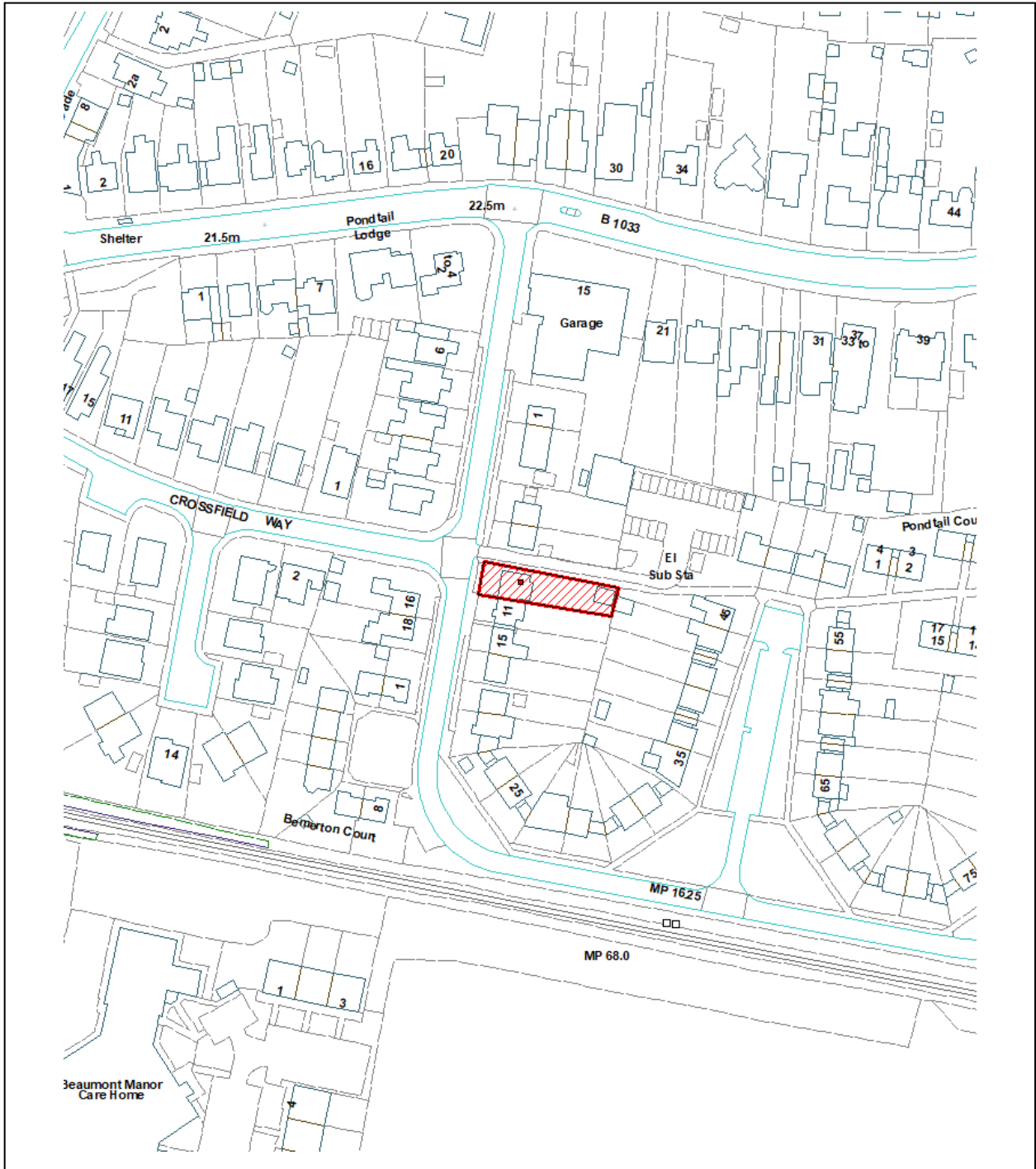


PLANNING COMMITTEE

10<sup>th</sup> May 2022

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

**A.3 PLANNING APPLICATION – 22/00186/FULHH – 9 BEMERTON GARDENS KIRBY CROSS FRINTON ON SEA CO13 0LG**



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**Application:** 22/00186/FULHH

**Town / Parish:** Frinton & Walton Town Council

**Applicant:** Mr Gary Guiver

**Address:** 9 Bemerton Gardens Kirby Cross Frinton On Sea CO13 0LG

**Development:** Proposed erection of single storey rear extension to replace existing conservatories and external cladding on existing and extended house. With creation of ground floor WC/Utility Room and installation of air source heat pump.

