

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Planning Officer recommendation:	OA	17.04.2024
Team Leader authorisation / sign off:	AN	17/04/24
Assistant Planner final checks and despatch:	ER	17/04/2024

Application: 24/00316/FUL **Town / Parish:** Brightlingsea Town Council

Applicant: Clare Richmond

Address: The Little Boatyard Lime Street Brightlingsea, CO7 0BH

Development: Planning Application - construction of timber storage building for storage of kayaks, canoes, dinghies and for site maintenance equipment.

1. Town / Parish Council

Brightlingsea Council Town Brightlingsea Town Council objects to this application, due to the height and size of the building, and the effect of the proposal on the character and appearance of the area. With reference to earlier planning appeals (reference APP/P1560/W/22/330629), we refer to the Inspectors comments concerning the effect of the scene onto the Conservation Area. Also, the Council has concerns that this could set a precedent for further similar development to Lime Street.

2. Consultation Responses

N/A

3. Planning History

08/00586/FUL	Proposed permanent use as a storage yard.	Withdrawn	30.05.2008
13/01355/FUL	Use of land for long term container and boat storage together with tool and plant storage.	Refused	05.02.2014
18/01846/LUEX	Continuation of use of storage for caravans, boats & trailers.	Granted	20.12.2018
20/00907/FUL	Proposed use of land to form annexed garden ground and erection of storage building, and siting of two water tanks, and retrospective siting of two water tanks and summerhouse (4 water tanks in total).	Approved	20.01.2022
22/00590/FUL	Proposed change of use for part of site from B8 to C3 to create new self-build dwelling with permission to use a live in caravan on site during construction.	Refused	20.06.2022
24/00271/FULHH	Householder Planning Application - Construction of timber storage building for storage of kayaks, canoes, dinghies and for site maintenance equipment.	App returned	

24/00316/FUL Planning Application - construction of Current
timber storage building for storage of
kayaks, canoes, dinghies and for site
maintenance equipment.

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 December 2023 ([NPPF](#))

National Planning Practice Guidance ([NPPG](#))

Local:

Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1 (adopted January 2021)

SP1 Presumption in Favour of Sustainable Development

SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)

SP7 Place Shaping Principles

Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022)

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

PP8 Tourism

PP13 The Rural Economy

PPL2 Coastal Protection Belt

PPL3 The Rural Landscape

7. Officer Appraisal

Site Description

The application site is located towards the north end of Lime Street on the eastern side, roughly opposite the rear of Nos 19-29 Tower Street.

It is completely enclosed by mature and dense native planting with a substantial security gate. There are no views into the site from Lime Street.

It is currently used for the storage of boats, trailers, caravans and containers.

The overall site area is 0.25 hectares; it has two accesses onto Lime Street but only one of which is currently in use. The part of the site that is the subject of this application is 450m.

Lime Street is a fairly narrow, unmade road heavily vegetated on both sides. There are breaks in the hedgerows where other garages are sited to rear of dwellings fronting Tower Street to the west and further parcels of land are used for storage on the eastern side. The site is located within the Coastal Protection Belt as defined within the adopted Tendring District Local Plan 2013-2033.

Proposal

The proposed development is for the construction of a timber storage building for storage of kayaks, canoes, dinghies and for site maintenance equipment

Assessment

The main planning considerations are:

- Principle of Development;
- Landscape Impact
- Layout, Scale and Appearance;
- Residential Amenities;
- Highway Considerations;
- Ecology
- Other Considerations

Principle of Development

A Certificate of Lawfulness was granted in 2018 for the Continuation of use of storage on the site for caravans, boats & trailers, (18/01846/LUEX). The principle of development for storage on site has therefore been established. Notwithstanding this, it is necessary to restrict the use of the proposed building for storage use only (B8) given the sites location and previous refusal for residential development on site (22/00590/FUL). On this basis, the principle of development is considered acceptable subject to other relevant policies outlined below.

Landscape Impact

The proposal is located with the Coastal Protection Belt and Policy PPL 2 states that the Council will protect the open character of the undeveloped coastline and refuse planning permission for development which does not have a compelling functional or operational requirement to be located there. The proposal is for the storage of water-based transport for leisure activities which is located approximately 450m to the south of the application site therefore has a need to be sited in this location. Lime Street is characterised by private lockups with storage and boat-based uses. In addition, Policy PPL 2 states that where development does have a compelling functional or operational requirement to be there, its design should respond appropriately to the landscape and historic character of its context and applicants will be required to demonstrate that any development proposals will be safe over their planned lifetime. It is considered that the timber based construction, form and siting is considered appropriate and therefore the proposal would not materially harm the open character of the undeveloped coastline.

Layout Scale and Appearance

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.

Section 1 Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design which responds positively to local character and context. Section 2 Policy SPL3 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 proposed building will be constructed of black-painted timber boarding with a roof constructed of profiled metal sheeting and black painted timber double doors. It will be sited approximately 2.5m away from the northern and eastern boundary of the site and measure 13.38m in width, 3.75m in depth and 3.65m in height, with eaves height of 2.1m. Internally, it will provide space for the storage of kayaks, canoes, dinghies and a jet ski.

Due to the buildings siting away from the front of the site and to the rear with no immediate neighbours to the east, it is considered that the development is sympathetic to the local character and is of a design which is consistent with the prevailing character of Lime Street. The proposed building is therefore considered suitable and would not result in detrimental harm to the appearance/ character of the streetscene and is in accordance with both the provisions of the NPPF and TDLP.

Neighbouring Amenity

The NPPF, at paragraph 135 states that development 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. Section 1 Policy SP7 of the Tendring District Local Plan 2013-2033 requires that all new development protects the amenity of existing and future residents and users with regard to noise, vibration, smell, loss of light, overbearing and overlooking.

There are no immediate residential neighbours to the north, east and south of the site. Lime Street is located to the west of the site and a distance of approximately 50m exists beyond to the rear of properties along Tower Street. Due to the buildings proposed siting it is considered that there will be no impact on neighbouring amenity and the proposals are in accordance with the provisions of both the NPPF and TDLP.

Highway Considerations

Paragraph 115 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety. Paragraph 116 states that applications for development should (a) give priority first to pedestrian and cycle movements and (c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter.

Paragraph 114 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. These objectives are supported adopted Policy SP7 of the Tendring District Local Plan 2013-2033.

Lime Street is a Private Road and forms part of the Public Right of Way network. The proposals are not considered likely to materially increase traffic generation along the street and there are no proposed amendments to the access way or parking area. Therefore, it is considered that the proposals are in accordance with the provisions of both the NPPF and TDLP.

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.

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.

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). For minor development sites, this legislation applied from 2nd April 2024. This application was submitted prior to this date and therefore Biodiversity Net Gain is not applicable.

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

Brightlingsea Town Council have objected to the application for the following reasons:

- Height and size of proposed building
- Impact on character and appearance of Conservation Area
- Undesirable Precedent.

Officer Response – The site is not located within the Conservation Area, approximately 50m south-west of the boundary. The proposed siting of the building is to the rear of the application site approximately 80m away. The proposal is not therefore considered to impact upon the setting of the Brightlingsea Conservation Area. Lime Street is characterised with a number of residential garages and private lock-ups and storage units and the proposals are not considered to be out of character.

8. Recommendation

Approval - Full

9. Conditions / Reasons for Refusal

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 and Block Plan - Drawing Number PA-15
Drawing No. PA-10

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: STORAGE

CONDITION: This permission shall only authorise the use of the building hereby approved for purposes of storage (B8) and does not permit the use of the approved building for any other use as defined by the Town and Country Planning (General Permitted Development) (England) Order 2015 or any other legislation replacing or enacting that proposal.

REASON: The proposed building would not be acceptable under the established policies of Local Plan and NPPF by representing an alternative use. Furthermore, there is potential for highway impacts, noise, activity and disturbance detrimental to the amenity of neighbouring properties were the development to be used in an alternative capacity.

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.

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.

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 (As known with application)
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

12. Notification of Decision

Are there any letters to be sent to applicant / agent with the decision? If so please specify:	YES	NO
Are there any third parties to be informed of the decision? If so, please specify:	YES	NO