

## **DELEGATED DECISION OFFICER REPORT**

<b>AUTHORISATION</b>	<b>INITIALS</b>	<b>DATE</b>
File completed and officer recommendation:	CC	19.07.2021
Planning Development Manager authorisation:	SCE	21.07.2021
Admin checks / despatch completed	DB	22.07.2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	22.07.2021

**Application:** 21/00936/LUPROP **Town / Parish:** Frinton & Walton Town Council

**Applicant:** Mr Lane

**Address:** 4 Cedar Close Walton On The Naze Essex

**Development:** Erection of single storey extension to existing garage to provide garden room

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

FRINTON & WALTON  
TOWN COUNCIL  
28.06.2021

NOTED

### **2. Consultation Responses**

Not Applicable

### **3. Planning History**

20/30156/PREAPP	Proposed extension of existing garage to create storage area and garden room to side and rear.	11.09.2020
21/00936/LUPRO P	Erection of single storey extension to existing garage to provide garden room	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 Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF.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. 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)**

### Proposal

The application seeks a Lawful Development Certificate for a Proposed Development, in this case a single storey extension to existing garage to provide garden room at 4 Cedar Close Walton on The Naze CO14 8NJ.

The proposed extension will measure approximately 3.9 metres wide by 2.7 metres deep and have an overall height of 3.1 metres.

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 extension.

### Assessment

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

### Planning History

No previous applications have been found to restrict the permitted development rights of the site.

### General Permitted Development Order

This application seeks a Lawful Development Certificate for a proposed development, relating to the construction of a single storey extension to existing garage to provide garden room. 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, as amended.

The proposed rear extension has been assessed under schedule 2, Part 1, Class A of the Order addressing the enlargement, improvement or other alteration of a dwellinghouse.

A.1 Development 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 dwelling house 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) 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);

The total area of ground covered by buildings within the curtilage of the dwellinghouse (other than the original dwellinghouse) does not exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse); **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 does 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 do 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) fronts a highway, and  
(ii) forms either the principal elevation or a side elevation of the original dwellinghouse;

The enlarged part of the dwellinghouse does not extend beyond a wall which fronts a highway nor forms either the principal elevation or 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;

The enlarged part of the dwellinghouse does have a single storey and—

(i) Does not extend beyond the rear wall of the original dwellinghouse by more than 4 metres in the case of a detached dwellinghouse,  
(ii) Does not exceed 4 metres in height;

**The proposal complies**

(g) until 30th May 2019, 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;

The dwellinghouse is not on article 2(3) land nor on a site of special scientific interest, the enlarged part of the dwelling house does have a single storey and

- (i) Does not extend beyond the rear wall of the original dwellinghouse by more than 8 metres in the case of a detached dwellinghouse
- (ii) Does not exceed 4 metres in height

**The proposal complies**

- (h) the enlarged part of the dwellinghouse would have more than one storey and would—
- (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;

The enlarged part of the dwellinghouse does not have more than one storey. **The proposal complies.**

- (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 proposed extension will be constructed along the boundary line, however the height of the eaves of the enlarged part does 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 one storey, or
  - (ii) have a width greater than half the width of the original dwellinghouse; or

(ja) 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 (e) to (j);

The enlarged part of the dwellinghouse does not extend beyond a wall forming a side elevation of the original dwellinghouse. **The proposal complies.**

Any total enlargement (being the enlarged part together with any existing enlargement of the original dwellinghouse to which it will be joined) does not exceed the limits set out in sub-paragraphs (e) to (j). **The proposal complies.**

- k) it would consist of or include —
  - (i) the construction or provision of a veranda, 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.

The proposal does not consist of nor include the construction or provision of a veranda, balcony or raised platform; the installation, alteration or replacement of a microwave antenna; the installation, alteration or replacement of a chimney, flue or soil and vent pipe; nor an alteration to any part of the roof of the dwellinghouse. **The proposal complies.**

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

- (a) it would consists of or include the cladding of any part of the exterior of the dwellinghouse with, artificial stone, pebble sash, 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 one 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 dwellinghouse is not on article 2(3) land. **The proposal complies.**

#### 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) shall 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 shall 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.";

The proposal complies with conditions A.3 (a), (b) (i) (ii) and (c).

#### Other considerations

Frinton and Walton Town Council have noted the application and made no objections to the proposal.

No other letters of representation have been received.

#### Conclusion

The proposed rear extension meets all the relevant criteria as set out above; it is concluded therefore that the proposed development constitutes Permitted Development and the Lawful Development Certificate should 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 A of the Town & Country planning (General Permitted Development) (England) Order 2015 (as amended).

## **8. Informatives**

Not Applicable.

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