

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Case officer recommendation:	ER	20/11/2023
Planning Manager / Team Leader authorisation:	ML	21/11/2023
Planning Technician final checks and despatch:	JJ	22/11/2023

Application: 23/01428/FULHH **Town / Parish:** Frinton & Walton Town Council

Applicant: Ms Frances Delhoy

Address: 21 Warley Way Frinton On Sea Essex

Development: Use of existing flat roof extension as a new balcony balustrading.

1. Town / Parish Council

FRINTON AND WALTON
TOWN COUNCIL

Recommend approval

2. Consultation Responses

Essex County Council
Heritage
30.10.2023

The application is for use of existing flat roof extension as a new balcony balustrading.

The proposal site is a 20th century cottage within the setting of Frinton and Walton Conservation Area. The west side of Warley Way, opposite the site, is included within the boundary of the conservation Area and includes Willingale, a Modern Movement building designed by Oliver Hill, which makes a positive contribution to the street scene. The south of this area includes a small section of The Greensward, a Protected Open Space which provides views towards the sea.

The proposal is not considered to have an additional impact on the setting of the Conservation Area.

Were permission to be granted, I advise the following conditions are included:

- Prior to installation, a details and specifications of the proposed glass balustrade shall be submitted to and approved in writing by the Local Planning Authority. Works shall be implemented in accordance with the approved details and shall be permanently maintained as such.

3. Planning History

00/00425/FUL	Loft conversion and garage extension	Approved	02.05.2000
91/00066/FUL	Extension of bay window on front elevation.	Approved	28.02.1991
09/60046/HOUEN Q	Convert garage to habitable space		24.11.2009
22/01493/FULHH	Proposed front and rear extensions, and loft conversion incorporating side dormer.	Approved	16.12.2022

23/00125/NMA	Non Material Amendment to application reference 22/01493/FULHH for roof tiles to be changed to slate roof tiles to client specification (Or similar approved).	Approved	21.02.2023
23/00446/FULHH	Proposed front and rear extensions, and loft conversion incorporating side dormer (Amendment to approved planning 22/01493/FULHH for changes to external finish).	Approved	12.05.2023
23/01225/NMA	Non Material Amendment to application reference 23/00446/FULHH for change of material on the dormer window from render to slate tiles to match the roof finish.	Approved	13.09.2023
23/01428/FULHH	Use of existing flat roof extension as a new balcony balustrading.	Current	

4. Relevant Policies / Government Guidance

NATIONAL:

National Planning Policy Framework July 2023 (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
PPL8 Conservation Areas

Supplementary Planning Guidance:
Essex Design Guide

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

No emerging or adopted neighbourhood plan

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.

5. Officer Appraisal (including Site Description and Proposal)

Application Site

The application site serves a detached dwelling located to the north-west of Warley Way, the site is outside, but immediately opposite to the Frinton and Walton Conservation Area.

Proposal

This application seeks planning permission for the use of the existing flat roof extension as a new balcony with associated balustrading.

History

The site has previously received planning permission under reference 22/01493/FULHH for the erection of front and rear extensions, and loft conversion incorporating side dormer.

Upon the site visit these works, approved by this earlier application, had already been completed.

This new application seeks approval for the use of the flat roof of the new extension for use as a balcony with new balustrading along the edges.

Assesment

Visual Impact

The proposed balustrading will make use of frameless glass which will measure 1.1m in height along the rear and front elevations increasing to 1.8m in height along each of the sides of the new balcony. This balustrading will be positioned on the previously approved existing rear and side extension (as detailed above) allowing the use of this area as a balcony.

This new glass balustrading will be publicly visible as part of it will be placed upon the existing side extension which protrudes from the side wall of the host dwelling. As this element is set back from the front boundary and front wall of the main house this new feature would not appear as a prominent addition and would therefore not be detrimental to the appearance/ character roof the existing house or streetscene.

Heritage Impact

The site is not located within the conservation area, however, the boundary of such is located along the front of the site.

The proposal will be set back from the sited front boundary allowing for only minor elements of the new balustrading to be visible from this protected area thereby preventing it from having a significant harmful impact to views inside the conservation area.

The ECC Heritage team have been consulted and have provided no objections to the scheme subject to the submission of further details on the balustrade to be provided and approved by the Local Authority.

Impact to Neighbours

Paragraph 130 of the National Planning Policy Framework 2023 requires planning policies and decisions to create places with a high standard of amenity for existing and future users. Policy SP7 of Section 1 of the adopted Local Plan endorses this requirement. Adopted Local Plan Section 2 Policy SPL 3 (Part C) seeks to ensure that development will not have a materially damaging impact on the amenities of occupiers of nearby properties.

The proposed balustrade is of a small-scale nature and sited away from shared boundaries which would not result in a loss of light or outlook to nearby neighbouring sites.

