

## **DELEGATED DECISION OFFICER REPORT**

<b>AUTHORISATION</b>	<b>INITIALS</b>	<b>DATE</b>
File completed and officer recommendation:	CC	07.06.2021
Planning Development Manager authorisation:	SCE	09.06.2021
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**Application:** 21/00551/LUPROP      **Town / Parish:** Frinton & Walton Town Council

**Applicant:** Mr Dean

**Address:** 155 Thorpe Road Kirby Cross Frinton On Sea

**Development:** Proposed outbuilding to be used ancillary to main dwelling

### **1. Town / Parish Council**

FRINTON & WALTON  
TOWN COUNCIL      NOTED  
24.05.2021

### **2. Consultation Responses**

Not Applicable

### **3. Planning History**

21/00551/LUPR      Proposed outbuilding to be used      Current  
OP      ancillary to main dwelling

### **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 Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF.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. In this latter regard, as of 26<sup>th</sup> 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 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 has now formally adopt Section 1 of the Local Plan, in its modified state, at the meeting of Full Council on 26<sup>th</sup> 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.

## **5. Officer Appraisal (including Site Description and Proposal)**

### Application site

The application site serves a detached dwelling located towards the South of Thorpe Road, within the development boundary of Frinton-On-Sea.

### Proposal

The application seeks the issuing of a Lawful Development Certificate for the erection of an outbuilding to be used ancillary to the main dwelling.

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.

### Planning History

No historic decisions have been found that remove the permitted development rights of the property.

### Assessment

### General Permitted Development Order



The purpose of this application is to establish whether the proposed development is permitted development, for the determination of the application reference needs to be made to the Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 1, Class E.

Class E – buildings etc incidental to the enjoyment of a dwellinghouse

E.1 Development is not permitted by Class E 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);

**Not Applicable**

- b) the total area of ground covered by buildings, enclosures and containers within the curtilage (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse);

**The total ground covered would not exceed 50% of the total area of the curtilage. The proposal complies.**

- c) any part of the building enclosure pool or container would be situated on land forward of a wall forming the principal elevation of the original dwellinghouse;

**The proposal is situated to the rear of the site. The proposal complies**

- d) the building would have more than one storey;

**The proposal is single storey. The proposal complies.**

- e) the height of the building, enclosure or container would exceed –

- (i) 4 metres in the case of a building with a dual-pitched roof,
- (ii) 2.5 metres in the case of a building, enclosure or container within 2 metres of the boundary of the curtilage of the dwellinghouse or;
- (iii) 3 metres in any other case;

**The height of the proposal will not exceed 2.5 metres. The proposal complies.**

- f) the height of the eaves of the building would exceed 2.5 metres

**The height of the eaves will not exceed 2.5 metres. The proposal complies.**

- g) the building, enclosure, pool or container would be situated within the curtilage of a listed building;

**The proposal is not situated within the curtilage of a listed building. The proposal complies.**

- h) it would include the construction or provision of a veranda, balcony or raised platform;

**The proposal does not include the construction or provision of a veranda, balcony or raised platform. The proposal complies.**



- i) it relates to a dwelling or a microwave antenna; or

**Not Applicable**

- j) the capacity of the container would exceed 3,500 litres

**Not Applicable**

E.2 In the case of any land within the curtilage of the dwellinghouse which is within –

- (a) a World Heritage Site,
- (b) a National Park,
- (c) an area of outstanding natural beauty,
- Or
- (d) the Broads.

**The site is not located within any of the areas mentioned at (a)-(d) above. The proposal complies.**

E.3 In the case of any land within the curtilage of the dwellinghouse which is **article 2(3) land**, development is not permitted by Class E if any part of the building, enclosure, pool or container would be situated on land between a wall forming a side elevation of the dwelling house and the boundary of the curtilage of the dwellinghouse.

**The site is not located within article 2(3) land. The proposal complies**

#### Other Considerations

One letter of representation has been received from a member of the public objecting to the application stating the following;

"I have only just noticed this application why checking if Taylor Wimpey have made any more recent applications/amendments on the new housing estate in Thorpe road. There have been no orange public notices outside 155 and we have not received written notification as a direct neighbour. The plans submitted seem very vague with no height mentioned, material used or CMS. The "Flexible area incidental to use of the main dwelling" is not clear as is the Ancillary use to the main dwelling description?

There is currently a period brick built garage/outbuilding which is not on the new block plan. Is this being demolished? If it is it will make a strip of land available that TW could attempt to purchase to widen the lane at 157 to make way for a site entrance/road that they initially wanted and were stopped. I have just spent a lot of time fighting Taylor Wimpey to stop the use of the lane at 157 as a site entrance. This is of great concern as another entrance to the new development is desperately needed in the view of many long term residence in Thorpe road."

Officer response – there is no statutory requirement to consult third parties, including parish councils or neighbours on application for a lawful development certificate and therefore no site notice has been posted and no neighbour consultation letters were posted for this application.

With regards to the concerns over the vagueness of the plans submitted, the drawings do measure to scale and the height of the outbuilding is shown to be 2.5 metres. The proposed outbuilding has been assessed under the Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 1, Class E, and is deemed to be of permitted development, no further details regarding materials etc. were



necessary in determining this application. Planning Permission is also not required should the existing outbuilding be demolished. The concerns raised over the possible purchase of the strip of land mentioned is not a material planning consideration in this application and has therefore not been assessed as such.

### Conclusion

The proposed outbuilding meets all of the relevant criteria as set out above and it must be concluded to be permitted development. The Lawful Development Certificate for the proposed development can therefore be issued.

### **6. Recommendation**

Lawful Use Certificate Granted

### **7. Conditions / Reasons for Refusal**

- 1 The proposed development constitutes Permitted Development by virtue of the provisions of Schedule 2, Part 1 Class E of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended).

### **8. Informatives**

Not Applicable.

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