

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Planning Officer recommendation:	BB	30/01/2025
EIA Development - Notify Planning Casework Unit of Decision	N/A	
Team Leader authorisation / sign off:	MP	30/01/2025
Assistant Planner final checks and despatch:	ER	31/01/25

Application: 25/00006/HHPNOT **Town / Parish:** Thorrington Parish Council

Applicant: Mr A Pavlov

Address: Hawthorn Cottage 4 Frating Road Thorrington

Development: Application to Determine if Prior Approval is Required for a Proposed Larger Home Extension - Proposed single storey rear extension measuring 8m in depth, 3m high and 3.25m at the eaves, assessed under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) Schedule 2, Part 1, Class A.

1. Town / Parish Council

Not Applicable

2. Consultation Responses

Not Applicable

3. Planning History

00/01230/FUL	Change of use agricultural land to residential use	Approved	20.09.2000
93/01175/FUL	(Hawthorn Cottage, 4 Frating Road, Thorrington) Kitchen and bedrooms extension	Approved	30.11.1993
94/00023/OUT	(Hawthorne Cottage, Frating Road, Thorrington) One residential dwelling	Refused	22.02.1994
94/01380/OUT	(Hawthorn Cottage, Frating Road, Thorrington) One residential dwelling	Refused	10.01.1995
25/00006/HHPNO T	Application to Determine if Prior Approval is Required for a Proposed Larger Home Extension - Proposed single storey rear extension measuring 8m in depth, 3m high and 3.25m at the eaves, assessed under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) Schedule 2, Part 1, Class A.	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 currently no neighbourhood plans for this area.

6. Relevant Policies / Government Guidance

The Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 1, Class A

7. Officer Appraisal (including Site Description and Proposal)

A prior notification has been received by Tendring District Council in relation to the Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 1, Class A for erection of a single storey rear extension (Depth 8.0m, Maximum Height 3m, Eaves Height 3.25m) at Hawthorn Cottage 4 Frating Road Thorrington Essex CO7 8HT.

Having reviewed the site's history, the eastern half of the application site was originally used for agricultural purposes. This use was changed from agriculture to residential under planning permission 00/01230/FUL; however, Condition 3 of said permission revoked the right to erect a structure at the site, stating:

“Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995, no garages, extension, separate buildings, swimming or other pool shall be erected within the extended residential curtilage subject of this planning permission without further express planning permission.”

Because of the single storey rear extension's sizeable depth, part of the proposal is sited within the extended residential curtilage. As such, the proposal as a whole cannot be assessed under the current application. Furthermore, having assessed the single storey rear extension against the criteria for Schedule 2, Part 1, Class A of the GPDO, the enlarged part of the dwellinghouse would be within 2 metres of the boundary of the curtilage of the dwellinghouse, and the height of the eaves of the enlarged part would exceed 3 metres. As a result of the above, the proposal fails to meet criteria to be classed as Permitted Development and a full planning application is therefore required.

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

HHPN - Prior Approval Is Refused

9. Reasons for Refusal

- 1 Planning permission 00/01230/FUL approved the change of use of the eastern half of the application site from agriculture to residential. Condition 3 of this Planning Permission revoked the right to erect any structure within the approved and extended residential curtilage, without planning permission first being sought. Due to the sizeable depth of the single storey rear extension, part of the proposal will be sited within the extended residential curtilage and as such, the proposal as a whole cannot be assessed under the current application.
- 2 The enlarged part of the dwellinghouse would be within 2 metres of the boundary of the curtilage of the dwellinghouse, and the height of the eaves of the enlarged part would exceed 3 metres. As such it fails to meet criteria for Permitted Development under Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015.

10. Informatives

Not Applicable

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>