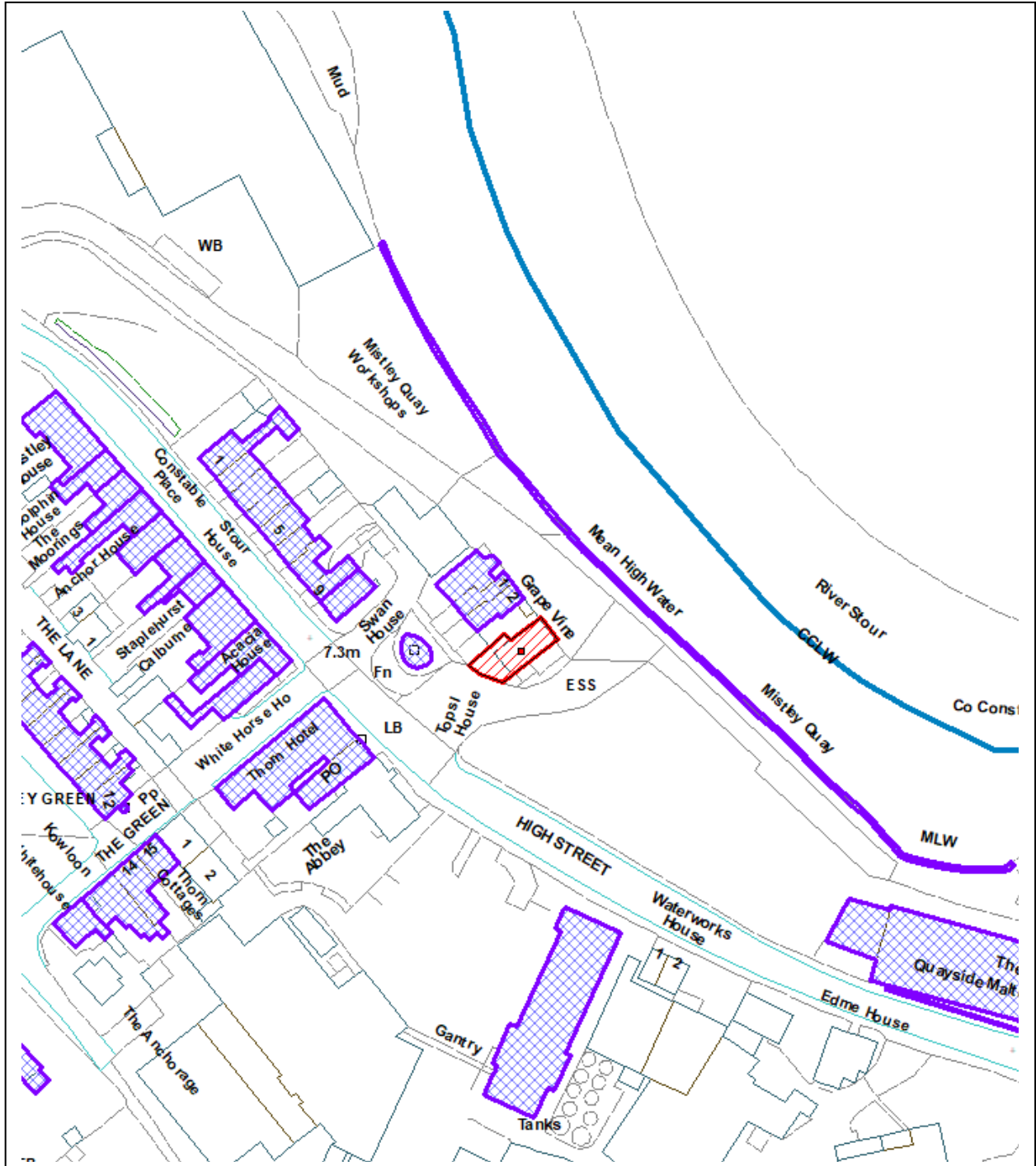


PLANNING COMMITTEE

28TH SEPTEMBER 2021

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.4 PLANNING APPLICATION – 21/00040/FUL – TOPSL HOUSE HIGH STREET MISTLEY MANNINGTREE ESSEX



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Application: 21/00040/FUL

Town / Parish: Mistley Parish Council

Applicant: Sarah Misra & Julia Hegelstad

Address: Topsl House High Street Mistley Manningtree Essex CO11 1HB

Development: Proposed external changes to fenestration including; the change of a window to a door to the front elevation, a change of a window to a door to the Quay elevation, a change from a door to a window to the side elevation and erection of a safety hand rail.

