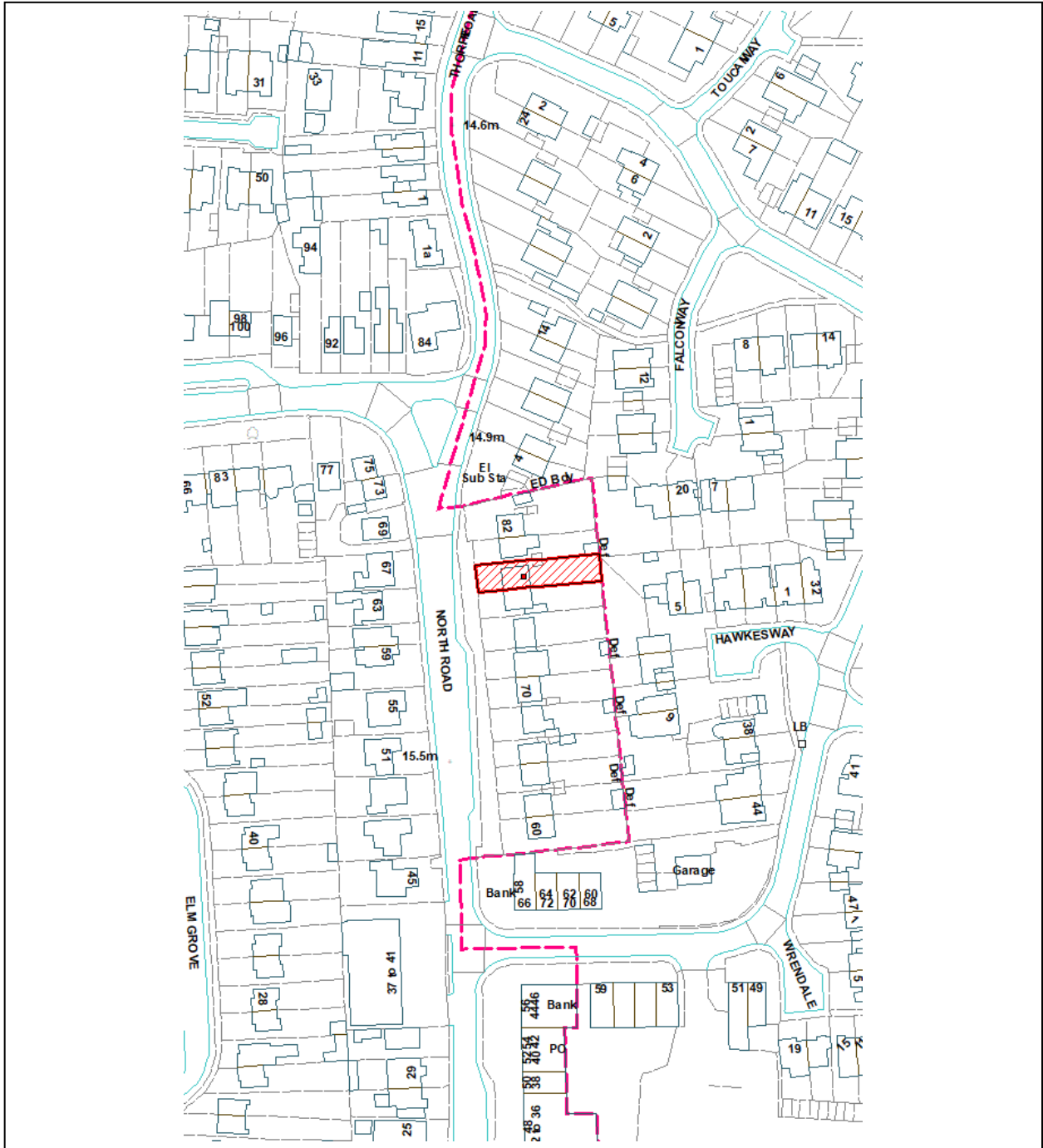


PLANNING COMMITTEE

31<sup>st</sup> AUGUST 2021

REPORT OF THE DIRECTOR OF PLANNING

**A.3 PLANNING APPLICATION – 23/00376/FULHH – 78 NORTH ROAD CLACTON ON SEA CO15 4DF**



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<b>Application:</b>	23/00376/FULHH	<b>Expiry Date:</b>	1st August 2023
<b>Case Officer:</b>	Charlotte Cooper	<b>EOT Date:</b>	02 September 2023
<b>Town/ Parish:</b>	Clacton Non Parished		
<b>Applicant:</b>	Mr Daniel Hall		
<b>Address:</b>	78 North Road Clacton On Sea CO15 4DF		
<b>Development:</b>	Proposed conservatory roof height 3.5 metres within 2 metres of boundary (retrospective).		

## 1. Executive Summary

- 1.1 This application is referred to Planning Committee as the land is owned by Tendring District Council.
- 1.2 This application seeks retrospective permission for the erection of a conservatory. Whilst the footprint of the conservatory meets the permitted the development criteria, the overall height measures 3.5 metres and falls within 2 metres of the boundary, planning permission is therefore required.
- 1.3 The conservatory is of a single storey nature, measuring 3.15 metres deep by 4.75 metres wide. The eaves height is 2.5 metres and overall ridge height measures 3.5 metres. The conservatory is deemed to be of an acceptable size, scale and appearance with no significant adverse effects on the visual amenities of the area.
- 1.4 The single storey nature of the conservatory means it poses no significant threat to overlooking or loss of privacy to the adjacent neighbouring dwellings. It has no significant impacts on the loss of light which are so significant as to justify refusing planning permission.

### **Recommendation:** Approval

- 1) That the Planning Manager be authorised to grant planning permission subject to the conditions as stated at paragraph 8.2, or varied as is necessary to ensure the wording is enforceable, precise, and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained; and,
- 1) The informative notes as may be deemed necessary.

## 2. Planning Policy

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

### NATIONAL:

National Planning Policy Framework July 2021 (NPPF)  
National Planning Practice Guidance (NPPG)

### LOCAL:

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  
SP7 Place Shaping Principles

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

SPL1 Managing Growth  