The floor area of the new balcony will be approximately 43m² in floor area using the whole of the flat roof of the extension and creating a relatively large space for the occupants to utilise as a sitting out area.

The neighbouring site to the northwest is known as 19 Warley Way and is also a detached chalet bungalow benefiting from its own rear additions and existing first floor balcony. The new balcony area will be sited approximately 1.2m from the boundary with the balustrading increasing to 1.8m in height along its sides. As this neighbouring house is positioned roughly in line with the host dwelling views from this new balcony will be of mainly of this neighbour's end of rear garden area and not into any side windows. This impact and the perception of overlooking will be further reduced by the inclusion of 1.8m screening panels which have been shown along the sides. Furthermore, the host dwelling and surrounding houses already benefit from first floor rear openings which look into this garden meaning the level of privacy is already reduced here. Based on all of these considerations the loss of privacy experienced by this neighbour is considered not to be so harmful in this instance to refuse planning permission upon.

The neighbouring site to the southeast is 23 Warley Way and is of a two-storey design which is positioned further back on its plot with an existing single storey extension to the rear. This neighbour's rear extension benefits from a number of openings which face the garden of 21 Warley Way. The new balcony will be positioned 0.2m away from this shared boundary and achieve views out onto this neighbour's rear garden in particular views into their existing rear extension. Whilst it is appreciated that elements of this neighbour's garden are already overlooked by other first floor openings these benefit from only rearward views of this neighbour's garden and not directly into any of its private spaces. The new balcony is close to the boundary and large in size allowing a number of users to accommodate the space at any one time. Furthermore, the close relationship between the proposal and its neighbour will allow for users to achieve direct views into elements of this neighbouring house, thereby significantly reducing the level of privacy already experienced by the residents.

This would also further increase the perception of overlooking to this neighbour having a further negative impact to them.

It is noted that the submitted plans show that 1.8m glazing panels will be installed along the side of the balcony in an attempt to restrict views into this neighbour's garden. Unfortunately, due to the close relationship formed between the new balcony and the neighbouring site's boundary the use of screening panels is not considered effective enough to obstruct views into this neighbour's house and garden and would not effectively mitigate against the significant loss of privacy which will be experienced by occupants of 23 Warley Way.

Other considerations

Frinton and Walton Town Council recommend approval.

One Letter of objection has been received detailing significant concerns over the level of privacy which will be lost from the proposal.

Conclusion

The proposal fails the aforementioned national and local policies resulting in a significant loss of privacy to the neighbouring site to the southeast of the site. The application is therefore recommended for refusal.

6. Recommendation

Refusal

7. Reasons for Refusal

- 1 Paragraph 130 of the National Planning Policy Framework 2023 requires planning policies and decisions to create places with a high standard of amenity for existing and future users. Policy SP7 of Section 1 of the adopted Local Plan endorses this requirement.

Adopted Local Plan Section 2 Policy SPL 3 (Part C) seeks to ensure that development will not have a materially damaging impact on the amenities of occupiers of nearby properties.

The proposed balcony is of a substantial size which will be sited 0.2m away from the shared boundary of 23 Warley Way. The close relationship between the proposal and its neighbour will allow for clear views into the neighbouring garden and house resulting in a significant increase of overlooking to this neighbour.

The siting of the development would therefore result in a significant loss of privacy to the neighbouring resident, which is contrary to the aims of the above national and local plan policies.

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 determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to meet with the Applicant to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development.

Plans and Supporting Documents

The Local Planning Authority has resolved to refuse the application for the reason(s) set out above. For clarity, the refusal is based upon the consideration of the plans and supporting documents accompanying the application as follows, (accounting for any updated or amended documents):

A-202
A-208
A-210
A-212
A-209 A
A-211 A

9. Equality Impact Assessment

In making this recommendation/decision regard must be had to the public sector equality duty (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 that in summary include 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* (See Table) and those who do not; C. Foster good relations between people who share a protected characteristic* and those who do not, including tackling prejudice and promoting understanding.

It is vital to note that the PSED and associated legislation are a significant consideration and material planning consideration in the decision-making process. This is applicable to all planning decisions including prior approvals, outline, full, adverts, listed buildings etc. It does not impose an obligation to achieve the outcomes outlined in Section 149. Section 149 represents just one of several factors to be weighed against other pertinent considerations.

In the present context, it has been carefully evaluated that the recommendation articulated in this report and the consequent decision are not expected to disproportionately affect any protected characteristic* adversely. The PSED has been duly considered and given the necessary regard, as expounded below.

Protected Characteristics *	Analysis	Impact
Age	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Disability	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Gender Reassignment	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Marriage or Civil Partnership	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Pregnancy and Maternity	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Race (Including colour, nationality and ethnic or national origin)	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Sexual Orientation	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Sex (gender)	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Religion or Belief	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral