

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Planning Officer recommendation:	ER	05/03/2025
EIA Development - Notify Planning Casework Unit of Decision	N/A	
Team Leader authorisation / sign off:	ML	07/03/2025
Assistant Planner final checks and despatch:	ER	07/03/2025

Application: 25/00056/VOC **Town / Parish:** Brightlingsea Town Council

Applicant: Dr J Nicholson

Address: 70 Ladysmith Avenue Brightlingsea Colchester

Development: Application under Section 73 of the Town and Country Planning Act for Variation of Conditions 2 (External Surface Materials) and Condition 3 (Access and Parking) of application 24/00285/FULHH to allow for further improvements to the built environment.

1. Town / Parish Council

Brightlingsea Town Council Brightlingsea Town Council makes no comment on the application.

2. Consultation Responses

Not required for this application type.

3. Planning History

23/01224/FULHH	Proposed demolition of existing garage. Construction of combined garage and residential annex at ground floor, offices and wc at first floor. Proposed new access door and wall to Main House.	Refused	14.12.2023
24/00285/FULHH	Householder Planning Application - demolition of existing garage and construction of combined garage and residential annex at ground floor, offices and w/c at first floor. New access door and wall to main house.	Refused	12.04.2024

Allowed at appeal

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>

The weight that can be attributed to any emerging or draft neighbourhood plan, can be understood as follows:

- Stage 1: Designated neighbourhood area (Limited Weight)
- Stage 2: Preparing a draft neighbourhood plan (Limited Weight)
- Stage 3: Pre-submission publicity and consultation (Limited Weight)
- Stage 4: Submission of a neighbourhood plan (Limited Weight)
- Stage 5: Independent Examination (Limited/Significant Weight)
- Stage 6: Referendum (Significant Weight)
- Stage 7: Adoption by LPA (Full Weight)

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.

[Application to Designate Brightlingsea Parish as a Neighbourhood Area for the purposes of developing a Neighbourhood Plan for Brightlingsea.](#)

The Plan Area was agreed by the Acting Director for Planning in consultation with the Portfolio Holder for Planning on the 24 June 2021.

The plan is currently at stage 1 and therefore limited weight can be attributed to it when assessing applications. There are currently no local policies to take into consideration with this application.

6. Relevant Policies / Government Guidance

NATIONAL:

National Planning Policy Framework 2024 (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
CP1 Sustainable Transport and Accessibility

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 detached dwelling located on a prominent corner plot setting with elevations serving Spring Road and Ladysmith Avenue.

The house is white/ cream render and is accompanied by an existing garage and rear garden. The house is slightly set back from its boundaries with grass verging surrounding it.

The existing garage is positioned and accessed along the Spring Road side of the site and fronts this boundary. This garage is lower in height compared to the surrounding houses and is constructed from concrete panels, painted red brick wall, timber gables and a timber frame roof with asphalt covering,

Relevant History

A previous planning application was received under planning reference 23/01224/FULHH – “Proposed demolition of existing garage. Construction of combined garage and residential annex at ground floor, offices and wc at first floor. Proposed new access door and wall to Main House.” The application was refused given the harmful impact on the visual amenity of the area, amenities of nearby neighbours and insufficient parking at the site.

A second application was then received under planning reference 24/00285/FULHH for the same development and also refused for the same reasons as above. The decision for this application was later appealed and this was allowed by the Planning Inspectorate.

The appeal decision contained a number of conditions as listed below

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match or complement those used in the existing building.
- 3) The development hereby permitted shall be carried out only in accordance with the following approved plans:

0/A000/BP/001 A
0/A100/PR/001 D
0/A200/PR/001 A
0/A200/PR/005 A
0/A600/PR/001
0/A600/PR/003 A
0/A600/PR/004 A
0/A600/PR/005
- 4) The building hereby permitted shall be occupied and used only ancillary to the use of the main house at No 70 Ladysmith Avenue.