SPL3 Sustainable Design  
LP3 Housing Density and Standards  
LP4 Housing Layout

Supplementary Planning Guidance:  
Essex Design Guide

Local Planning Guidance:  
Essex County Council Car Parking Standards - Design and Good Practice

### **Status of the Local Plan**

- 2.2 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), supported by our suite of evidence base core documents (<https://www.tendringdc.uk/content/evidence-base>) together with any neighbourhood plans that have been brought into force.

### **3. Relevant Planning History**

19/00019/FUL	Proposed dropped kerb.	Approved	15.04.2019
23/00376/FULHH	Proposed conservatory roof height 3.5 metres within 2 metres of boundary.	Current	

### **4. Consultations**

- 4.1 Below is a summary of the comments received from consultees relevant to this application proposal. Where amendments have been made to the application, or additional information has been submitted to address previous issues, only the latest comments are included below.
- 4.2 All consultation responses are available to view, in full (including all recommended conditions and informatives), 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/>.

**Not Applicable**

### **5. Representations**

- 5.1 No letters of representation / objection have been received.

## 6. Assessment

### Proposal

- 6.1 This application seeks retrospective planning permission for the erection of a conservatory measuring 3.5 metres high within 2 metres of the boundary.
- 6.2 The application is before members of the committee as the land is owned by Tendring District Council.

### Assessment

#### Design and Appearance

- 6.3 Due to its location at the rear of the dwelling the conservatory is shielded from the public views of the streetscene.
- 6.4 The application site comfortably accommodates for the conservatory whilst retaining adequate private amenity space. The conservatory is therefore deemed to be of an acceptable size and scale.
- 6.5 The conservatory has been constructed using blockwork, render and UPVC / glazing and is considered to be of a typical design and appearance for construction of this type. The use of render blends with that used on the existing outbuilding at the site, helping the conservatory to blend with its locality. The conservatory is deemed to be of an acceptable design and appearance with no significant harmful impacts on the visual amenities of the area.

