

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Planning Officer recommendation:	ER	24/07/2024
EIA Development - Notify Planning Casework Unit of Decision:	NO	
Team Leader authorisation / sign off:	ML	25/07/2024
Assistant Planner final checks and despatch:	ER	26/07/2024

Application: 24/00759/FULHH **Town / Parish:** Brightlingsea Town Council

Applicant: RH Management Anglia Ltd

Address: 18 Tower Street Brightlingsea Colchester

Development: Householder Planning Application - two storey rear and side extension.

1. Town / Parish Council

Brightlingsea Town Council supports the construction and street scene, subject to the officers implementing the required controls required by the Brightlingsea Town Conservation Area.

2. Consultation Responses

Not required for this application

3. Planning History

01/00643/FUL	Erection of a dwelling within the site of an existing dwelling	Refused	18.07.2001
02/01336/FUL	New dwelling	Refused	18.09.2002
91/00541/FUL	Erection of three-bedroom bungalow and integral garages	Approved	14.08.1991
24/00759/FULHH	Householder Planning Application - two storey rear and side extension.	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>

Brightlingsea Town Council submitted an area application to the District Council to begin their Neighbourhood Plan on 28 May 2021. The Area Application indicated that the Town Council intended to designate the entire Brightlingsea Parish as their Neighbourhood Plan Area. The designation of Neighbourhood Plan Areas (the first stage in preparing a Neighbourhood Development Plan) is a decision delegated to the Acting Director for Planning, in consultation with the Portfolio Holder for Planning.

The neighbourhood plan is therefore currently within its early stages of development and minimal weight can be given to this document at present.

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

PPL1 Development and Flood Risk

Supplementary Planning Guidance:

Essex Design Guide

7. Officer Appraisal (including Site Description and Proposal)

Application Site

The application house comprises of a two-storey semi-detached house located within the development boundary for Brightlingsea. The house is set forward on its plot and close to the public pavement. The site benefits from an existing garage and rear garden space which is currently overgrown and enclosed by fencing.

The local area comprises predominantly of two storey houses which are sited close to one another with some offering off-street parking facilities. Many of the nearby houses have been extended to the rear and side. It is also noted that whilst this area is predominantly residential there are one or two minor exemptions making way for only a few commercial premises.

The site itself is not located within the conservation area for Brightlingsea; however, the boundary of the conservation area is located to the rear.

Proposal

This application seeks planning permission for the erection of a two-storey rear and side extension.

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 proposed addition will be erected to the side of the house and will introduce a dining room to the ground floor and new bedroom to the first floor. The addition will be set back from the front boundary of the site and front wall of the main house which will aid in reducing its prominence within the streetscene. The extension will be lower in height and finished in similar materials to allow it to appear as a subservient and cohesive feature to the host dwelling.

The plot itself is of a good size which will allow a space to be retained between the house and the boundary to ensure sufficient open space is retained and to prevent the proposal from appearing cramped within the streetscene. It is also noted that the adjoining semi-detached house has been extended and whilst there are some differences this extension is not considered to result in a harmful impact to cumulative appearance of this set of houses.

The proposed addition is of a suitable size and design which will relate appropriately to the existing house and will be finished in materials which match the host dwelling.

The proposal is therefore considered a suitable enlargement to the house which would not result in an adverse impact to the character/ appearance of the application 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 conservation area boundary runs around the rear boundary of the site and views are achieved in and out of this protected area. The proposal will be visible from this protected area; however, due to its siting forward on its plot and the presence of surrounding houses, which will screen much of the development from this area, the extension would not result in significant harmful impact to the views achieved into this protected area in this instance.

Impact to Neighbours

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 proposed extension will be to the side and therefore screened by the host dwelling and not visible to the adjoining neighbour.

The proposed addition will be set off the rear boundary and southern boundary and will therefore not result in a significant loss of amenities to nearby properties.

