

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Planning Officer recommendation:	ER	11/04/2024
Team Leader authorisation / sign off:	AN	11/04/24
Assistant Planner final checks and despatch:	ER	12/04/2024

**Application:** 24/00285/FULHH **Town / Parish:** Brightlingsea Town Council

**Applicant:** Dr J Nicholson

**Address:** 70 Ladysmith Avenue Brightlingsea Colchester

**Development:** Householder Planning Application - demolition of existing garage and construction of combined garage and residential annex at ground floor, offices and w/c at first floor. New access door and wall to main house.

### 1. Town / Parish Council

Brightlingsea Town Council

Our comments of the previous application (23/01224/FULHH) remain, i.e. (1) Overdevelopment of the site; (2) Too close to the boundary (3) Out of keeping with the area.

The comments in the Tendring District Council refusal letter dated 31.8.23 still stand, as follows:-

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.

We still believe TDC's comments regarding Paragraph 110 of the National Planning Policy Framework 2023 (NPPF) are still relevant. This application does not negate many comments made on the earlier refusal.

### 2. Consultation Responses

Not 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.	Refused	14.12.2023
24/00285/FULHH	Householder Planning Application - demolition of existing garage and construction of combined garage and residential annex at ground floor, offices and w/c at first floor. New access door and wall to main house.	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

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

## **7. 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 an 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.

### Relevant Planning History

A previous application under planning reference 23/01224/FULHH has previously been received and assessed by the Local Planning Authority. The previous application was refused on its harmful impact in terms of visual amenity, significant loss of neighbouring amenities and loss of parking resulting in a detriment to highway safety.

This new application shows the following changes;

- The height of the outbuilding has been reduced to 6.2m (originally 7.2m).
- The proposed roof terrace/ balcony has been removed and replaced with a Juliet balcony.
- The change of materials from boarding to render.
- Reduction in width of the extension.
- Alterations to roof design of the extension from partial hipped to completely flat roof.

### Representations Received

Brightlingsea Town Council have objected to the scheme and two other letters of objection 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 135 of the National Planning Policy Framework 2021 (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 sites 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 shared 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 sites boundary shared with Spring Road. This siting would result in the new building appearing as a prominent addition in Spring Road and its two storey nature would occupy the space between the application house and its neighbour resulting in a loss of a significant characteristic of this part of 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 rendered with a small number of forward facing openings 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 also of render to match the host dwelling.

The use of the large front garage door will replicate the existing garages door and the pitched roof design will incorporate two sideways facing gable ends similar to the neighbouring properties to the South East.

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

The new two storey building itself will replicate similar designs and sizing of other houses within Spring Road. The size of the new building will be similar to these surrounding houses appearing excessively large and therefore not appearing subserviently to the existing house which is more typical of outbuildings. The proposals siting away from 70 Ladysmith Avenue would prevent it from appearing cohesively with its host house as part of this established site.

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 proposal will be finished in render to match the existing house and other surrounding dwellings.

It is noted that elements of the proposal will be visible from Ladysmith Avenue however as these will be set away from this main highway and screened by existing houses these views would not be so prominent or damaging to this section of Ladysmith Avenue which would require the need to refuse planning permission upon.

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 the existing site and its surroundings thereby having a detrimental impact to the character and appearance of the area. This impact would have further damaging effects due to the significant reduction in open space between the houses.

It is appreciated that alterations have been made to the plans showing a reduction in height and footprint of the building along with a change of materials to render in a bid to reduce the impact of the proposal and to allow it to form a better relationship with the host dwelling. However the overall size, siting and design of the building would still appear as a prominent and intrusive feature within Spring Road which would result in a detrimental impact to the character/ appearance of the local area.

#### Impact to Neighbours

Paragraph 135 of the National Planning Policy Framework 2021 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 66A 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 predominantly overlooked and enclosed 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 treatments 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 66A Ladysmith Avenue. Whilst this will result in an increase in terms of loss of light and outlook the proposed building will be set off of the shared boundary which will reduce this impact with its rear projection decreasing to a single storey enlargement with a hipped roof design which could be suitably screened by existing boundary treatment between the two sites. Due to the setting off of 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 updated plans show that the rear roof terrace/ balcony has been removed from the proposal and that this will be replaced with a juliet balcony.

Whilst it is appreciated that elements of this neighbour's garden is already heavily overlooked by surrounding houses these openings which do so are small in size achieving only slight glimpses into this nearby house. The relationship between the proposal and its neighbour will allow for users to achieve direct views into elements of this neighbouring house, most notably the large kitchen window, significantly reducing the small level of privacy already experienced by these nearby occupiers. As the house and garden already receive little to no privacy it would be considered unreasonable to support such a scheme which would reduce this neighbour's privacy any further. This would also further increase the perception of overlooking to this neighbour having a further negative impact to them.

Sited to the south east 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 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 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, as they are obscure glazed they would not receive clear views at present. It is therefore considered that the impact on the light and outlook of 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 flat roof rear extension. 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 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 rear elevation will include two openings one of which will be served by a Juliet balcony achieving views into this neighbour's garden. Whilst it is appreciated that the level of overlooking has been significantly decreased due to the new scale of the balcony and this neighbour's garden is already overlooked by surrounding houses it is noted that these openings which do so are small in size allowing for some of their garden area to retain a level of privacy.

#### Highway Safety

Paragraph 114 of the National Planning Policy Framework 2021 (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 5.6 by 6.0m internally therefore conflicting with the above standards. Whilst there is some green space located around the front 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 appear part of this site's residential curtilage. 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.

### **8. Recommendation**

Refusal - Full

### **9. Reasons for Refusal**

- 1 Paragraph 135 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 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.

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 135 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 first floor rear Juliet balcony will achieve clear views into the neighbouring gardens of 68A Ladysmith Avenue and 69 Spring Road.

Due to its positioning and close relationship with 68A Ladysmith Avenue the Juliet balcony will allow for users 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 residents, which is contrary to the aims of the above national and local plan policies.

- 3 Paragraph 114 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 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.

## **10. 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):

0/A000/BP/001 A  
0/A100/PR/001 D

## 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 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