

DELEGATED DECISION OFFICER REPORT

| AUTHORISATION | INITIALS | DATE |
|--|----------|------------|
| Planning Officer recommendation: | ER | 20/03/2024 |
| Team Leader authorisation / sign off: | ML | 21/03/2024 |
| Assistant Planner final checks and despatch: | ER | 21/03/2024 |

Application: 24/00085/FUL **Town / Parish:** Frinton & Walton Town Council

Applicant: Mr Lee O'Neil - Bare Care 1 Limited

Address: Yew Trees Nursing Home 12 The Street Kirby Le Soken

Development: Proposed removal of existing conservatory roof and windows and replacement with new insulated flat roof and double glazed windows.

1. Town / Parish Council

FRINTON AND WALTON TOWN COUNCIL Recommend approval

2. Consultation Responses

Essex County Council Heritage
01.03.2024

The application is for proposed removal of existing conservatory roof and windows and replacement with new insulated flat roof and double glazed windows.

The proposal site is within the Kirby Le Soken Conservation Area.

There is no objection in principle to the partial demolition and reconstruction of the existing conservatory with improved details and materials, however the proposed design is not considered in keeping with the character and appearance of the Conservation Area. The existing conservatory is a later addition and is constructed of low-quality materials which are now in poor condition, however it is of traditional design and appearance.

I advise the proposed design is revised by retaining a pitched roof form instead of the proposed flat roof. The design of the proposed elevations should also be revised to be more traditional and in keeping with the main building. Traditional external materials like slate roof to match the existing and render or timber cladding should also be used.

In their current form the proposals do not preserve or enhance the character or appearance of the Conservation Area. With regards to the National Planning Policy Framework (2023), the level of harm is considered to be 'less than substantial'. As such the local planning authority should weigh this harm against any public benefits of the proposal including, where appropriate, securing its optimum viable use as per Paragraph 208. Furthermore, the proposed development fails to make a positive contribution to local character and distinctiveness, as set out in Paragraph 203c of the NPPF.

3. Planning History

00/01078/FUL Internal alterations and rear single storey extensions Withdrawn 23.10.2000

| | | | |
|--------------|--|--------------|------------|
| 01/00325/FUL | Internal alterations and rear single and double storey extensions | Approved | 20.06.2001 |
| 97/01528/FUL | Conservatory | Approved | 18.03.1998 |
| 03/00224/FUL | Refurbishment of existing care home including provision of disabled access, car parking and boundary wall | Approved | 19.03.2003 |
| 03/00241/LBC | Refurbishment of existing care home including provision of disabled access, car parking and boundary wall | Not required | 28.02.2003 |
| 03/01330/FUL | Conservatory and reception building to support existing care home | Approved | 25.09.2003 |
| 03/01329/CON | Demolition of outbuildings | Approved | 22.08.2003 |
| 03/02373/FUL | Variation of condition 02 of 03/01330/FUL to allow use of UPVC for conservatory construction | Approved | 11.02.2004 |
| 04/01288/FUL | Reception building showing revised height (03/01330/FUL) and location, generator housing and air conditioning units. | Approved | 30.08.2005 |
| 10/00457/TCA | 1 x Yew tree - fell. | Approved | 18.05.2010 |
| 11/00603/TCA | Tree in front drive opposite main entrance - remove 2 limbs and crown lift. Dead tree on right front boundary - remove. | Approved | 30.06.2011 |
| 14/01055/TCA | Bay - remove as damaging neighbours fence and paved area. | Approved | 19.08.2014 |
| 14/01142/TCA | Reduce Ash tree to 12-14 feet. | Approved | 09.09.2014 |
| 16/00954/TCA | T3 - Walnut - remove dead wood. T4 Holly - remove dead wood and sever ivy. T6 - Yew - crown lift to 3 m and cut back from neighbouring property. T7 - Cordyline - reduce by 2 m to clear telephone lines. G1 - Holly/Ash/Yew - fell. T8 - Cordyline fell. T13 - Bay - crown lift away from fence and structure by 1 m. G3 - Yew - crown lift , cut back overhang. T17 - Oak - remove dead wood. T24 Sycamore remove dead wood and sever ivy. G4 Laurel reduce to 3 m and cut back from fence | Approved | 19.07.2016 |
| 17/01358/TCA | Prune 2 No. trees. | Approved | 07.09.2017 |