## 1. Executive Summary

- 1.1 The planning application has been referred to Planning Committee as the applicant holds a politically-sensitive post in the Council.
- 1.2 The application seeks planning permission to replace the existing rear conservatory with a single storey, mono-pitched extension clad externally with weatherboard; the cladding of the exterior walls for the parts above a 0.3m high brick plinth; internal alterations and the installation of air source heat pump.
- 1.3 The area is heavily urbanised and its layout is typical of post-war housing where a number of properties benefit from wide, open play areas. The dwelling is the left hand of a terrace of four dwellings and constructed externally in a typical engineered red brick with an interlocking clay-pantiled roof. The site is located within the Settlement Boundary of Frinton, Walton and Kirby Cross.
- 1.4 The scale, design and siting of the proposed development is considered to respect existing street patterns and is sympathetic to local character. The development proposal does not generate any additional need for parking nor does it diminish the existing level of parking. Overall the new development would protect the amenity of existing residents with regard to loss of light, overbearing and overlooking.
- 1.5 In the absence of any material harm resulting from the development the application is recommended for approval.

### **Recommendation:**

That the Assistant Director for 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.

*NPPF National Planning Policy Framework July 2021*

*National Planning Practice Guidance*

*Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1 Plan (adopted January 2021)*

SP1 Presumption in Favour of Sustainable Development

SP3 Spatial Strategy for North Essex

SP7 Place Shaping Principles

*Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022)*

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

CP1 Sustainable Transport and Accessibility

*Local Planning Guidance*

Essex Design Guide

Essex County Council Car Parking Standards - Design and Good Practice

**Status of the Local Plan**

Planning law requires that decisions on 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 (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), together with any neighbourhood plans that have been brought into force.

**3. Relevant Planning History**

22/00186/FULHH	Proposed erection of single storey rear extension to replace existing conservatories and external cladding on existing and extended house. With creation of ground floor WC/Utility Room and installation of air source heat pump.	Current
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**4. Consultations**

No consultations required

**5. Representations**

5.1 One letter was received confirming that no objections were raised

5.2 Frinton Parish Council supports the application.

## 6. Assessment

6.1 The main considerations in this instance are:

- Site Context;
- The Proposal;
- Principle of Development;
- Scale, Layout and Appearance;
- Parking;
- Residential Amenities;

### Site Context

6.2 The site forms the dwelling and associated domestic curtilage of 9 Bremerton Gardens.

6.3 The plot is rectangular in shape and has an east-facing rear garden which has an area just under 220sqm. The garden is level and had standard panel fencing to both the north and south boundaries. The gardens contains small-scale domestic outbuildings towards the rear boundary.

6.4 The area is heavily urbanised and its layout is typical of post-war housing where a number of properties benefit from wide, open play areas. The dwelling is the left hand of a terrace of four dwellings and constructed externally in a typical engineered red brick with an interlocking clay-pantiled roof.

6.5 The site is located within the Settlement Boundary of Frinton, Walton and Kirby Cross.

### Proposal

6.6 The application seeks planning permission to replace the existing rear conservatory with a single storey, mono-pitched extension clad externally with weatherboard; the cladding of the exterior walls for the parts above a 0.3m high brick plinth; internal alterations and the installation of air source heat pump.

6.7 The extension would project approximately 4m from beyond the rear wall, have eaves in the region of 2.6m and a mono-ridge around 3.6m. The additional floorspace generated would facilitate a kitchen/diner/family area. The air source heat pump would be sited at the front left-hand corner of the dwelling and would be housed in a wooden, vented cover – the cover would be in the region of 1.2m wide, 1.2m high and project 0.6m from the façade.

### Principle of Development

6.8 Kirby Cross is classified as a Smaller Urban Settlement in the Local Plan to 2033. The site is located within the Development Boundary therefore there is no principle objection to the proposal, subject to the detailed considerations discussed below.

### Scale, Layout and Appearance

6.9 Section 1 Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design which responds positively to local character and context. Section 2 Policy SPL3 of the 2013-33 Local Plan also requires, amongst other things, that the development respects or enhances local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features. 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.

