

## **DELEGATED DECISION OFFICER REPORT**

| <b>AUTHORISATION</b>                           | <b>INITIALS</b> | <b>DATE</b> |
|------------------------------------------------|-----------------|-------------|
| Case officer recommendation:                   | ER              | 06/12/2023  |
| Planning Manager / Team Leader authorisation:  | ML              | 11/12/2023  |
| Planning Technician final checks and despatch: | ER              | 14/12/2023  |

**Application:** 23/01224/FULHH **Town / Parish:** Brightlingsea Town Council

**Applicant:** DR J Nicholson

**Address:** 70 Ladysmith Avenue Brightlingsea Colchester

**Development:** Proposed demolition of existing garage. Construction of combined garage and residential annex at ground floor, offices and wc at first floor. Proposed new access door and wall to Main House.

### **1. Town / Parish Council**

Brightlingsea Town Council

(1) Overdevelopment of the site; (2) Too close to the boundary;  
(3) Overlooking of neighbouring properties; (4) Out of keeping with the area.

### **2. Consultation Responses**

None required

### **3. Planning History**

|                |                                                                                                                                                                                                |         |
|----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|
| 23/01224/FULHH | Proposed demolition of existing garage. Construction of combined garage and residential annex at ground floor, offices and wc at first floor. Proposed new access door and wall to Main House. | 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  
CP1 Sustainable Transport and Accessibility

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)**

### **Site Context**

The application site comprises of a two-storey detached dwelling located on a prominent corner plot setting with elevations serving Spring Road and Ladysmith Avenue.

The house is white/ cream render and is accompanied by a existing garage and rear garden. The house is slightly set back from its boundaries with grass verging surrounding it.

The existing garage is positioned and accessed along the Spring Road side of the site and fronts this boundary. This garage is lower in height compared to the surrounding houses and is constructed from concrete panels, painted red brick wall, timber Gables, Timber frame roof with asphalt covering,

### **Proposal**

This application seeks planning permission the erection of a new outbuilding which will comprise of a garage and residential annexe at ground floor and offices and WC at first floor. The erection of the proposal will result in the demolition of the existing garage. The proposal also requests permission for a new access door and front boundary wall.

### **Representations Received**

Brightlingsea Town Council have objected to the scheme and two other letters of representation have been received raising the following concerns.

- (1) Overdevelopment of the site;
- (2) Too close to the boundary;
- (3) Significant reduction in privacy, outlook and light to neighbouring sites.
- (4) Out of keeping with the area.
- (5) Use of building as a separate dwelling
- (6) Loss of Parking.

The below report will take into account these comments.

### **Assessment**

#### **Visual Impact**

Paragraph 130 of the National Planning Policy Framework 2023 (NPPF) requires that developments are visually attractive as a result of good architecture, are sympathetic to local character and history, including the surrounding built environment, function well and add to the overall quality of the area, and establish or maintain a strong sense of place.

Adopted Tendring District Local Plan Section 1 (TDLPS1) Policy SP7 seeks high standards of design that responds positively to local character and context. Policy SPL3 states that development must

relate well to its site and surroundings particularly in relation to its siting, height, scale and massing. Furthermore, the development must respect or enhance existing street patterns.

The existing area comprises of a mixture of differently designed houses which vary in terms of size and design. Many of these houses are two storey in nature and are either predominantly constructed from brick or finished in light coloured render.

The existing garage is located to the rear of the site; however, given the corner plot setting is accessed and most visible from Spring Road. The existing garage is of a single storey design and is erected along the site's side boundary which is shared with the public pavement of Spring Road.

The existing house benefits from a relatively large rear garden and is sited some distance away from its boundary with 69 Spring Road. Whilst the existing garage is located along the shared boundary with 69 Spring Road it is of a single storey design allowing for there to be a significant amount of open space to be retained between the house and other nearby houses. As the remainder of Spring Road is built up this open space is considered to be a significant characteristic to the site and streetscene.

The proposal will result in the loss of this single storey garage and replacement with two storey outbuilding which would be positioned along the site's boundary shared with Spring Road. This siting would result in the new building appearing as a prominent addition within Spring Road and its two-storey nature would occupy the open space between the application house and its neighbour resulting in a loss of a significant characteristic here.

Spring Road is made up of largely two storey semi-detached buildings which are either finished in render or brick contributing to a traditional streetscene. The existing single storey garage also contributes to this traditional appearance by being single storey and very much subservient in appearance to the host dwelling. The design of the new building is modern in comparison which would not relate well to the traditional appearance set by other houses within Spring Road.

The new two storey outbuilding would allow for a garage at ground floor with large opening door for vehicles whilst at first floor it would be render with a small number of forward-facing windows and a pitched roof design. The proposed footprint of the building would allow for further side and rear projections which would also be visible from Spring Road comprising of vertical timber cladding and balustrading to accommodate for a large roof terraced to the rear.

The use of the large front garage door will replicate the existing garage's door and the pitched roof design will incorporate two sideways facing gable ends similar to the neighbouring properties to the southeast. The height of the new building will match also match that of these neighbouring houses.