1. **Executive Summary**

- 1.1 This application has been referred to Planning Committee at the request of Councillor Coley due to concerns with the building being listed and being in a Conservation Area, the introduction of a stairway access to the first floor, change of use of the first floor to residential, the building is located on the edge of a busy working dock and parking issues.
- 1.2 This application seeks planning permission for external changes to the fenestration including; the change of a window to a door to the front elevation, a change of a window to a door to the Quay elevation, a change from a door to a window to the side elevation and erection of a safety hand rail.
- 1.3 The application site is located within the settlement development boundary as defined within both the adopted Tendring District Local Plan 2007 and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017. The application is located within the Conservation Area and adjacent to a Grade II Listed Building.
- 1.4 ECC Heritage have been consulted and have no objections subject to conditions relating to the details of the handrail and further details of the windows and doors.
- 1.5 The proposals are not considered to cause any impact upon the neighbouring amenities.
- 1.6 Mistley Parish Council recommends this application for refusal and one letter of objection has been received.

Recommendation:

That the Head of Planning be authorised to grant planning permission for the development subject to:-

- a) Subject to the conditions stated in section 8.2

2. **Planning Policy**

The following Local and National Planning Policies are relevant to this planning application.

This planning application was first submitted when the NPPF - National Planning Policy Framework February 2019 was in place. During the LPA assessment phase of the development proposals, a

revised version of the National Planning Policy Framework (NPPF 2021) was published by the Ministry of Housing, Communities and Local Government (MHCLG) with revisions to both the NPPF and National Model Design Guide (NMDG), following consultation in January 2021. Among the key changes to the NPPF are updated policies aiming to improve the design of new developments, in response to the findings of the government's Building Better, Building Beautiful Commission. Due regard is given to both the NPPF 2019 as well as the NPPF 2021 (collectively referred to as the 'NPPF' in the remainder of this report) and as part of the assessment of this planning application.

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Adopted Tendring District Local Plan 2007 (part superseded)

QL11 Environmental Impacts and Compatibility of Uses (part superseded)

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)

Relevant Section 2 Policies (emerging)

PPL8 Conservation Areas

PPL9 Listed Buildings

SPL1 Managing Growth

Status of the Local Plan

- 2.1 Planning law requires that decisions on planning applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework 2021 (the Framework).
- 2.2 The 'development plan' for Tendring comprises, in part, the 'saved' policies of the 2007 Local Plan. Paragraph 219 of the Framework allows local planning authorities to give due weight to policies adopted prior to its publication according to their degree of consistency with the policies in the Framework. On the 26th January 2021 Section 1 of the 2013-2033 Local Plan was adopted and now also forms part of the 'development plan' for Tendring, superseding some of the more strategic policies in the 2007 Local Plan. Notably, the housing and employment targets were found sound and have been fixed, including the housing requirement of 550 dwellings per annum.
- 2.3 Paragraph 48 of the Framework 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 the policies of the Framework. In this regard 'Proposed Modifications' to emerging Section 2 of the 2013-33 Local Plan which contains more specific policies and proposals for Tendring has been examined and hearing sessions have now closed. The main modifications recommended to make the plan legally compliant and sound were considered at the Council's Planning Policy and Local Plan Committee on 29th June 2021. The Council is holding a six week public consultation on the Main Modifications and associated

documents, which began on 16th July 2021. The consultation will run for just over 6 weeks, closing at 5pm on 31st August 2021, following which adoption is expected later this year. Section 2 will join Section 1 as part of the development plan, superseding in full the 2007 Local Plan. Section 2 of the 2013-33 Local Plan is therefore at a very advanced stage of preparation and should be afforded considerable weight.