The extension includes one new first floor opening which will serve the new bedroom and be positioned within the side elevation. To the southern direction is a commercial premises which is

significantly more set back on its plot compared to the host dwelling. This new window will achieve views onto its front drive and not into any neighbouring houses, thereby preventing the new extension from having a harmful impact in this regard.

Impact on Trees

The western boundary of the application site to the north of the existing detached garage comprises of two established trees,

The smaller of the two trees is a Hawthorn which is poorly formed and of low value.

The larger of the two trees is a Sycamore which is a prominent and positive feature in its setting,

The tree appears to be well-formed and has no obvious defects, an inspection of the main stem was not possible as Ivy is covering the trunk and growing into the canopy of the tree.

Although the tree has high amenity value its age size and species indicate that it may not have a long safe useful life expectancy. It has considerable future growth potential, and the retention of the tree may not be practical in the long term. In essence the tree has almost certainly grown inadvertently from seed and is too large a specimen for its location.

In terms of the potential impact of the proposed development on the tree it is clear the position of the proposed extension is within the Root Protection Area (RPA) of the tree. Therefore, to reduce the potential adverse impact of the development on the tree roots specialist foundations such as 'pile and beam' or 'raft' foundation should be considered.

Taking into account the amenity value of the tree along with its age, size and species it is not considered expedient to make the tree the subject of a tree preservation order at the present time.

As the scale of the proposed development is not extensive there appears to be little public benefit to be gained by securing new soft landscaping associated with the development proposal.

The agent has confirmed that they are aware of the tree and the impact which the proposal will have. They are exploring the differing foundation methods which are required to prevent a harmful impact to the tree and its RPA. It has been agreed with the agent to impose a planning condition on the planning permission to ensure that tree protection measures and appropriate foundations are provided and used prior to commencement of the development.

The Council's Tree and Landscaping officer has no objections to the proposal subject to tree protection measures being approved and in place prior to commencement of the development.

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 householder development. 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

Brightlingsea Town Council supports the construction and street scene, subject to the officers implementing the required controls required by the Brightlingsea Town Conservation Area.

Officer Response - The proposal has been advertised as affecting a conservation area and an assessment of the proposal on the nearby conservation area has been carried out above. In this instance the proposal is considered not to result in significant harm to the character/ appearance of this protected area. The planning permission will contain a condition restricting the applicants to developing the scheme which is shown on the approved plans.

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.

PROPOSED ELEVATIONS - REC'D 22.05.24

Drawing No 18/TSB/3

Drawing No 18/TSB/4

DESIGN ACCESS AND HERITAGE STATEMENT REC'D 22.05.24

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. APPROVAL REQUIRED: TREE PROTECTION

CONDITION: No development shall be commenced until the existing tree/s on the site, agreed, have been protected by the erection of temporary protective fences of a height, size and in positions which shall previously have been approved, in writing, with the Local Planning Authority prior to the commencement of development. The protective fences shall be retained throughout the duration of building and engineering works in the vicinity of the tree/s to be protected and the approved foundation details shall be used in construction.

Any tree/s dying or becoming severely damaged as a result of any failure to comply with these requirements shall be replaced with a tree or trees of appropriate size and species during the first planting season, or in accordance with such other arrangement as may be approved, in writing, with the Local Planning Authority up to first use or first occupation of the development, following the death of, or severe damage to the tree/s.

REASON: For the avoidance of damage to the existing tree and in the interests of visual amenity and the character and appearance of the area. This condition is required to be carried out prior to the commencement of any other development to ensure trees are protected early to ensure avoidance of damage or lost due to the development and/or its construction. If agreement was sought at any later stage, there is an unacceptable risk of lost and damage to trees.

4 APPROVAL REQUIRED – TREE PROTECTION – FOUNDATION DETAILS

No development shall be commenced until details of the proposed foundations to be used in the construction of the development have been submitted to and approved, in writing, by the Local Planning Authority. Such approved details shall be adhered to during the construction phase.

REASON: For the avoidance of damage to the existing tree and in the interests of visual amenity and the character and appearance of the area.

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
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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