

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AC	14 th Jan 2022
Planning Development Manager authorisation:	SCE	19.01.2022
Admin checks / despatch completed	ER	19/01/2022
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Application: 21/01906/FULHH **Town / Parish:** Brightlingsea Town Council

Applicant: Mrs Karen Cooke

Address: 115 Tower Street Brightlingsea Colchester

Development: Proposed clearing of land and demolish existing garden outbuildings and construct a two storey double garage and workshop.

1. Town / Parish Council

No comments received

2. Consultation Responses

ECC Highways Dept No comments received

3. Planning History

20/30144/PREAPP Proposed erection of a single storey garage/outbuilding. 15.09.2020

21/01906/FULHH Proposed clearing of land and demolish existing garden outbuildings and construct a two storey double garage and workshop. Current

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework July 2021

National Planning Practice Guidance

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) (Section 1 adopted on 26th January 2021)

Relevant Section 1 Policies (adopted):-

SP1 Presumption in Favour of Sustainable Development

SP3 Spatial Strategy for North Essex

SP7 Place Shaping Principles

Relevant Section 2 Policies (emerging):-

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

CP1 Sustainable Transport and Accessibility

CP2 Improving the Transport Network

Adopted Tendring District Local Plan 2007 (part superseded)

HG14 Side Isolation

TR7 Vehicle Parking at New Development

Local Planning Guidance

Essex Design Guide

Essex County Council Development Management Policies 2011 (the Highways SPD)

Status of the Local Plan

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).

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.

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. On 24th November 2021, the Council received the Planning Inspectors' final report on the legal compliance and soundness of Section 2 of the emerging Local Plan. The report has confirmed, that with the inclusion of a number of 'Main Modifications' (which have already been the subject of formal public consultation), the Plan is legally compliant and sound and can now proceed to adoption. The report is due to be considered by the Planning Policy and Local Plan Committee on 11th January 2022 which is likely to recommend adoption of the Section 2 Local Plan to Full Council on 25th January 2022. On adoption, the new Section 2 Local Plan will join the new Section 1 Local Plan to form the 'development plan' for Tendring and the old 2007 Local Plan will be superseded in full.

Now that the Inspectors' final report is received, the Section 2 Local Plan has virtually reached the final stage of preparation, all objections have been resolved and the Inspector has confirmed that the Plan is sound and therefore in conformity with the Framework. For these reasons, Officers now advise that the emerging Plan should now carry 'almost full weight' in decision making.

Until the new Local Plan is adopted in January 2022, the 2007 adopted Local Plan, legally, will still form part of the 'development plan' and there will still be a requirement to refer to the 2007 Local Plan in decision making. However, the level of weight to be afforded to the policies in the 2007 Plan is reduced to very limited weight given that a more up to date Plan has progressed to such an advanced stage of the plan making process.

5. Officer Appraisal

Site Description

Tower Street comprises terraces of Victorian dwellings with those on the south-east side of the road benefitting from lengthy rear gardens. Un-even numbers 3-125 further benefit from rear access to their gardens by virtue of Lime Street – an unmade road which runs parallel to the rear of these properties. Lime Street provides secondary access to a number of ancillary storage buildings serving the Shipyard Estate.

The development approved at No. 73 exists; other buildings of relevance in the locale are the structure at No. 101 which is dual pitched with a rather incongruous and awkward parapet roof, two flat roofed structures at No. 105 which appear relatively modern, finished in a corrugated metal. Other buildings are of low-key scale, akin to sheds.

Relevant History

In the preceding seven years, new or replacement outbuildings have been approved at No. 73 (15/01545/FUL), No. 13 (20/01471/FUL) and No. 75 (21/01221/FUL). The developments approved at No. 13 and No. 75 do not appear to have been commenced.

Development is proposed on land rear of 87 to 89 Tower Street (20/00907/FUL) and this is as yet to be determined by the Planning Committee.

Description of Proposal

The application seeks planning permission for a two-storey building comprising garaging and workshops at ground floor with offices at first floor. The building is sited approximately 2.7m from the rear boundary and equidistant from both side boundaries by 1m; it would have a rectangular footprint with a 9m width and 8.3m depth; the north-west elevation (facing the garden) has a recessed area with first floor balcony over. The building has eaves of 2.7m and a gambrel roof with a ridge just under 5.7m. Externally the building would be finished in powder-coated black squared steel corrugated sheet for wall cladding and roofing.

Principle

The site is located within the Development Boundary of Brightlingsea, therefore there is no principle objection to the proposal, subject to the detailed considerations discussed below.

Design & Appearance

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 Policy SPL3 of Section 2 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.

