

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Planning Officer recommendation:	ER	10/04/2024
Team Leader authorisation / sign off:	AN	11/04/24
Assistant Planner final checks and despatch:	ER	11/04/2024

**Application:** 24/00248/FULHH **Town / Parish:** Mistley Parish Council

**Applicant:** Miss Gilly Thorne

**Address:** 2 Park Cottages The Park Mistley

**Development:** Householder Planning Application - Removal of existing extension and replace with 3806x6000mm single storey extension finished in timber cladding. New first floor window to side elevation. Rear fenestration altered to suit new extension. New detached annex to be formed to the rear of the property, to be finished in a timber cladding and flat roof.

**1. Town / Parish Council**

Mistley Parish Council

At its Planning Committee Meeting on the 11th March 2024, the Parish Council raised no objections.

**2. Consultation Responses**

ECC Highways Dept  
05.03.2024

The information submitted with the application has been assessed by the Highway Authority and conclusions have been drawn from a desktop study with the observations below based on the submitted material. No site visit was undertaken in conjunction with this planning application. The Park is classified as a Private Road and as such the Highway Authority would not normally comment. It is noted that the current property does not have any off-street parking, which is consistent with other properties in the area of The Park. The proposal does not increase the number of bedrooms, and as such the existing facilities will remain appropriate for the size of property, considering these factors:

The Highway Authority does not object to the proposals as submitted.

Informative:

i) All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org)

ii) Prior to commencement of the development, the areas within the curtilage of the site for the purpose of loading / unloading / reception and storage of building materials and manoeuvring of all vehicles, including construction traffic shall be provided clear of the private road.

iii) On the completion of the extension, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area, it

covers, and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

iv) The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

### **3. Planning History**

05/01597/TCA	Crown reduce Ginko Biloba in rear garden by 30%	Approved	07.10.2005
24/00197/TCA	Trees in a Conservation Area Notification - Felling and removal of ginko tree and twin stem willow felling and removal.	Approved	06.03.2024
24/00248/FULHH	Householder Planning Application - Removal of existing extension and replace with 3806x6000mm single storey extension finished in timber cladding. New first floor window to side elevation. Rear fenestration altered to suit new extension. New detached annex to be formed to the rear of the property, to be finished in a timber cladding and flat roof.	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>

No emerging or adopted neighbourhood plan

### **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

LP3 Housing Density and Standards

LP4 Housing Layout

PPL8 Conservation Areas

PPL9 Listed Buildings

Supplementary Planning Guidance:

Essex Design Guide

## 7. **Officer Appraisal (including Site Description and Proposal)**

### Site context

The site comprises of an end of terrace residential cottage situated in Manningtree, finished with render to the front elevation, although a traditional property it does not have listed status. The property currently includes a small extension measuring approximately 2.1m in depth.

The house together with its neighbours share an access from New Road and are set back from this main highway.

### Proposal

This application seeks planning permission for the removal of existing extension and replace with 3.8m by 6m single storey extension finished in timber cladding. New first floor window to side elevation. Rear fenestration altered to suit new extension (these works are permitted development). New detached annex to be formed to the rear of the property.

### Assessment

#### Visual Impact

Paragraph 135 of the NPPF (2023) 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. Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design which responds positively to local character and context, and to protect the district's landscape and the quality of existing places and their environs.

The house is an end terraced dwelling within a built-up section of "The Park" with houses being positioned close together limiting public views into the rear gardens, therefore preventing public views of the proposal.

The proposed annexe will be sited to the rear of the house and replace an existing building at the bottom of the garden. This new annexe will incorporate a bedroom and shower room and will be finished in boarding with a GRP flat roof. The annexe will be a suitable size in relation to the site and will be set off each shared boundary to prevent it from feeling cramped in the garden.

The proposed extension will also be sited to the rear and therefore would not be visible within the streetscene. The new first floor window will be positioned within the side wall; however, due to the close relationship with the neighbour would not allow for prominent views onto The Park. These alterations are considered appropriate in terms of design and scale compared to the main house and would not adversely impact upon the appearance/ character of the dwelling or the local area.

The proposed extension and annex will be finished in boarding which will differ to the main house however as these elements are to the rear and will not be seen from "The Park" or "New Road" the

use of this would not have an adverse impact to the visual amenity of the house or area and is considered acceptable in this instance.

The site is of a sufficient size to accommodate the proposal and still retain sufficient private amenity space.

The proposal is therefore considered compliant with the above policies and would not result in a harmful impact to the appearance/ character of the house or streetscene.

#### 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 site is located within the Mistley Conservation Area and the Council has a statutory to ensure that proposals within these areas either protect or enhance the character of this protected area.