3. **Relevant Planning History**

94/00764/FUL	(4 Grape Vine, Mistley Quay, Mistley) Alterations to existing offices	Approved	16.09.1994
21/00046/FUL	Proposed external staircase, balcony, window to a door to the quay elevation and a window to a door to the north west elevation.	Current	

4. **Consultations**

Essex County Council Heritage

- 4.1 The application is for external changes to fenestration including; the change of a window to a door to the front elevation and a change of a window to a door to the Quay elevation.
- 4.2 The building is situated within Manningtree and Mistley Conservation Area in Character Area 4 - The planned town along the High Street. Concerns were outlined within the first response regarding the potential impact to the significance of the Conservation Area and nearby listed buildings. Further information and clarification were requested to understand this potential impact and this has been provided.
- 4.3 There are elements within the application that are acceptable in principle, but further detail is required to ensure that they will be in keeping with the character and appearance of the Conservation Area and do not impact the surrounding listed buildings. As such the following conditions should be applied:
 - Details of the types and colours of all external materials, including the handrail, shall be submitted to and approved by the Local Planning Authority in writing prior to their first use on site.
 - Additional drawings that show details of any new windows and doors by section and elevation at scales between 1:20 and 1:1 as appropriate, shall be submitted to and approved by the Local Planning Authority in writing prior to their first construction or installation on site.
- 4.4 Subject to the conditions, there is no objection to these works as the proposals are considered to be compliant with Section 16 of the NPPF.

5. **Representations**

- 5.1 Mistley Parish Council have commented on this application and have stated that this application be refused on the grounds of this being an inappropriate development in this area, the proposal would change the structure of the building significantly and adversely affect the character in the Conservation Area - which is near to many listed buildings, the loss of residential amenity to neighbours, no parking provision and non-viability of a business in this area.

1 letter of objection has been received raising the following concerns:

- Concern raised in regards to the proposal to change a window to a door on the ground floor to allow flood water to escape – it should be noted in 2013 there was a storm surge. Topsl House did not flood due to the water coming up to the bottom of the 3 existing windows. If a door had been there the water would have breached the door and flooded the building. This meant water did not egress into our adjoining property - 3 Grapevine Cottage.

5.2 *This comment has been noted; such a change does not amount to operational development under S55 of the Town and County Planning Act 1990 as it would not materially affect the external appearance of the building*

- Concerns raised that it should be noted that in April 2011 Tendring District Council brought in Article 4 Direction to cover Mistley Quay and this goes right up to the properties along the quay - this may remove permitted development – such as changes to doors and windows and even the change of use of a building (for example to a café).

5.3 *In response to the concern raised, the article 4 direction relates to Part 2, Schedule 2, Class A which is for the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure.*

- The change from a door to a window on the quay will lead to an increase of noise and disturbance to neighbouring cottages, including our house -3 Grapevine Cottage – this will be particularly relevant should the building be a café because it adjoins a residential dwelling.

5.4 *This application is to assess the external changes only and the proposal has been addressed within the report. The use of the building is not being assessed within this application.*

6. Assessment

Site Context

6.1 The application site relates to Topsl House, which is a two storey building located within the settlement boundary of Manningtree and located within the Conservation Area.

The building is located to the end of the row of buildings with views over the Quay and adjacent Grade II Listed Building.

Proposal

6.2 This application seeks planning permission for external changes to fenestration including; the change of a window to a door to the front elevation, a change of a window to a door to the Quay elevation, a change from a door to a window to the side elevation and erection of a safety hand rail.

6.3 This application originally was for the change of use from an office (Class E (g) (i) to sale of food and consumption mostly on premises (Class E (b)). Due to recent changes to the use class order introduced by the Government, this change of use no longer requires planning permission and is considered permitted development. Therefore, this is not being assessed within this application.

