



**Application:** 21/00046/FUL

**Town / Parish:** Mistley Parish Council

**Applicant:** Sarah Misra & Julia Hegelstad

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

**Development:** Proposed external staircase, balcony, window to a door to the quay elevation and a window to a door to the north west elevation.

## 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 the external staircase, balcony, window to a door to the quay elevation and a window to a door to the north west elevation.
- 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 an objection to the proposed balcony however no objections to the other elements subject to conditions relating to the staircase details and further details of the windows and doors.
- 1.5 The proposals are not considered to cause any impact upon the neighbouring amenities.

Mistley Parish Council recommends this application for refusal and 7 letters of objection have been received (two from the same address).

### **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 26<sup>th</sup> 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 29<sup>th</sup> June 2021. The Council is holding a six week public consultation on the Main Modifications and associated documents, which began on 16<sup>th</sup> July 2021. The consultation will run for just over 6 weeks, closing at 5pm on 31<sup>st</sup> 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
21/00040/FUL	Proposed 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.	Current	

### **4. Consultations**

#### Essex County Council Heritage

- 4.1 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 has been provided.
- 4.2 The balcony is not considered acceptable and unsympathetically interjects with the bay window and should be omitted from the application to preserve the character of the building. The detailing is not considered in keeping with the character of the building or to the character and appearance of the Conservation Area, contrary to Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The harm to the significance of the Conservation Area is a small level of 'less than substantial' and paragraph 202 of the NPPF is relevant. Regard should also be given to paragraph 199 which affords great weight to the conservation of heritage assets.
- 4.3 However, if the balcony is omitted from the proposals, 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 external stair, 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.

### **5. Representations**

- 5.1 Mistley Parish Council have commented on this application and have stated that the Parish Council's Planning Committee recommended 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.
- 5.2 7 letters of objection (two letters from the same address) have been received raising the following concerns:

- A concern has been raised in regards to the proposed alternations and additions to Topsl House which seem to undermine the character of the three dwellings next door. The stairs and railings going up the exterior appears to join number three takes away what the Council have fought hard to preserve which is that the unique row of cottages stand apart from the buildings around it. I cannot see the benefit or the need for this staircase to be external.

5.3 *ECC Heritage have been consulted on this application and have provided their comments within the report.*

- A concern that the proposal impacts negatively on the Swan Basin and the environs. Proposed external staircase would be extremely detrimental to the delicately balanced Georgian characteristics of this focal point of the village.

Concerns of the impact the proposed development will have upon the neighbours.

*The impact upon the neighbours has also been addressed within the report.*

- Concerns that the proposed staircase and balcony would increase human traffic and therefore noise, as would a change of use from office to a cafe or flat.

*The Café/flat is not being considered within this application, this application is assessing the external changes only.*

- Concerns that the staircase will obstruct the right to ancient light of a 1<sup>st</sup> floor Georgian window on the the east side of Grape Vine Cottages.

*The impact of the staircase has been addressed within the report.*

- Concerns raised why the stairs cannot be build inside the building and to reduce the number of bedrooms to accommodate.

*The application is determined based on the plans submitted. Please note the application is for external changes only.*

- Concerns that no information has been given of the construction of the screen/wall or how it will be attached.

*The agent has confirmed that the current front door will be relocated to the screen. The screen will be rendered and painted to match the existing render. The screen will also not be attached to the neighbouring property.*

- Concerns that the existing passage to the office entrance is south facing and has sunlight all day. A screen will create an enclosed yard and would limit light and create damp.

*The proposed screen will allow for light above and to the side it will reduce the light from south west only and therefore is not considered to cause any significant impact.*

- Concerns in regards to the conversion of the first floor to the flat including the existing velux window and loss of privacy.

*This application is to assess the external changes and not a change of use application and therefore this has not been taken into consideration when determining this application.*

- Concern raised in regards to a letter dated 1995 which states: 'The property in question is presently used as offices. It's location, overlooking the quay is a sensitive one. Consent is sought to substantially reconstruct it for residential use. The proposal is acceptable in

principle. I would ask only that the proposed entrance lobby be omitted or altered so as not to form a link with the listed houses which, although somewhat altered, have a formal, symmetrical elevation.

*The letter provided has been taken into consideration however as stated within the report Place Services who work for Essex County Council have been consulted on this application and have provided their comments.*

## **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 The application seeks planning permission for an external staircase, balcony, window to a door to the quay elevation and a window to a door to the north-west elevation.
- 6.3 This application originally was for the change of use from an office (Class E (g) (i) to residential dwelling (C3). Due to recent changes to the use class order introduced by the Government, this change of use no longer requires planning permission and requires a prior notification application. Therefore this is not being assessed within this application.
- 6.4 This application is to assess external changes only.

### Principle of Development

- 6.5 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)

- 6.6 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.
- 6.7 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.
- 6.8 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.

- 6.9 The proposed works; external staircase, balcony, window to a door to the quay elevation and a window to a door to the North West elevation will all be visible from the street scene of High Street and the Quay.
- 6.10 The fenestration changes are considered to be a neutral change to the existing building and will also serve the proposed staircase and balcony.
- 6.11 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.
- 6.12 ECC Heritage note that 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 their 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 subsequently been provided.
- 6.13 ECC Heritage have stated that the proposed balcony is not considered acceptable and unsympathetically interjects with the bay window and should be omitted from the application to preserve the character of the building. The detailing is not considered in keeping with the character of the building or to the character and appearance of the Conservation Area, contrary to Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The harm to the significance of the Conservation Area is a small level of 'less than substantial' and paragraph 202 of the NPPF is relevant. Regard should also be given to paragraph 199 which affords great weight to the conservation of heritage assets.
- 6.14 However, if the balcony is omitted from the proposals, 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 character and appearance of the Conservation Area and do not impact the surrounding listed buildings. As such, they consider that conditions should be applied, seeking details of the types and colours of all external materials, including the external stair, to 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, to be submitted to and approved by the Local Planning Authority in writing prior to their first construction or installation on site.
- 6.15 The comments and concerns raised by ECC Heritage are noted in regards to the balcony; notwithstanding this, planning permission has previously been given and implemented for a variety of balconies along the Quay. The proposed balcony is, therefore deemed to have no greater effect on the character of the Conservation Area than those already 'in situ' and it would be difficult to substantiate a reason for refusal on this ground alone.

#### Impact upon neighbouring amenities

- 6.16 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.
- 6.17 The proposed balcony will be located to the quay elevation and views will be towards the quay and therefore will be away from any neighbouring private amenity space. The change from a window to a door is not considered to cause any impact.
- 6.18 A door is proposed to the North West elevation to replace a window to the first floor, which will be served by the proposed staircase. As shown on the plans the proposed door will be obscure glazed to reduce any impact upon neighbouring amenities. Due to the application site being set

lower than the adjacent neighbour it is considered that the staircase will have limited views to the neighbouring dwelling.

## **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. TH05 REV7

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 staircase 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.

## **8.2 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.

## **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/>.