

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION		INITIALS	DATE
Planning Officer recommendation:		MP	10/07/24
EIA Development - Notify Planning Casework Unit of Decision:	NO		
Team Leader authorisation / sign off:		ML	11/07/2024
Assistant Planner final checks and despatch:		ER	11/07/2024

**Application:** 24/00825/NMA **Town / Parish:** Mistley Parish Council

**Applicant:** Mr Leo and Mrs Felicity Borwick

**Address:** The Clearing Anchor Lane Mistley

**Development:** Non Material Amendment to 23/00468/FUL - Removal of north balcony walkway and south overhang at first floor (removing offset floor between ground and first floor). Porch roof overhang structure retained at front door. External Spiral stair relocated to south first floor terrace (east first floor terrace becomes no access roof only). Store to south wing removed (building footprint reduced). Fenestration changes - high level slot window added to Studio south elevation (in lieu of store doors removed), window to master bedroom North elevation moved to corner, Study window split in two and separated, doors to east elevation master bedroom removed - split into 2 windows instead.

### 1. Town / Parish Council

Mistley Parish Council      No comments received.

### 2. Consultation Responses

N/A

### 3. Planning History

14/00081/FUL	Erection of 2 no. detached dwellings served by private drive.	Refused	18.03.2014
23/00461/FUL	Proposed erection of self-build dwelling-house with associated package treatment plant drainage, air source heat pump installation and landscaping (Site having extant residential permission and confirmation of implementation under Lawful Development Certificate Ref: 17/01346/LUEX in association with Full Planning Ref: 14/00081/FUL).	Approved	30.01.2024
23/00468/FUL	Proposed erection of dwelling-house with associated package treatment plant drainage, air source heat pump installation and landscaping (Site having extant residential permission and confirmation of implementation under Lawful Development Certificate Ref: 17/01346/LUEX in association with Full Planning Ref: 14/00081/FUL).	Approved	30.01.2024

24/00540/DISCON	Discharge of conditions application for 23/00468/FUL - Condition 4- Biodiversity Enhancement, Condition 5 - Lighting Design, Condition 9 - Outbuilding Materials, Condition 10 - Landscaping details and Condition 13 (Construction Methodology Statement).	Current
24/00589/DISCON	Discharge of conditions application for 23/00461/FUL - Condition 4 (Biodiversity Enhancement Strategy); Condition 5 (Lighting Design Scheme); Condition 9 (Outbuilding Materials); Condition 10 (Landscaping); Condition 13 (Construction Management Plan).	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.

In relation to housing supply:

The Framework requires Councils to significantly boost the supply of homes to meet the District's housing need. However, the revised Framework, published on 19<sup>th</sup> December 2023, sets out in Paragraph 76 that (for applications made on or after the date of publication of this version of the Framework) local planning authorities are not required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing for decision making purposes if the following criteria are met:

- their adopted plan is less than five years old; and
- that adopted plan identified at least a five-year supply of specific, deliverable sites at the time that its examination concluded.

The adopted Local Plan meets these criteria.

Notwithstanding this updated provision, the Council will continue to demonstrate an updated supply of specific deliverable sites within its Strategic Housing Land Availability Assessment (SHLAA), which is published annually. The most recent SHLAA was published by the Council in November 2023, and demonstrates a 6.44-year supply of deliverable housing sites against the annual requirement of 550 dwellings per annum set out within the adopted Local Plan, plus a 5% buffer to ensure choice and competition in the market. (The SHLAA can be viewed on the Council's website: <https://www.tendringdc.gov.uk/content/monitoring-and-shlaa>)

On 19th December 2023 the Government published the Housing Delivery Test (HDT) 2022 measurement. Against a requirement for 1,420 homes for 2019-2022, the total number of homes delivered was 2,207. The Council's HDT 2022 measurement was therefore 155%. As a result, the 'tilted balance' at paragraph 11 d) of the Framework does not apply to decisions relating to new housing development.

#### 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**

N/A

## **7. Officer Appraisal**

From 1st October 2009 Section 96A of the Town and Country Planning Act came into force allowing a Local Planning Authority, on application, to make a change to any planning permission if it is satisfied that the amendment proposed is non-material.

The key test as to the acceptability of an application for a non-material change is whether the change is material to any development plan policy. If the answer is 'no', three further tests should be applied:

1. Is the proposed change significant in terms of its scale (magnitude, degree etc.), in relation to the original approval?
2. Would the proposed change result in a detrimental impact either visually or in terms of amenity?
3. Would the interests of any third party or body who participated in or were informed of the original decision be disadvantaged in any way?

### Appraisal

In this instance the proposed amendments seek a non-material amendment to planning permission 23/00468/FUL, in order for the following changes:

- Removal of north balcony walkway and south overhang at first floor (removing offset floor between ground and first floor);
- Porch roof overhang structure retained at front door;
- External Spiral stair relocated to south first floor terrace (east first floor terrace becomes no access roof only);
- Store to south wing removed (building footprint reduced); and
- Fenestration changes - high level slot window added to studio south elevation (in lieu of store doors removed), window to master bedroom north elevation moved to corner, study window split in two and separated, doors to east elevation master bedroom removed and split into two windows instead.

There are no alterations to the location or height of the previously approved dwellings.

The non-material amendment therefore seeks to substitute previously approved Drawing Numbers 28 Revision M, 32 Revision C, 33 Revision F, 34 Revision A, with Drawing Numbers 28 Revision O, 32 Revision D, 33 Revision I and 34 Revision C.

In this instance the changes proposed do not represent a significant change from the existing approval. There would be a degree of impact in respect of visual amenity, but not significantly so in the context of the overall development. There will be no alterations to the overall height and location of the building, nor any additional impacts to neighbouring amenities.

Taking into consideration the above changes proposed to planning permission 23/00468/FUL, the revised scheme will not result in a significant change to the overall development. On this basis, the application complies with national and local planning policies.

Conclusion

In this instance it is considered the amendments being sought are minor and are therefore acceptable as a non-material amendment to the approved plans attached to 23/00468/FUL.

**8. Recommendation**

Approve Non-Material Amendment

**9. Condition**

1      **CONDITION:** The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawing Numbers 28 Revision O, 32 Revision D, 33 Revision I and 34 Revision C.

**REASON:** For the avoidance of doubt and in the interests of proper phased planning of the development.

**10. Informatives**

Non-Material Amendment Informative

You are advised that this decision is for minor amendments only and should be read in conjunction with the decision notice for application 23/00468/FUL which will contain a number of conditions and informatives that still apply. Any original conditions that refer to previously approved plans should be read in conjunction with the corresponding updated plans and information forming part of this Non-Material Amendment application.

**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