This application is to assess external changes only.

Principle of Development

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

Design and Appearance (including Heritage Assessment)

- 6.5 Adopted Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design which responds positively to local character and context. Emerging Policies SPL3 and LP4 of Section 2 of the 2013-33 Local Plan also require, amongst other things, that developments deliver new dwellings that are designed to high standards and which, together with a well-considered site layout, create a unique sense of place - avoiding the use of ubiquitous standard house types. Paragraph 130 of the Framework requires that developments are visually attractive as a result of good architecture, are sympathetic to local character, and establish or maintain a strong sense of place.
- 6.6 Policy EN17 of the Tendring District Local Plan 2007 and Policy PPL8 of the Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document (July 2016) state that development within a Conservation Area must preserve or enhance the special character or appearance of the Conservation Area.
- 6.7 Policy EN23 of the Tendring District Local Plan 2007 states that proposals for development that would adversely affect the setting of a Listed Building, including group value and long distance views will not be permitted, emerging Policy PPL9 reflects these considerations.
- 6.8 The proposed works comprise of the following: the change of a window to a door to the front elevation, a change of a window to a door to the Quay elevation, a change from a door to a window to the side elevation and erection of a safety hand rail will all be visible to the streetscene of High Street and along the Quay.
- 6.9 The fenestration changes are considered to be a neutral change to the existing building and the introduction of a hand rail is considered a minor addition which is not considered to cause any harm to the visual amenity and character of the area or streetscene.
- 6.10 As the application relates to the Conservation Area and is adjacent to a Grade II Listed Building, ECC Heritage have been consulted on this application and raise no objection to the application subject to the imposition of a planning conditions to seek details of the types and colours of all external materials, including the handrail. These details are to be submitted prior to their first use on the site. Furthermore, additional drawings that show details of any new windows and doors by section and elevation at scales between 1:20 and 1:1 as appropriate, are to be submitted to and approved by the Local Planning Authority in writing prior to their first construction or installation on site.

Impact upon neighbouring amenities

- 6.11 The NPPF, at paragraph 130 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. Adopted Policy SP7 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) requires that all new development protects the amenity of existing and future residents and users with regard to noise, vibration, smell, loss of light, overbearing and overlooking.
- 6.12 Due to the external changes being to the ground floor, it is considered that the changes to the fenestration as well as the erection of the handrail, will not cause any significant impact upon the neighbouring amenities.

7 Conclusion

- 7.1 The proposed works are considered acceptable subject to conditions relating to the details of the handrail as well as the details of the windows and doors. The proposed works will not result in any harm to neighbouring amenities.

8 Recommendation

- 8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives.

Conditions and Reasons

- 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:

- Drawing No. TH04 REV 7

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

- 3 Before any work is commenced drawings to a scale of not less than 1:20 fully detailing the new windows and doors and their surrounds to be used and indicating: materials; cross sections for glazing bars, cills, heads etc at a scale of 1:20; and method of glazing shall be submitted to and approved in writing by the Local Planning Authority. The approved works shall be installed/carried out in complete accordance with the approved details.

Reason - The application relates to a building in the Conservation area and adjacent to a Grade II Listed building and therefore such details are necessary in order to preserve and enhance the historic character.

- 4 No development shall be commenced until a schedule of external finish materials including the handrail shall be submitted to and agreed, in writing, by the Local Planning Authority. Such materials as may be agreed shall be those used in the development and permanently maintained as such.

Reason - To ensure materials are of a very high quality to respect the building and its setting.

Informatives

Positive and Proactive Statement

- 8.2 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.

9 Additional Considerations

Public Sector Equality Duty (PSED)

- 9.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
- 9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- 9.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
- 9.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.
- 9.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 9.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

Human Rights

- 9.8 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 9.9 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).
- 9.10 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Finance Implications

- 9.11 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.

10 Background Papers

- 10.1** In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report) also form background papers. All such information is available to view on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.