The building itself will comprise of a mixture of parking, storage, home office space and annexe accommodation ancillary to the main house. It is noted that outbuildings of this nature are generally smaller in size and scale and are usually positioned closer to their host dwellings allowing for a suitable relationship between the two buildings.

The proposed two storey outbuilding will be a significant change from the existing single storey garage that it will replace, in terms of scale. This change would significantly increase the scale/mass of a building that should appear ancillary/subservient to the host dwelling.

Due to its size the proposed outbuilding cannot be considered "ancillary" or "Incidental" to 70 Ladysmith Avenue and would provide a perception to public users that this is in fact a separate dwelling within Spring Road.

The use of white render would exacerbate the appearance of the new building increasing its prominence and impact onto the streetscene. The use of glazed balustrading and vertical cladding would also have a further detrimental impact to the locale it would appear striking and out of character to this largely traditional streetscene.

It is therefore considered that the new building due to its size, design and siting on the side boundary would result in a prominent addition to the site which would appear as an incongruous addition to

**Commented [ML1]:** Need to add in here the characteristic of Spring Road that is being lost? Do we mean the spacious gap in this location and the loss of the ancillary appearing garage?

**Commented [ML2]:** I think it will consist of white render? You can include the use of white render/cladding as a further point that it would appear very striking/prominent and out of character in this largely traditional streetscene.

the existing site and its surroundings thereby having a detrimental impact to the character and appearance of the area. This impact would have further adverse effects due to the significant reduction in open space, at first floor level, as you enter Spring Road.

#### 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.

Sited to the south of the site is 68A Ladysmith Avenue which is a two-storey detached house which fronts Ladysmith Avenue. This neighbouring site has an existing modestly sized rear garden which is surrounded by other two storey houses within the vicinity. The rear elevation of this main house achieves views of surrounding houses as well as their associated boundary treatment and outbuildings. The change of this nearby building from a single storey element to two-storey will result in an impact to the existing views achieved from 68A Ladysmith Avenue. Whilst this will result in an increase in terms of loss of light and outlook the proposed building will be set off the shared boundary which will reduce this impact. Therefore, due to the setting off the shared boundary and its design the loss of outlook and light experienced by this neighbour would be considered not so significant to refuse planning permission upon in this instance.

The proposed plans supporting the application show that the first-floor space will be accessed via a rear staircase which also leads to a large roof terrace. This roof terrace is large in size and will overlook into the garden and into the rearward openings of 68a Ladysmith Avenue.

Whilst it is appreciated that elements of this neighbour's garden are already heavily overlooked by surrounding houses these openings are small in size achieving only slight glimpses into this nearby house. The new balcony and staircase are close to the shared boundary and large in size allowing a number of users to accommodate the space at any one time. Furthermore, the relationship between the proposal and its neighbour will allow for users to achieve direct views into elements of this neighbouring house significantly reducing the privacy levels already experienced by these nearby occupiers.

Sited to the southeast is 69 Spring Road which comprises of a two-storey semi-detached house which fronts Spring Road. This house has a small number of side facing windows which serve the house and are spread amongst the different floors of the house. There is also a second-floor window along this elevation which suggest rooms within the roof of the house. The ground floor side openings currently look onto the existing garage which serves the application site whilst the openings at first and second floor achieve views over the top of this existing structure.

This neighbour's ground floor window already looks out onto the existing garage, it is therefore noted that any further impact received by these openings would not be considered significant given that they are already impacted by the existing garage.

The proposed change of the outbuilding to a two-storey building will significantly reduce the level of light and outlook already received from this neighbour's first and second floor openings resulting in a harmful impact to this neighbour's existing amenities. It is noted; however, that these side facing windows are small in size and obscure glazed meaning they are likely to serve a bathroom or hallway and therefore not primarily living quarters. It is therefore considered that any impact on these windows would be considered unreasonable grounds to refuse planning permission upon here.

The proposed building will be noticeable to this neighbour given its two storey design however this will reduce to single storey towards the rear and incorporate a hipped roof rear extension with an eaves height of 2.8m. Whilst this will have some impact upon this neighbour's level of light and outlook much of the two storey element will not be visible from the rear of this neighbour's house as it will not protrude beyond its rear wall. The single storey element to the rear will be largely screened by existing boundary treatment and the use of a hipped roof will help soften this impact further. It is therefore considered that the impact to this neighbour in terms of loss of light or outlook would not be so significant to refuse permission upon here.

The side elevation of the proposal shows a number of high-level windows at ground floor and one window at first floor. Whilst these will look onto the side wall of this neighbour the plans have indicated that these will be opaque meaning any views will be reduced and therefore the impact resulting from these openings would not be considered so significant to refuse planning permission upon here.

