

DELEGATED DECISION OFFICER REPORT

AUTHORISATION		INITIALS	DATE
Planning Officer recommendation:		JJ	19/09/2024
EIA Development - Notify Planning Casework Unit of Decision:	NO		
Team Leader authorisation / sign off:		AN	19/09/24
Assistant Planner final checks and despatch:		ER	20/09/2024

Application: 24/01132/FULHH **Town / Parish:** Clacton Non Parished

Applicant: Mr and Mrs Diplock

Address: 47 Gainsford Avenue Clacton On Sea Essex

Development: Planning Application - two and single storey rear extension and insertion of first floor side facing window.

1. Town / Parish Council

Clacton is non parished

2. Consultation Responses

Tree & Landscape Officer
11.09.2024

No important trees or other significant vegetation on the application site will be adversely affected by the proposed extension to the existing dwelling.

Within the curtilage of the adjacent property ' 45 Gainsford Avenue ' there is a large and well-formed Holm Oak (Quercus ilex).

The tree is a mature healthy specimen and provides a reasonable screening function when viewed from Eastcliff Recreation Ground. However, in terms of the amenity value of the tree it does not feature prominently in the public realm when viewed from Gainsford Drive and is seen against a group of other, adjacent trees, when viewed from Eastcliff recreation Ground. The tree has moderate amenity value and is a reasonably important feature in its setting.

To determine the potential adverse impact of the proposed development on the long-term health and viability of the tree it is necessary to establish the extent of the Root Protection Area (RPA) of the tree. This is an area close to the tree where no, or minimal disturbance, should occur if harm to the tree is to be avoided. Guidance relating to trees and development is contained in BS5837 Trees in Relation to Design, Demolition and Construction: Recommendation 2012.

The RPA of the Holm Oak is 6.8m. This means that no works should be carried out within an area equivalent to that of a circle with a radius of 6.8m when measured from the main stem of the tree.

As the distance between the closest part of the proposed extension is 11.8m from the tree there is a separation distance of 5m between the edge of the RPA and the proposed extension. The proposed development will not result in an incursion into the RPA of the tree.

The long-term retention, health and viability is not compromised by the proposed development and consequently it does not meet the criteria under which it is assessed to determine whether it should be formally legally

protected. Therefore, it is not considered necessary or otherwise expedient to make the tree the subject of a new tree preservation order.

Considering the extent of existing vegetation there is little, if any, public benefit to be gained by securing new soft landscaping under a planning condition.

3. **Planning History**

24/01132/FULHH Planning Application - two and single Current
storey rear extension and insertion of first
floor side facing window.

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 is no Neighbourhood Plan in place for this area.

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

PPL4 Biodiversity and Geodiversity

Supplementary Planning Guidance:

Essex Design Guide

7. **Officer Appraisal (including Site Description and Proposal)**

Application Site

The application site comprises of a two storey detached dwelling located to the east of Gainsford Avenue. The site is within the Settlement Development Boundary.

Proposal

The application seeks planning permission for a proposed two storey and single storey rear extension and insertion of first floor side facing window.

Assessment

Visual Impact

The proposed extensions are located to the rear of the property and will not be prominent from the street scene of Gainsford Avenue. The property abuts public open space to the rear so it will be partially visible from the open space.

The extension extends off the rear of the existing dwelling with no set in or ridge drop, however it comprises a rear facing gable of modest width at first floor level which is considered to respect the proportions of the host dwelling. Adequate separation is retained to both side boundaries to ensure the development would not appear cramped.

Matching roof tiles are proposed. The existing dwelling is rough rendered in a white finish however in contrast it is proposed to use a multi facing brick to the extensions. White/cream render and multi/red brick features strongly in the immediate area and given the location on the rear of the property this would not result in material harm to the appearance of the host dwelling or the surrounding area.

The application site can comfortably accommodate for the extension whilst retaining adequate private amenity space. It is therefore deemed to be of an acceptable size and scale.

Impact to Neighbours

The application site only directly abuts the neighbouring property known as 45 Gainsford Avenue being otherwise surrounded by the open space and its mature planting. The single storey part of the extension will not be viewed from the neighbouring dwelling due to the proposed second storey obstructing it. Therefore the single storey part will not cause a loss of light, amenity or outlook to the neighbouring property.

The proposed two storey extension is close to the boundary with the neighbouring property so the 45 degree daylight test has been undertaken. The extension passes both in plan and elevation so a refusal on the loss of daylight cannot therefore be justified.

The proposed two storey extension includes windows to both the rear and side elevations. The windows to the rear will result in some loss of privacy however as the neighbouring property is already overlooked by other neighbours, the harm to privacy would not be so significant to justify refusing planning permission on these grounds. The windows to the side elevations will be obscure glazed so will not result in a material loss of privacy.

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 householders 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 noted that the site is surrounded by mature trees but these will remain unaffected by the proposed extension, 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

The proposed extensions are located to the rear of the property so will not impact the current parking provision on site.

One letter of representation has been received and has raised the following concerns:

- Damage to tree roots nearby

Officer Response – The Tree and Landscape officer has been consulted as part of this application, the extensions are a significant distance from the nearest trees and not within the root protection areas of the trees so will not result in harm. The Tree and Landscape officer's comments can be viewed in full above.

- Close proximity to the recreation ground will harm trees and wildlife

Officer Response – The development is wholly within the residential curtilage of the property and is unlikely to impact upon any protected species. Included within this report are further details about protected species under the ecology section above.

- Debris falling on neighbours land and potential need to access neighbours land

Officer Response – The proposed extensions are located within the red line site owned by the applicant. Although the extension may be close the applicant would not be allowed access to the neighbouring property without the owner’s permission. This is a civil matter between the applicant and the neighbour which is separately covered by the Party Wall Act and is not a material planning consideration.

- Excess noise, odour, debris and dust that may affect someone’s health and a clean up plan

Officer Response – It is not considered reasonable in planning terms to impose a condition relating to a construction management plan for a residential extension due to the limited size of the development and the likely length of the construction period. Other legislation under the Environmental Protection Act 1990 relates to statutory nuisances should these arise [Nuisances - what the Council can do \(tendingdc.gov.uk\)](#)

- Potential Asbestos

Officer Response – The proposal does not include any demolition so it is unlikely that any asbestos will be found/disturbed. An informative has been included with further information if any asbestos is found.

- Proof of insurance for building works

Officer Response – This is a civil matter and is not a material planning consideration.

- Follow building noise regulations

Officer Response – Building regulations and statutory noise nuisance are covered by separate legislation to the planning process.

- Notification of change in plans

Officer Response – All direct neighbours will be informed of any new planning applications we receive.

Conclusion

The proposed development is consistent with the above mentioned national and local planning policies. In the absence of material harm the proposal 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).

Drawing No.s
DGA-02 revision A
Site Location Plan

REASON: For the avoidance of doubt.

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.

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

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>

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.

Asbestos

If any asbestos is present on the property please see guidance on our website [Asbestos Information \(tendingdc.gov.uk\)](https://www.tendingdc.gov.uk)

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