

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Planning Officer recommendation:	BB	02/10/2024
EIA Development - Notify Planning Casework Unit of Decision:	NO	
Team Leader authorisation / sign off:	AN	02/10/24
Assistant Planner final checks and despatch:	ER	03/10/2024

Application: 24/01122/FULHH **Town / Parish:** Brightlingsea Town Council

Applicant: Mr James Anderson

Address: The Mowings Moverons Lane Brightlingsea

Development: Householder Planning Application - Householder Planning Application - Installation of air source heat pump.

1. Town / Parish Council

Brightlingsea Town Council Supports Application

2. Consultation Responses

Environmental Protection 09.09.2024 With reference to the above application, please see below for comments from the EP Team:

Noise: Installation of an air source heat pump in a residential setting is subject to the Microgeneration Installation Standard (MCS 020) <https://mcs-certified.com/wp-content/uploads/2021/10/MCS-020.pdf>.

If the above standard cannot be achieved then the EP Team would like to ensure that the levels of noise emitted from the ASHP do not cause unreasonable interference with the use and enjoyment of nearby residential premises, as such, we would request that a noise risk assessment is undertaken by a relevantly qualified acoustician to ensure compliance with the relevant British Standards (BS4142).

In addition, we would also request the applicant maintains the systems, as per the manufacturers guidance, to ensure the systems are in correct working order and therefore should minimise any potential adverse impact to nearby residential properties by way of noise.

REASON: to protect the amenity of nearby residential dwellings

ECC Highways Dept
04.09.2024

The information that was submitted in association with the application has been fully considered by the Highway Authority. The information submitted with the application has been thoroughly assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material and google earth image.

From a highways and transportation perspective the impact of the proposal is acceptable to Highway Authority, subject to the following requirement;

1. The public's rights and ease of passage over public byway no 1 (Brightlingsea) shall be maintained free and unobstructed at all times.

Reason: To ensure the continued safe passage of the public on the definitive right of way and accessibility in accordance with Policies DM1 and DM11 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

Informative:

i. The Public Right of Way network is protected by the Highways Act 1980. Any unauthorised interference with any route noted on the Definitive Map of PROW is considered to be a breach of this legislation. The public's rights and ease of passage over public byway no.1 (Brightlingsea) shall be maintained free and unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way.

The grant of planning permission does not automatically allow development to commence. In the event of works affecting the highway, none shall be permitted to commence until such time as they have been fully agreed with this Authority. In the interests of highway user safety this may involve the applicant temporarily closing the definitive route using powers included in the aforementioned Act. All costs associated with this shall be borne by the applicant and any damage caused to the route shall be rectified by the applicant within the timescale of the closure.

ii. All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org

3. Planning History

04/01830/FUL	Rear ground floor extension.	Approved	15.11.2004
85/00052/FUL	First floor extn (bedroom and study)	Approved	05.02.1985
08/01615/FUL	Construction of a painting studio and greenhouse above an existing garage within a quarry pit.	Approved	12.01.2009
16/00839/FUL	Proposed single storey bathroom extension.	Approved	12.07.2016
24/01122/FULHH	Householder Planning Application - Householder Planning Application - Installation of air source heat pump.	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 Neighbourhood Plan

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.

Officers considered that the submitted information was sufficient to satisfy the 2012 Regulations and be made as an application. The Plan Area was agreed by the Acting Director for Planning in consultation with the Portfolio Holder for Planning on the 24 June 2021.

No further action has been taken and therefore no weight can be given in this regard

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 (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

PPL3 The Rural Landscape

Supplementary Planning Documents

[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 is located on the north-eastern side of Moverons Lane and consists of a detached two storey dwelling, which faces south-west. The site is separated from the highway via mature dense vegetation behind which the front garden is a mix of hard and soft landscaping. The site is located outside the Settlement Development Boundary for Brightlingsea.

Proposal

This application seeks planning permission for the installation of an air source heat pump. At the time of my site visit, the proposal had already been installed.

Assessment

The key considerations of this application will be Design and Appearance, Impact upon the Neighbours and Other Considerations.

Design and Appearance

The air source heat pump, being sited at the front of the property is visible to the highway; however, this is only from an oblique angle. The proposal measures 1.1m in width, 1.6m in height and 0.5m in depth and is considered to be an appropriate size and design for the host dwelling. Additionally, the garden is of a sufficient size to be able to accommodate the proposal and still retain adequate amenity space. The proposal is therefore considered acceptable in terms of visual amenity.

Impact to Neighbours

The proposal is modest in size and is well screened by the existing boundary treatment. Additionally, the proposal is sited a minimum of 39m from the closest neighbouring property. As such, it is considered the proposed development poses no harm to the amenities of the neighbouring dwellings.

Due to the nature of the proposal, our Environmental Protection Team (EPT) were consulted regarding the potential noise impact. EPT advised that the installation of an air source heat pump in a residential setting is subject to the Microgeneration Installation Standard (MCS 020). A completed MCS 020 assessment form was submitted which confirmed the air source heat pump will not exceed the permitted development noise limit of 42db(A). As such, there is unlikely to be any detrimental noise impact from the proposal.

Other Considerations

Brightlingsea Parish Council have raised no objections.

No letters of representation have been received.

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. Further, the proposed development is consistent with the above mentioned national and local planning policies and, in the absence of material harm the proposal is recommended for approval.

8. Recommendation

Approval - Full

9. Conditions / Reasons for Refusal

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.

Document titled; Location Plan, which shows the site outlined in red – Rec'd 24/07/2024
Document showing the Ground and First Floor produced by magicplan - Rec'd 24/07/2024
Drawing No. L1/06 Revision Pr1
Document titled; MCS 020 – Planning Standards produced by Smart Heating Solutions Ltd

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.

- 2 The public's rights and ease of passage over public byway no 1 (Brightlingsea) shall be maintained free and unobstructed at all times.

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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>

Environmental Protection Informative

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It is recommended that the applicant maintains the system, as per the manufacturer's guidance, to ensure the system is in correct working order which should minimise any potential adverse impact to nearby residential properties by way of noise.

Highway Informative

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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:	YES	<u>NO</u>
Are there any third parties to be informed of the decision? If so, please specify:	YES	<u>NO</u>
Has there been a declaration of interest made on this application?	YES	<u>NO</u>