The roof terrace area will be set off the shared boundary with this neighbour due to the sloping roof design of the building at the rear. The plans also indicate that 1.75m privacy screening will be erected along this edge of the balcony which serves 69 Spring Road. Whilst it is appreciated that elements of this neighbour's garden are already overlooked by surrounding houses these openings which do so are small in size allowing for some of their garden area to retain a level of privacy. 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. Whilst it is appreciated that the agent has shown privacy screening measures in place, due to the sheer size of the roof terraced it is considered this would not be enough to reduce the level of overlooking which it would result in having an undesirable impact to this neighbour's rear garden. It is also noted that this roof terraced would also further increase the perception of overlooking to this neighbour having a further negative impact to them.

#### Highway Safety

Paragraph 110 of the National Planning Policy Framework 2023 (NPPF) seeks to ensure that safe and suitable access to a development site can be achieved for all users. Policy SPL3 Part B of the adopted Local Plan states that new development (including changes of use) must meet practical requirements; ensuring access to the site is practicable and associated additional traffic can be safely accommodated and that provision is made for adequate vehicle and cycle parking. The EPOA Parking Standards 2009 set out the requirements for commercial and residential parking provision.

The ECC Parking Standards states that where a house comprises of two or more bedrooms that 2no parking spaces should be retained which measure 5.5m by 2.9m per space. They also request that new garages should have an internal measurement of 7m by 3m.

The proposed garage will measure 5.8 by 4.9m internally therefore conflicting with the above standards. Whilst there is some green space located around the front and side of the house this has not been identified as off-street parking on the information provided and due to the position of the existing vehicular access would not be suitable for safe access or the manoeuvring of vehicles. It is also noted that some of the green verge around the house has not been included within the red line of the site plan and would therefore not to appear part of this site's residential curtilage.

The existing garage at present is of a size which is under the above requirements and therefore does not provide sufficient parking in line with these standards. The proposed garage will also be under these standards and therefore does not meet the parking needs of the house and the additional accommodation proposed.

The proposal therefore does not demonstrate sufficient parking measures in line with the above policies or standards.

#### Conclusion

The proposal fails the aforementioned national and local policies resulting in a detrimental harmful impact to the character of the existing locale, insufficient parking and significant loss of amenities to the neighbouring sites. The application is therefore recommended for refusal.

#### **6. Recommendation**

Refusal - Full

#### **7. Reasons for Refusal**

- 1 Paragraph 130 of the National Planning Policy Framework 2023 (NPPF) requires that developments are visually attractive as a result of good architecture, are sympathetic to local character and history, including the surrounding built environment, function well and add to the overall quality of the area, and establish or maintain a strong sense of place.

**Commented [ML3]:** I would mention that the garage is of sufficient size to meet the parking needs of the house and that this application would remove this.

Adopted Tendring District Local Plan Section 1 (TDLPS1) Policy SP7 seeks high standards of design that responds positively to local character and context. Policy SPL3 states that development must relate well to its site and surroundings particularly in relation to its siting, height, scale and massing. Furthermore, the development must respect or enhance existing street patterns.

The proposed development, by way of its height, bulk, scale and massing would prevent the building from appearing as an ancillary or subservient outbuilding to the host dwelling thereby appearing an incongruous feature which would be detrimental to the visual amenity of the site and locale.

Furthermore, the use of a contemporary design and modern materials would prevent the proposal from successfully assimilating into the streetscene exacerbating its appearance to resulting in additional significant to the traditional character the surrounding area.

This impact would be out of keeping with the pattern of surrounding development and adjacent housing, resulting in a visually intrusive development harmful to the character and appearance of this area. As such the proposal would be contrary to the above policies.

- 2 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 roof terraced will be sited on top of the rear projection of the building and is of a substantial size which will be sited in close proximity to 68A Ladysmith Avenue and 69 Spring Road achieving significant views into each of these nearby gardens.

Furthermore, its positioning and close relationship with 68A Ladysmith Avenue will allow for users on the terraced to achieve clear views into this neighbouring dwelling's rearward facing openings 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.

- 3 Paragraph 110 of the National Planning Policy Framework 2023 (NPPF) seeks to ensure that safe and suitable access to a development site can be achieved for all users. Policy SPL3 Part B of the adopted Local Plan states that new development (including changes of use) must meet practical requirements; ensuring access to the site is practicable and associated additional traffic can be safely accommodated and that provision is made for adequate vehicle and cycle parking. The EPOA Parking Standards 2009 set out the requirements for commercial and residential parking provision.

In this instance, the proposed development removes the existing garage which will be replaced by a new outbuilding that is of insufficient size to meet the parking requirements for the host dwelling and the additional accommodation proposed. The proposal would, therefore, potentially lead to vehicles being left parked in the adjoining highway, exacerbating on-street parking stress in a predominately residential area, detrimental to the general safety of all highway users, and would undermine the principle of seeking to discourage on-street parking in the locality, contrary to the above-mentioned policy and NPPF paragraph 110.

## **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):

O/A000/BP/001  
O/A100/PR/001  
O/A200/PR/001  
O/A200/PR/005  
O/A600/PR/001  
O/A600/PR/003  
O/A600/PR/004  
O/A600/PR/005  
DESIGN AND ACCESS STATEMENT - REC'D 31/08/2023

#### 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 |