#### Impacts on Neighbouring Amenities

- 6.6 The conservatory is of a single storey nature and therefore poses no significant risk to overlooking or loss of privacy to the adjacent neighbouring dwellings.
- 6.7 There is an existing outbuilding located to the north of the site, this outbuilding will intercept any loss of light caused by the conservatory to the neighbouring dwelling located north of the site. It therefore has no significant harmful impacts on the loss of light to this neighbouring dwelling.
- 6.8 The Essex Design Guide makes reference to The Building Research Establishment's report "Site Layout Planning for Daylight and Sunlight" 1991 which suggests that obstruction of light and outlook from an existing window is avoided if the extension does not result in the centre of the existing window being within a combined plan and section 45 degree overshadowing zone. Using the sunlight/daylight calculations specified in the Essex Design Guide the 45 degree line down from the extension roof would intercept the bottom of the neighbouring window located south of the site. However, the existing fence line would first intercept this loss of light, reducing the impacts posed by the conservatory. Furthermore, as per the guidance set out in the Essex Design Guide, as less than half of the window is affected the loss of light caused cannot be said to be so significant as to justify refusing planning permission.

#### Other Considerations

- 6.9 The proposal does not reduce the existing parking arrangements at the site and does not cause a need for additional parking. The local Planning Authority therefore deem the application to be acceptable in terms of highway safety.

6.10 Clacton is non parished and therefore no consultation is required.

6.11 No other letters of representation / objection have been received.

## **7. Conclusion**

7.1 The conservatory is considered to comply with the above mentioned National and Local Planning Policies. In the absence of material harm the development is recommended for approval.

## **8. Recommendation**

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

### **8.2 Conditions and Reasons**

#### **1. APPROVED PLANS & DOCUMENTS**

CONDITION: The development hereby permitted shall be carried out in accordance with the drawings/documents listed below and/or such other drawings/documents as may be approved by the Local Planning Authority in writing pursuant to other conditions of this permission or such drawings/documents as may subsequently be approved in writing by the Local Planning Authority as a non-material amendment following an application in that regard (except for Listed Building Consents). Such development hereby permitted shall be carried out in accordance with any Phasing Plan approved, or as necessary in accordance with any successive Phasing Plan as may subsequently be approved in writing by the Local Planning Authority prior to the commencement of development pursuant to this condition.

Site Plan - Received 02.05.2023

Block Plan - Received 02.05.2023

Proposed Floor Plan - Received 02.05.2023

Proposed Side and Rear Elevations - Received 12.05.2023

REASON: For the avoidance of doubt and in the interests of proper phased planning of the development.

#### **NOTE/S FOR CONDITION:**

The primary role of this condition is to confirm the approved plans and documents that form the planning decision. Any document or plan not listed in this condition is not approved, unless otherwise separately referenced in other conditions that also form this decision. The second role of this condition is to allow the potential process of Non Material Amendment if found necessary and such future applications shall be considered on their merits. Lastly, this condition also allows for a phasing plan to be submitted for consideration as a discharge of condition application should phasing be needed by the developer/s if not otherwise already approved as part of this permission. A phasing plan submission via this condition is optional and not a requirement.

Please note in the latest revision of the National Planning Policy Framework (NPPF) it provides that Local Planning Authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used). Accordingly, any future amendment of any kind will be considered in line with this paragraph, alongside the Development Plan and all other material considerations.

Any indication found on the approved plans and documents to describe the plans as approximate and/or not to be scaled and/or measurements to be checked on site or similar, will not be considered applicable and the scale and measurements shown shall be the approved details and used as necessary for compliance purposes and/or enforcement action.

### 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:
- 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.
- 9.12 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.tendringdc.gov.uk/online-applications/>.