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. Form is the three-dimensional shape and modelling of buildings and the spaces they define takes many forms depending on their size and shape in plan, height, bulk - their volume and massing - how bulk is shaped into a form.

Unlike other examples of existing or approved domestic buildings, the development proposes full height (of a minimum 1.8m) for a width internally of 5.6m. Whilst the agent alludes to the additional roof bulk resulting from the gambrel roof representing only a 17.145% greater mass than that resulting from a dual pitched roof; the perceived bulk nonetheless exceeds the roofscape of any other existing/permitted building in the locale by a significant degree. The agent describes the building at No. 73 as two-storey – however this is not the case as the dual-pitched roof limits the internal head-height; reference is also made to the building at 101 – whilst it does have a parapet, the building behind is very much single-storey, the buildings at 105 are undoubtedly single-storey. The agent also takes the height of the building sited on the east side of Lime Street as a point of reference; this building is within the curtilage of a commercial marina and is not therefore considered directly comparable to the domestic proposal. For these reasons the height of the building (circa 5.7m) in conjunction with the additional bulk resulting from the gambrel design does not respect or enhance existing street patterns, contrary to emerging Policy SPL3 of Section 2 of the 2013-33 Local Plan nor sympathetic to local character, contrary to paragraph 130 of the Framework.

Impact to Neighbouring Amenities

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. 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.

The development proposes a first floor balcony with a platform at a height in the region of 2.8m to the north-west (garden) elevation, in conjunction with full-height glazed doors providing access to the balcony. In support of their application the agent puts forward the statement that garden area(s) which would be overlooked contain ramshackled structures (both neighbours); amendments to the proposal would be considered which would have omitted the balcony and obscurely-glazed the garden-facing doors. On the grounds that the perception of overlooking is a material consideration and the amendments were not forthcoming it cannot be satisfactorily established that the development would protect the amenity of existing residents with regard to overlooking.

Highway Issues

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 and Beyond Publication Draft 2017.

The proposal does not generate any additional requirement for parking places, nor does it cause the loss of any existing parking spaces.

Material Considerations

The agent has provided information regarding how the development is required for the health-needs of the applicant’s children. Notwithstanding this; the individual requirements to manage the child’s needs could be achieved in a building of a more appropriate design, scale and bulk.

Representations

One letter has been received in response to the publicity of the application; this is summarised as:-

We object on the grounds that the proposed two storey double garage and workshop is a residential dwelling with" alfresco" dining and seating areas on the balcony and with a WC/shower.	The plans do not indicate that this is a dwelling.
The balcony's height of 4-5 metres means it will	The balcony is at a height of 2.8m; please see

overlook the majority of our garden and look directly into the rear of our property.	section on Neighbouring Amenities above. For the reason than distances from the garden elevation and the rear elevation of the main dwelling are in excess of 45m it is unlikely that views into the windows of the main dwelling would be possible.
Why is there a need for a balcony directly facing ours and adjacent properties on a building that is a garage/workshop?	The application is determined on the basis of the submitted plans.
Where is the precedent of a balcony on any such build of this type in other local applications?	The LPA are not aware of any other balconies within the locale.
The proposed high fencing on both flanks is also unreasonable as in conjunction with the height and length of the dwelling it will take our gardens light for the majority of the year.	The eaves of the building are 2.6m, this is marginally greater than the height of a permissible boundary fence. On the basis that a commercial building in the vicinity has a greater height, little objection can be substantiated in regard to loss of light.
At 5.7 metres high and 10 metres long this is a very big build for the proposed purpose.	Noted.
We believe this application will have a damaging impact on our privacy, daylight and enjoyment of our property.	Noted
Surely a single storey construction is suffice for a double garage and workshop.	The application is determined on the basis of the submitted plans.

6. Recommendation

Refusal - Full

7. Reasons for Refusal

- 1 The National Planning Policy Framework 2021 attaches great importance to the design of the built environment and confirms good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. 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. It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

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 Policy SPL3 of Section 2 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.

The volume and massing which ensues as a consequence of the gambrel roof introduces a scale of development which would be at odds with the established nature of single storey and/or dual pitched roofs with limited head-height which are commonplace in the locale. For this reason it is considered that the proposal both fails to improve the character of the area and fails to respect existing street patterns.

- 2 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.

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.

The development proposes a first floor balcony with a platform at a height in the region of 2.8m to the north-west (garden) elevation, in conjunction with full-height glazed doors providing access to the balcony. The presence of informal structures in the rear gardens of neighbouring properties may preclude direct overlooking; notwithstanding this the perception of overlooking is a material consideration.

8. **Informatives**

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

Are there any letters to be sent to applicant / agent with the decision?		NO
Are there any third parties to be informed of the decision?		NO