| | | | |
|--------------|--|---------------|------------|
| 23/01227/GAS | Proposed installation of a gas supply connection. | Determination | 13.09.2023 |
| 24/00085/FUL | Proposed removal of existing conservatory roof and windows and replacement with new insulated flat roof and double glazed windows. | Current | |

4. 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 Local Plan 2013-33 and Beyond (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 made and the Minerals and Waste Local Plans adopted by Essex County Council.

5. 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>

6. Relevant Policies / Government Guidance

NATIONAL:

National Planning Policy Framework 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
PPL8 Conservation Areas

Supplementary Planning Guidance:
Essex Design Guide

No emerging or adopted neighbourhood plan

7. Officer Appraisal (including Site Description and Proposal)

Application Site

The application site comprises of a 10-bedroom care home located in the village of Kirby-Le-Soken approximately two miles from the coastal town of Frinton-On-Sea. The main building is a two

storey which is constructed from brick with painted walls. The building has previously been extended by various single storey structures.

The side conservatory is constructed in masonry brickwork painted with white uPVC double glazed windows with opening top fanlights and a polycarbonate roof.

The site is set back and separated from the highway by a grass verge and pedestrian footpath.

The site is located within the development boundary and conservation area of Kiby le Soken.

Proposal

This application seeks planning permission for the removal of the existing conservatory roof and windows and replacement with new insulated flat roof and double-glazed windows.

Following concerns from ECC Heritage the plans have been amended to show that the walls will be rendered to match the existing building.

Assessment

Visual Impact

The National Planning Policy Framework 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 135 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. Adopted 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 replacement of the conservatory roof and replacement with a flat roof will allow for a better use of this section of the building creating a new and improved space which will be used as a meeting/ office room. The proposal will be sited largely to the rear and the walls of the building will be finished in render to match the existing building and to incorporate a flat roof.

The proposal is of a suitable size and design which is appropriate to the existing building and will be finished in materials which are appropriate to the existing care home.

The new alterations will be set back behind existing aspects of the host building which will screen much of it thereby preventing it from appearing as a prominent or harmful feature within the streetscene.

The proposal is therefore considered to conform to the above policies and would not result in a significantly harmful impact to the character/ appearance of the host building or area.

Heritage Impact

Paragraph 203 requests that when determining applications, local planning authorities should take account of: a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and c) the desirability of new development making a positive contribution to local character and distinctiveness.

Policy PPL8 of the Tendring District Local Plan 2013-2033 seeks to ensure that any new development within a designated Conservation Area, or which affects its setting, will only be permitted where it has regard to the desirability of preserving or enhancing the special character and appearance of the area.

The application site is located within the Kirby le Soken Conservation Area; however, has not been awarded special mention within the conservation area appraisal for the area.

ECC Heritage has been consulted as part of the application process and have confirmed that they do not object in principle to the partial demolition and reconstruction of the existing conservatory with improved details and materials, however they have stated that the proposed design is not considered in keeping with the character and appearance of the conservation area. They have further stated that the level of harm is considered to be 'less than substantial'. As such the local planning authority should weigh this harm against any public benefits of the proposal including, where appropriate, securing its optimum viable use as per Paragraph 208 of the NPPF.

The proposed plans have been amended to show that the walls will be finished in render to match the host care home encouraging consistencies between the addition and the host building. The plans show that the flat roof will be retained as this is the most viable option for the care home.

The proposed alterations will replace existing features at the rear of the building which are predominantly screened by aspects of the existing building. The proposal will also be sited a good distance back from the site's front boundary meaning that public views will be extremely minimal and not prominent within the streetscene.

The proposal will result in a more usable meeting/ office space for an established care home which will provide better facilities for the residents and staff.