The proposals are to be sited to the rear of the house and will be screened from public views, thereby preventing them from resulting in a harmful impact to the appearance/ character of the conservation area.

#### Trees and Landscaping

The implementation of the proposed development will necessitate the felling and complete removal of a large Maidenhair Tree (*Ginkgo biloba*) situated in the rear garden of the property.

The tree is a mature healthy specimen, although the main stem is bifurcated at approximately 3m from ground level indicating a potential weakness in the structural integrity of the tree. The tree does not feature prominently in the public realm as it is in the rear garden and screened from view by residential properties in The Park.

Concurrent with the planning application the council has received a Section 211 Notice under which the owner of the property has served 6 weeks notice on the council of their intention to fell the tree. As part of this process of dealing with a Section 211 Notice an assessment of the health, condition and amenity value of the tree was made to determine whether it merits retention and protection by means of a tree preservation order.

Taking into account the condition and amenity value of the tree it is considered that it does not merit retention and that its removal will not have a significant adverse impact on the character or appearance of the conservation area or otherwise affect the public's enjoyment of the local environment. There is little scope for, or public benefit to be gained from new soft landscaping associated with the proposed development.

#### Residential Amenities

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 wellbeing, 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 proposed annexe will be sited to the rear of the garden and will match the position of others in the locality. Whilst the new building will be visible it will be sited sufficiently away from neighbouring houses preventing it from resulting in a significant loss of amenities to nearby houses.

The proposal and plans show a new first floor window will be positioned within the side elevation which will serve the bedroom. This window will be positioned so that it looks onto the side wall of the neighbour to the north west's wall. This neighbouring house does not benefit from any windows within the side elevation and would not receive views into this next door house preventing a significant loss of privacy in this instance.

The proposed extension will be single storey in terms of design and incorporate a flat roof. The extension will be sited in close proximity to the shared boundaries and largely screened by existing boundary fencing.

The neighbour to the north west of the site is set off of the shared boundary and away from such. This will allow for views of the extension be minimal and not significantly reduce the level of light and outlook experienced here.

The neighbour to the south east of the site is similar to the application dwelling in terms of size and design. This neighbour benefits from a small opening and door along the rear elevation which due to the proposals length and close proximity would result in them receiving a reduced amount of light/ outlook. The sunlight/daylight calculations specified within the Essex Design Guide have been applied to the plans and in this instance the 45 degree line drawn in elevation and plan would strike through or fully encompass this neighbours nearest window therefore failing this test. Whilst the failure of this test would normally result in the refusal of an application it is noted that the window affected by the proposal is a small obscure glazed opening which does not serve a primary living space. It is also noted that this window is already obscured by the extension on the application dwelling and would further be affected by a 2m high fence which could be erected along the shared boundary under permitted development. It is therefore considered that the impact to this neighbour is not considered so significant to refuse planning permission upon in this instance. It is also noted a 3 metre deep extension could be erected here under permitted development which would result in the same impact in terms of light and outlook loss to this window.

The new extension does not incorporate any windows within its side elevation preventing it from resulting in a loss of privacy in this instance.

## Habitats, Protected Species and Biodiversity Enhancement

### **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.

### Other Considerations

Mistley Parish Council have no objections to the proposal.  
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. In the absence of material harm resulting from the proposed development 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.

0127-A-001

0127-A-002

0127-A-200

0127-A-201

DESIGN AND ACCESS STATEMENT - Rec 19/02/24

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.

### 3 SPECIFIC RESTRICTION ON DEVELOPMENT: OCCUPATION

CONDITION: This permission shall only authorise the use and occupation of the accommodation hereby approved for purposes incidental and ancillary to the principal dwelling known as 2 Park Cottages The Park Mistley (or as may be renamed in the future) and does not permit the use of the approved accommodation as a separate household unrelated and not incidental/ancillary to the principal dwelling.

REASON: The proposed annexe would not be acceptable under the established policies of Local Plan and NPPF by representing a net increase in dwelling units were the development to be occupied as an unrelated dwelling and not considered as one household. Furthermore, having regard to its particular relationship with the principal dwelling, there is potential for noise, activity and disturbance detrimental to the amenity of that principal dwelling were the development to be occupied as an unrelated dwelling.

NOTE/S FOR CONDITION

Unless otherwise stated, this condition applies to the site outlined in red and to all new development that forms any net increase in residential accommodation and may include

change of use of buildings, change of use of land for the siting of caravans or similar, new buildings and extensions.

## 10. 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.

### 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>

## 11. 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	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral

national origin)		
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