

DELEGATED DECISION OFFICER REPORT

AUTHORISATION		INITIALS	DATE
Planning Officer recommendation:		AP	14/8/2024
EIA Development - Notify Planning Casework Unit of Decision:	NO		
Team Leader authorisation / sign off:		ML	14/08/2024
Assistant Planner final checks and despatch:		ER	14/08/2024

Application: 24/01080/NMA

Town / Parish: Frinton & Walton Town Council

Applicant: Mr Richard Max

Address: St Michaels 37 Third Avenue Frinton On Sea

Development: Non Material Amendment to 23/01027/VOC - minor amendments to the utility room (amended location of a window and amended location of a door, skylight removed). Minor amendments to the garage (two side windows added).

1. Town / Parish Council

Frinton and Walton Town Council Notification provided for information only

2. Consultation Responses

n/a

3. Planning History

11/01105/FUL	Proposed single storey extension to form garage and utility room.	Approved	15.11.2011
14/00767/FUL	Proposed single storey side extension to form garage and utility (as approved under 11/01105/FUL).	Approved	29.07.2014
17/00510/FUL	Side extension to existing property to form a garage and storage space with toilet and shower facilities and a studio at mezzanine level.	Approved	23.05.2017
20/00324/FUL	Extension of the existing property to form a garage and storage space with toilet and shower facilities and a studio at mezzanine level to the North and the removal of recent infill panels at the South facing Loggia/Verandah to restore the original open aspect of the South elevation.	Approved	13.07.2020
21/00339/FUL	Erection of detached double garage (incorporating a car lift), single storey extension to utility room and enlargement of first floor window to side elevation	Approved	21.06.2021

23/00883/NMA	Non Material Amendment to 21/00339/FUL for changes to the approved garage building.	Refused	19.07.2023
23/01027/VOC	Application under Section 73 of the Town and Country Planning Act, to allow a variation of condition(s) 2 (Approved plans) of 21/00339/FUL to enable/allow minor changes to the approved single storey detached double garage building.	Approved	14.09.2023
24/01080/NMA	Non Material Amendment to 21/00339/FUL and 23/01027/VOC - minor amendments to the utility room (amended location of a window and amended location of a door, skylight removed). Minor amendments to the garage (two side windows added).	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>

There are no neighbourhood plans in place for this location.

6. Relevant Policies / Government Guidance

n/a

7. Officer Appraisal

From 1st October 2009 a new provision under 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 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

The proposal comprises of the following amendments to planning approvals 21/00339/FUL and 23/01027/VOC:

- Removal of the front facing window from the utility room
- Removal of the velux rooflight from the utility room roof slope
- Position of utility room external door moved however remaining on the same side elevation
- Insertion of a new window on the side elevation of the utility room
- Insertion of two new windows in the detached garage, one in each side elevation

The degree of change being proposed compared to the original approval would not be significant in terms of the overall appearance of the building. The minor alterations will not be highly visible because of the position of the utility room extension and detached garage. The proposed amendments would not result in any additional impact or harm to visual amenity and no third parties would be disadvantaged in any way as a result of the proposed alterations.

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 23/01027/VOC.

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.

8. Recommendation

Approval Non Material Amendment

9. Conditions

1 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.

21/00339/FUL

Drawing No. EX0

24/01080/NMA

Drawing No. PP1 Revision A

Drawing No. PP2 Revision A

Drawing No. PP3 Revision A

Drawing No. PP4 Revision A

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.

10. **Informatives**

Biodiversity Enhancements 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>

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 23/01027/VOC 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)	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral

and ethnic or 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

12. Notification of Decision

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