Whilst ECC Heritage have raised concerns about the proposal, due to limited views of the proposal from The Street together with the benefits outlined above, it is considered that the level of harm to the appearance/ character of the conservation area would not be so significant in this instance to refuse planning permission upon.

Ecology and Biodiversity

General duty on all authorities

The Natural Environment and Rural Communities Act 2006 amended by the Environment Act 2021 provides under Section 40 the general duty to conserve and enhance biodiversity: "For the purposes of this section "the general biodiversity objective" is the conservation and enhancement of biodiversity in England through the exercise of functions in relation to England." Section 40 states authorities must consider what actions they can take to further the general biodiversity objective and determine policies and specific objectives to achieve this goal. The actions mentioned include conserving, restoring, or enhancing populations of particular species and habitats. In conclusion for decision making, it is considered that the Local Planning Authority must be satisfied that the development would conserve and enhance.

This development is subject to the general duty outlined above. An informative has been imposed strongly encouraging the applicant to improve the biodiversity of the application site through appropriate additional planting and wildlife friendly features. Therefore, the development on balance, with consideration of the impact of the development and baseline situation on site, is considered likely to conserve and enhance biodiversity interests.

Biodiversity net gain

Biodiversity net gain (BNG) is an approach that aims to leave the natural environment in a measurably better state than it was beforehand. This excludes applications for Listed Building Consent, Advert Consent, Reserved Matters, Prior Approvals, Lawful Development Certificates, householders, self builds, and other types of application which are below the threshold i.e. does not impact a priority habitat and impacts less than 25 sq.m of habitat, or 5m of linear habitats such as hedgerow). This proposal is not therefore applicable for Biodiversity Net Gain.

Protected Species

In accordance with Natural England's standing advice the proposed development site and surrounding habitat have been assessed for potential impacts on protected species. It is considered that the proposal is unlikely to adversely impact upon protected species or habitats.

Conclusion

In accordance with the overarching duty outlined above, this development is considered to accord to best practice, policy, and legislation requirements in consideration of the impacts on ecology interests.

Residential Amenities

Paragraph 135 of the National Planning Policy Framework (2023) confirms planning policies and decisions 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.

Policy SP7 of Section 1 of the 2013-33 Local Plan requires that the amenity of existing residents is protected. Section 2 Policy SPL 3 (Part C) seeks to ensure that development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

The proposal will be sited away from the shared boundaries of the site and predominantly screened by the existing boundary planting and fencing, thereby preventing it from resulting in a significant loss of amenities to neighbouring sites.

Other Considerations

Frinton and Walton Town Council recommend approval.

There have been no letters of representation received.

Conclusion

The proposal is therefore considered to be compliant with national and local policy as assessed in the above report. Whilst ECC Heritage have raised concerns over the level of impact upon the character/ appearance of the conservation area this impact has been assessed above and is considered not to be so significant in this instance. The application is recommended for approval.

8. Recommendation

Approval - Full

9. Conditions

1 COMPLIANCE REQUIRED: COMMENCEMENT TIME LIMIT

CONDITION: The development hereby permitted shall be begun not later the expiration of three years from the date of this permission.

REASON: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

NOTE/S FOR CONDITION:

The development needs to commence within the timeframe provided. Failure to comply with this condition will result in the permission becoming lapsed and unable to be carried out. If commencement takes place after the time lapses this may result in unlawful works at risk Enforcement Action proceedings. You should only commence works when all other conditions requiring agreement prior to commencement have been complied with.

2 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 - REC'D 17.01.24

AAS150-600 PL1

AAS150-101 PL2

AAS150-201 PL2

PLANNING STATEMENT - REC'D 17.01.24

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.

10. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Ecology Informative

In accordance with the Council's general duty to conserve and enhance biodiversity, you are strongly encouraged to improve the biodiversity of the application site through appropriate additional planting and wildlife friendly features. Suggested enhancements could include: <https://www.rhs.org.uk/wildlife/in-the-garden/encourage-wildlife-to-your-garden>

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 |
|--------------------|---|---------|