

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Case officer recommendation:	NH	11/09/2023
Planning Manager / Team Leader authorisation:	ML	11/09/2023
Planning Technician final checks and despatch:	ER	11/09/2023

Application: 23/01138/DEMCON **Town / Parish:** Ardleigh Parish Council

Applicant: Mr Scott Smith

Address: Crossways The Street Ardleigh

Development: Prior Approval Application under Part 11, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for demolition of garage structure.

1. Town / Parish Council

Not Applicable

2. Consultation Responses

Environmental Protection
22.08.2023

Thank you for your consultation regarding the proposed development above. The Environmental Protection Team's comments are given below:

STANDARD CONSTRUCTION/DEMOLITION - MINIMUM REQUIREMENT

In order to minimise potential nuisance caused by ground works and construction, Environmental Protection recommend that the following below is conditioned.

-No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Mondays to Saturdays (finishing at 13:00 on Saturdays) with no working of any kind permitted on Sundays or any Public/Bank Holiday whilst construction works and alterations are being carried out.

No materials produced as a result of the site development or clearance shall be burned on site.

Adherence to the above condition will significantly reduce the likelihood of public complaint and potential enforcement action by Pollution and Environmental Control. The condition gives the best practice for Demolition and Construction sites. Failure to follow them may result in enforcement action under nuisance legislation (Environmental Protection Act 1990), or the imposition of controls on working hours (Control of Pollution Act 1974).

3. **Planning History**

TPC/98/19	Work to Horse Chestnut tree	Current	17.03.1998
02/00681/TCA	Remove one Ash tree and one Plum tree	Approved	27.06.2002
02/02429/TCA	Top 2 Silver Birches and 2/3 Conifers (grouped) by 25/30%	Approved	21.03.2003
04/02174/TCA	Front Garden - reduce shape of 1 tree of heaven by 30%, lift crown of 1 horse chestnut to 3m above ground level. Rear Garden - reshape silver birch tree	Approved	07.12.2004
91/00326/FUL	Extension of existing doctors surgery.	Approved	21.05.1991
12/00755/TCA	1 No. Horse Chestnut - diseased - fell	Approved	07.08.2012

4. **Relevant Policies / Government Guidance**

Not Applicable

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), 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.

Neighbourhood Plans

A neighbourhood plan introduced by the Localism Act that can be prepared by the local community and gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan to promote development and uphold the strategic policies as part of the Development Plan alongside the Local Plan. Relevant policies are considered in the assessment. Further information on our Neighbourhood Plans and their progress can be found via our website <https://www.tendringdc.uk/content/neighbourhood-plans>

5. **Officer Appraisal (including Site Description and Proposal)**

Proposal

The application seeks confirmation as to whether prior approval is required to demolish for demolition of garage structure.

Assessment

This prior notification application falls to be considered under The Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2 Part 11 Class B - demolition of buildings.

Schedule 2 Part 11 Class B states that any building operation consisting of the demolition of a building is permitted development. Paragraph B.1 states that development is not permitted by Class B if:

(a) the building has been rendered unsafe or otherwise uninhabitable by the action or inaction of any person having an interest in the land on which the building stands and it is practicable to secure safety or health by works of repair or works for affording temporary support;

The buildings are not stated to be unsafe, they are surplus to the operator's requirements.

(b) the demolition is "relevant demolition" for the purposes of section 196D of the Act (demolition of an unlisted etc building in a conservation area)

The demolition is not "relevant demolition" for the purposes of section 196D of the Act. The proposal complies.

(c) the building is used, or was last used, for a purpose falling within—

(i) article 3(6)(p) (drinking establishments etc.) of the Use Classes Order; or

(ii) article 3(6)(q) (drinking establishments with expanded food provision) of that Order;

The proposal complies.

(d) the building is used, or was last used, for the purpose of—

(i) a concert hall;

(ii) a venue for live music performance; or

(iii) a theatre

The proposal complies.

(e) the demolition relates to a statue, memorial or monument ("a commemorative structure") in place for a period of at least 10 years on the date of any proposed demolition, other than a commemorative structure—

(i) that is a listed building;

(ii) that is a scheduled monument;

(iii) within a cemetery, on consecrated land, or within the curtilage of a place of public worship;

(iv) within the grounds of a museum or art gallery; or

(v) within the curtilage of a dwellinghouse

The proposal complies.

Conditions

B.2 Development is permitted by Class B subject to the following conditions—

- (a) where demolition is urgently necessary in the interests of safety or health and the measures immediately necessary in such interests are the demolition of the building the developer must, as soon as reasonably practicable, give the local planning authority a written justification of the demolition;

Not applicable as the demolition is not required urgently in the interests of health and safety.

- (b) where the demolition does not fall within paragraph (a) and is not excluded demolition:
 - (i) the developer must, before beginning the development apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the method of demolition and any proposed restoration of the site;
 - (ii) an application described in paragraph (b)(i) must be accompanied by a written description of the proposed development, a statement that a notice has been posted in accordance with paragraph (b)(iv) and any fee required to be paid;

Proposal complies. The submitted Plan of works, risk assessment and method statement detail the proposed demolition. A site notice has been provided which has been signed and photos of the site notice have been provided demonstrating it has been erected.

(iii) (deleted)

(iv) subject to paragraph (b)(v), the applicant must display a site notice by site display on or near the land on which the building to be demolished is sited and must leave the notice in place for not less than 21 days in the period of 28 days beginning with the date on which the application was submitted to the local planning authority;

Proposal complies.

(v) where the site notice is, without any fault or intention of the applicant, removed, obscured or defaced before the period of 21 days referred to in paragraph (b)(iv) has elapsed, the applicant is treated as having complied with the requirements of that paragraph if the applicant has taken reasonable steps for protection of the notice and, if need be, its replacement;

Noted.

(vi) (deleted)

(vii) the development must not begin before the occurrence of one of the following—

(aa) the receipt by the applicant from the local planning authority of a written notice of their determination that such prior approval is not required;

(bb) where the local planning authority give the applicant notice within 28 days following the date of receiving the application of their determination that such prior approval is required, the giving of such approval; or

(cc) the expiry of 28 days following the date on which the application was received by the local planning authority without the local planning authority making any determination as to whether such approval is required or notifying the applicant of their determination;

Noted.

(viii) the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out—

(aa) where prior approval is required, in accordance with the details approved;

(bb) where prior approval is not required, in accordance with the details submitted with the application;

(ix) the development must be carried out—

(aa) where approval has been given by the local planning authority, within a period of 5 years from the date on which approval was given;

(bb) in any other case, within a period of 5 years from the date on which the local planning authority were given the information referred to in paragraph (b)(ii); and

Noted.

(x) (deleted)

Conclusion

The application satisfactorily complies with the requirements of Schedule 2, Part 11, Class B of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

6. Recommendation

Prior Approval Not Required

7. Conditions

1 The demolition of the buildings complies with the requirements of Schedule 2, Part 11, Class B of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

2 The development must be carried out within a period of 5 years from the date on which approval was given.

Reason - In accordance with Condition B.2 (ix) of Part 11, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015.

3 The demolition works shall be carried out in accordance with the :

- Plans of work, risk assessment and method statement - scanned 10 Aug 2023

Reason - In accordance with Condition B.2 (viii) of Part 11, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015.

8. Informatives

Not Applicable

Are there any letters to be sent to applicant / agent with the decision? If so please specify:	YES	NO
Are there any third parties to be informed of the decision? If so, please specify:	YES	NO