

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Planning Officer recommendation:	JJ	27/08/24
EIA Development - Notify Planning Casework Unit of Decision:	NO	
Team Leader authorisation / sign off:	<u>JJJ</u>	<u>29/08/2024</u>
Assistant Planner final checks and despatch:	<u>ER</u>	<u>29/08/2024</u>

Application: 24/00988/FULHH **Town / Parish:** Brightlingsea Town Council

Applicant: Miss Francis Goodwin

Address: 47 Ladysmith Avenue Brightlingsea Colchester

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

1. Town / Parish Council

Brightlingsea Town Council Brightlingsea Town Council objects on the following:-
Overbearing; over-development; overlooking/lack of privacy; loss of light; overall design.

2. Consultation Responses

N/A

3. Planning History

24/00988/FULHH Householder Planning Application - two- Current
storey and single storey rear extension.

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 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

Supplementary Planning Guidance:
Essex Design Guide

Local Planning Guidance:
Essex County Council Car Parking Standards - Design and Good Practice

7. Officer Appraisal (including Site Description and Proposal)

Application Site

The application site comprises of a two storey semi detached property located to the west of Ladysmith Avenue. The site is within the Settlement Development Boundary.

Proposal

The application seeks planning permission for the proposed two-storey and single storey rear extension.

Assessment

Visual Impact

One of the core planning principles of The National Planning Policy Framework (NPPF) as stated at paragraph 130 is to always seek to secure high quality design. Policies SP7 and SPL 3 of the Tendring District Local Plan 2013-2033 aim to ensure that all new development makes a positive contribution to the quality of the local environment, relates well to its site and surroundings particularly in relation to its siting, height, scale, massing, form and design.

The extension is located to the rear of the property and won't be seen from the street view of Ladysmith Avenue. The extension is a prominent feature due to its height being taller than the eaves of the existing property. The property is part of a pair of houses that are symmetrical in appearance, the proposed extension will appear bulky and out of place. The extension is considered to be excessive in scale in relation to the existing property and appears prominent.

Moreover the flat roof creates a bulky design which is poorly proportioned to the host dwelling.

This poor design coupled with the overly dominant nature of the extension is considered to result in significant harmful impacts on the visual amenities of the area and is therefore contrary to the

provisions of the NPPF and policies SP 7 and SPL 3 of the Tendring District Local Plan and cannot be supported for these reasons.

Impact to Neighbours

Paragraph 130 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 and future 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 extension would be built along the boundary with the property known as 49 Ladysmith Avenue and would directly abut the rear garden and existing dwelling. Due to its close proximity it would appear prominent and an overly dominant feature for this neighbour, the two storey height would result in material harm to their outlook. Moreover, due to the bulk, height and significant projection (depth) of the extension, in particular the first floor element, the extension will loom large over the eastern and central sections of the rear garden area at No. 49, therefore impacting the occupiers of this property's ability to continue to enjoy these parts of their rear garden area due to the sheer bulk, height and prominence of the extension.

The extension would have no opening to the side elevation that abuts the neighbouring property, however does include new windows to the rear elevation. This would result in some loss of privacy however this is still a room which would commonly be little used in the day time, and both neighbouring dwellings are already overlooked by their neighbours so the harm to privacy would not be so significant as to justify refusing planning permission on these grounds.

The extension is located to the rear of the property along the boundary with the neighbouring dwelling. Given the depth and close proximity of the rear extension to the neighbouring property the 45-degree daylight test has been undertaken. The extension fails in elevation however passes both in plan, resulting in the combined test being passed and a refusal on the grounds of loss of daylight therefore a refusal on this basis will be difficult to sustain at appeal cannot be justified.

Other Considerations

The proposed extension is located to the rear of the property so would not impact the current parking provision on site. The site appears to have no off street parking but given the existing situation and the sustainable location, the provision of an additional bedroom is not considered to result in a justified objection on lack of parking provision

Brightlingsea Town Council have objected to the application raising concerns in regards to Overbearing; over-development; overlooking/lack of privacy; loss of light; overall design. These have been addressed within the report.

~~We have also received 3 other~~ letters of representation have also been received, 2 supporting the proposal and 1 objecting to it. The objection raised concerns in regards to layout, overlooking, loss of privacy, loss of light, design, loss of view, depreciation of market value and parking. All these have been addressed within the report other than loss of market value. This would not be a material planning matter so would not be a reason for refusal.

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.

Conclusion

Due to the significant impact on the adjoining house and the poor design and appearance the application is not compliant with local and national planning policies and is therefore recommended for refusal.

8. Recommendation

Refusal - Full

9. Reasons for Refusal

1. One of the core planning principles of The National Planning Policy Framework (NPPF) as stated at paragraph 13~~50~~ is to always seek to secure high quality design. Policies SP7 and SPL 3 of the Tendring District Local Plan 2013-2033 aim to ensure that all new development makes a positive contribution to the quality of the local environment, relates well to its site and surroundings particularly in relation to its siting, height, scale, massing, form and design.

~~The extension is located to the rear of the property and won't be seen from the street view of Ladysmith Avenue.~~ The proposed extension, by reason for its design, bulk and scale will

~~result in-is~~ a prominent feature, in particular due to its height being taller than the eaves of the existing property. ~~Moreover, Thethe~~ property ~~formsis~~ part of a pair of houses that are symmetrical in appearance, and in this context the proposed extension will appear bulky and out of keeping with both the host dwelling and surrounding properties~~place~~. ~~The extension is considered to be excessive in scale in relation to the existing property and appears prominent.~~ The flat roofed design will exacerbate the harm and will creates an overly -bulky additional design which that would beis poorly proportioned to the host dwelling. For these reasons the proposal will be in conflict with the above mentioned local plan policies relevant provisions in the NPPF.

2. Paragraph 13~~50~~ of the National Planning Policy Framework (2023) confirms planning policies and decisions should create places 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 and future residents is protected. Section 2 Policy SPL 3 (Part C) seeks to ensure that development will not have a materially damaging impact on the daylight or other amenities of occupiers of nearby properties.

The extension would be built along the boundary with the property known as No. 49 Ladysmith Avenue and would directly abut the rear garden and existing dwelling. Due to its close ~~proximity~~proximity, it would appear as a prominent and an overly dominant feature for ~~the occupiers of No. 49is neighbour, the two storey height would resulting~~ in material harm to their outlook and their ability to use and enjoy the central and eastern sections of their rear garden area, contrary to the aims of the above national and local plan policies.

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 discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

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):

Drawing No.s

0114-HA-00-00-DR-A-001-

0114-HA-00-00-DR-A-2000-

0114-HA-00-00-DR-A-2001-

0114-HA-00-00-DR-A-2002-

Location Plan

Design and Access Statement

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

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