- 6.10 Form is the three-dimensional shape and modelling of buildings and the spaces they define. Buildings and spaces can take many forms, depending upon their size and shape in plan; height; bulk - their volume; massing - how bulk is shaped into a form and relationship to the plot boundary. Scale is the height, width and length of each building proposed within a development in relation to its surroundings. This relates both to the overall size and massing of individual buildings and spaces in relation to their surroundings, and to the scale of their parts. It affects how a space can be used and how it is experienced. The relationships between the different dimensions of a building or component are known as its proportions. Appearance is the aspects of a building or space within the development which determine the visual impression the building or space makes, including the external built form of the development, its architecture, materials, decoration, lighting, colour and texture.
- 6.11 The extension is of a typical mono-pitched form which is of scale and proportions which are entirely appropriate to the host dwelling. Of relevance is that the extension is a nominal 1m greater than the parameters laid out on the General Permitted Development Order (2015) (as amended) and it is for this reason that planning permission is required.
- 6.12 Nos. 18 and 16 Bemerton Gardens are a pair of semi-detached properties opposite the application site; they have horizontal tile cladding across the entire first floor façade. For this reason there are clearly variations to external finishes in the immediate locale and the proposed weatherboard would be sympathetic to local character.
- 6.13 The Town and Country Planning Act 1990, section 55 sets out the definition of development. Development is defined as the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land. Operations or uses of land which shall not be taken for the purposes of the Act to involve development of the land include the alteration of any building of works which affect only the interior of the building. For this reason, the creation of a ground floor WC/Utility Room does not amount to operational development.
- 6.14 Certain types of work can be carried out without needing to apply for planning permission. These are called "permitted development rights". They derive from a general planning permission granted not by the local authority but by Government. The forms of development and criteria which must be adhered to are laid out in the Town and Country Planning (General Permitted Development Order) 2015 (as amended). Schedule 2, Part 14, Class G sets out the criteria used to establish whether planning permission is required for the installation or alteration of air source heat pumps on domestic premises.
- 6.15 In regards to the installation of an air source heat pump, planning permission is required if the pump is installed on a wall which fronts a highway AND installed at first floor level. The air source heat pump will be fronting a highway but it is to be installed at ground level. For this reason planning permission is not required to install the air source heat pump.
- 6.16 For these reasons, the scale, design and siting of the proposed development is considered to respect existing street patterns and is sympathetic to local character.

#### Highway Safety/Parking

- 6.17 Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety. Paragraph 112 states that applications for development should (a) give priority first to pedestrian and cycle movements and (c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter. Paragraph 130 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. These objectives are supported adopted Policy SP7 of the Tendring District Local Plan 2013-2033.

- 6.18 There are two off-street parking spaces forward of the principal elevation. The development proposal does not generate any additional need for parking nor does it diminish the existing level of parking.

#### Impact on Residential Amenity

- 6.19 The NPPF, at paragraph 130 states that development should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. Section 1 Policy SP7 of the Tendring District Local Plan 2013-2033 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.
- 6.20 The development would be to the north of the of the rear extension at No. 11 (which is in region of 2.5m deep), is of single storey scale and there are no side-facing windows in its south flank.
- 6.21 Overall the new development would protect the amenity of existing residents with regard to loss of light, overbearing and overlooking.

### **7. Conclusion**

- 7.1 The principle of domestic development is supported by Local Plan policy. The proposal will respect existing street patterns and is sympathetic to local character, does not cause harm to residential amenities nor harm parking which would warrant refusal of planning permission. The application is therefore recommended for approval.

### **8. Recommendation**

- 8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives and the prior completion of a section106 legal agreement with the agreed Heads of Terms, as set out in the table below:

#### 8.2 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:- 01B, 02G, 03G, 04B and 05B; received 16th March 2022.

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

#### 8.3 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:
- A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
  - 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
  - C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.2 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.
- 9.3 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.
- 9.4 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

- 9.5 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.
- 9.6 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).
- 9.7 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

- 9.8 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.
- 9.9 The New Homes Bonus (NHB) is one local finance consideration capable of being a material consideration to which the weight given shall be determined by the decision maker. The NHB is a payment to local authorities to match the Council Tax of net new dwellings built, paid by Central Government over six consecutive years. In this instance, it is not considered to have any significant weight attached to it that would outweigh the other considerations.

## **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.tendingdc.gov.uk/online-applications/>.