Way as a non-designated heritage asset lies in its architectural interest and research would also likely highlight attributes of local historic interest. The position of 4 Cliff Way in an elevated sea front position within the Conservation Area and the setting of the Listed Building of the Round House bring together the setting within which 4 Cliff Way makes a significant contribution.

The applicant through the agent has submitted a heritage statement in support of the application. Officers have had regard to this statement which confirms the design details and that it was influenced by the modern movement architect Serge Chermayeff. Additional information has also been put forward which provides examples of rooftop extensions to other Oliver Hill buildings, however it is considered that this does not provide sufficient justification for the proposed alterations. In any event, each application should be considered on its individual planning merits having regard to the character of the area and special designations in place (in this instance a conservation area).

Impact upon residential amenity

The adopted Tendring District Local Plan (2007) "saved" Policy QL11 seeks to ensure that all new developments will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties. Draft Policy SPL3 of the Tendring District Local Plan 2013 - 2018 and Beyond Publication Draft (June 2017) echoes these sentiments.

The proposal provides a living area and bathroom at second floor level and provides a roof terrace to the front. The proposal includes four rear facing windows, one long high level south side facing window and a wall of glazed doors facing the front. Although the second floor extension is set in from the rear elevation of the house, the rear facing windows will allow direct and harmful overlooking to the rear of the properties and private sitting out areas in the gardens of properties in Waltham Way which is considered unacceptable. It is acknowledged that first floor rear facing windows already exist however these serve bedrooms and are less likely to be occupied during the day. In addition, the proposed terrace, although at the front will allow views to the north eastern side, towards 5 Cliff Way and harmful overlooking of the first floor private terrace of this property. The existing first floor side facing windows at 4 Cliff Way serve two bathrooms and are set further back so as not to cause overlooking.

Due to the positioning of the second floor extension and terrace there will be no significant loss of light to any neighbouring properties.

The current off road car parking provision and existing garden space will not be affected by the proposal.

Other considerations

Frinton and Walton Town Council recommend refusal of the application.

12 representations objecting to the proposals raise the following concerns:

- Overdevelopment
- Unbalanced street view
- Overlooking
- Detrimental effect on historic character and appearance of the conservation area
- Set a precedent
- Direct overlooking and loss of privacy for the occupiers of 5 Cliff Way
- Negative impact and erode the character of the current historic landscape
- Reduce our daylight
- Not in keeping with the original Art Deco design
- Unsympathetic and ill considered
- Nationally important group of modernist houses

These concerns have been addressed in the report.

One letter of support has been received

No other letters of representation have been received.

Conclusion

For the reasons set out above, the scale, size and form of the proposed extension together with the design and appearance and increased risk of overlooking amounts to a form of development that is considered contrary to national and local policies as well as being harmful to the character and appearance of the conservation area.

6. Recommendation

Refusal - Full

7. Reasons for Refusal

1. The Local Planning Authority has a statutory duty to preserve or enhance the character and appearance of Frinton and Walton Conservation Area under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Policy EN17 of the adopted Tendring District Local Plan (2007) seeks to ensure that developments within a conservation area preserves and enhances the conservation area setting. Policy PPL8 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017) seeks to ensure that any new development within a designated Conservation Area, or which affects its setting, will only be permitted where it has regard to the desirability of preserving or enhancing the special character and appearance of the area, especially in terms of: any important views into, out of, or within the Conservation Area.

The adopted Tendring District Local Plan (2007) "saved" Policies QL9, QL10 and QL11 seek to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to their setting and area of a suitable scale, design and materials. Draft Policy SPL3 of the Tendring District Local Plan 2013 - 2013 and Beyond Publication Draft (June 2017) carries forward the sentiments of these saved policies stating that all new development must make a positive contribution to the quality of the local environment and protect or enhance local character.

The application site is located in a prominent position facing the sea and comprises one of the original modern movement houses on the Oliver Hill planned estate of Frinton Park. 4 Cliff Way makes a considerable contribution to the street scene and the Conservation Area by way of its modern movement design and architectural details in a prominent position on the sea front signifying its consideration as a non-designated heritage asset.

The proposal seeks to construct a second floor extension which is 11.98 metres in width, 4.995 metres in depth with a terrace area of approximately 42 square metres. The scale of the proposal is such that it dominates the dwelling and its angular design detracts from the curves of the original dwelling. The parapet wall will be raised thereby impacting on the height relationship of the neighbouring properties of 5 and 6 Cliff Way, and the Round House. The proposal introduces new materials such as the glass balustrade and aluminium framed louvre which fails to satisfactorily relate to the existing dwelling or the neighbouring dwellings of numbers 5 and 6 Cliff Way and the Round House to the detriment of the conservation area.

No. 4 Cliff Way is a private dwelling and the proposal seeks to extend the dwelling for private use. There is no public benefit that outweighs the harm in this case. The significance of 4 Cliff Way as a non-designated heritage asset lies in its architectural interest and research would also likely highlight attributes of local historic interest. The position of 4 Cliff Way in an elevated sea front position within the Conservation Area and the setting of the Listed Building of the Round House bring together the setting within which 4 Cliff Way makes a significant contribution.

For the reasons set out above, the scale, size and over-dominant form of the proposed extension together with the design and appearance will result in an unacceptable and

unduly prominent form of development to the serious detriment of visual amenity which would harm the character and appearance of the non-designated heritage asset of No. 4 Cliff Way and of the Conservation area and conflict with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the NPPF and the aforementioned Development Plan Policies.

2. The adopted Tendring District Local Plan (2007) "saved" Policy QL11 seeks to ensure that all new developments will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties. Draft Policy SPL3 of the Tendring District Local Plan 2013 - 2018 and Beyond Publication Draft (June 2017) echoes these sentiments.

The proposal provides a living area and bathroom at second floor level and provides a roof terrace to the front. The proposal includes four rear facing windows, one long high level south side facing window and a wall of glazed doors facing the front. Although the second floor extension is set in from the rear elevation of the house, the rear facing windows will allow direct and harmful overlooking to the rear of the properties and private sitting out areas in the gardens of properties in Waltham Way. It is acknowledged that first floor rear facing windows already exist however these serve bedrooms and are less likely to be occupied during the day. In addition, the proposed terrace, although at the front will allow new and harmful views to the north eastern side, towards 5 Cliff Way and harmful overlooking of the first floor private terrace of this property.

For the reasons set out above, the direct overlooking will be materially damaging to the occupiers of nearby properties and in conflict with the aforementioned Development Plan Policies.

8. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

<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>