Proposal

This application seeks planning permission to vary conditions 2 (External Surface Materials) and Condition 3 (Approved Plans) of application 24/00285/FULHH to allow for further improvements to the built environment.

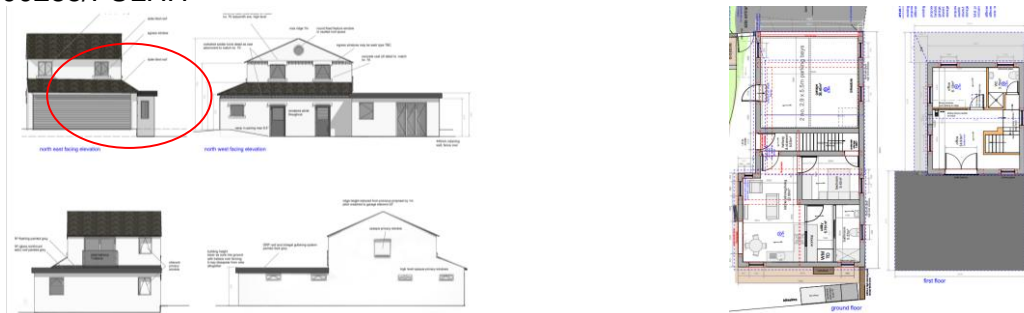
Condition 02

The variation seeks the change to the materials as described below:

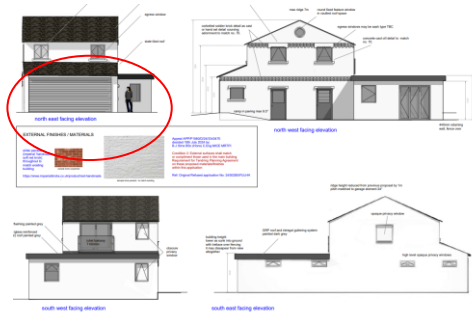
	Allowed under planning appeal 24/00285/FULHH	Proposed change under this application 25/00056/VOC
Walls	Render on blockwork or ICF precast Concrete	Handmade soft 'butters' red brick by Imperial bricks which would be painted with suitable masonry paint to a white colour, to match the existing main dwelling. Inclusive of the matching corbelled angled soldier brick details at the eaves.
Roof	Grey slate tiles to match No 70 Ladysmith Ave and Spring Road Cottages, grey painted GRP (Glass reinforced plastic) on flat roof of annex.	Angled grey concrete ridge tile. Grey GRP substrate to single storey element.
Windows	White Timber or UPvc Sash style A+ egress escape windows, double glazed, e-coated	White Upvc Fire Egress windows whose frames closely match the existing building.
Doors	Timber or composite external doors colours TBD with glazed upper elements	Composite solid and/or glazed top panel doors to match the host dwelling on an anthracite grey frame. Bifold or French door of same material proposed for the residential single storey element of the building.
Garage Door	Retained as existing.	Proposed as composite or powder coated metal, likely by Garador in Anthracite grey.

Condition 03

Below is a representation of the plans which were allowed under planning appeal following refusal of: 24/00285/FULHH



Below the is a representation of the proposed plans which have been provided as part of this S73 application with the changes indicated.



Assessment

Visual Impact

Paragraph 135 of the NPPF (2024) requires that developments are visually attractive as a result of good architecture, are sympathetic to local character, and establish or maintain a strong sense of place. Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design which responds positively to local character and context, and to protect the district's landscape and the quality of existing places and their environs.

Condition 02

The proposal will result in the changes to some of the materials previously allowed under the recent appeal decision. The proposed materials will not be the same as the host dwelling as previously allowed. Whilst these changes will be visible in the public realm, they will be of a similar colour to the host dwelling and existing garage preventing their use from appearing incongruous within the streetscene. It should also be noted that the local area includes a number of dwellings finished in a variety of materials and therefore the difference here would not break any uniformity within the locale.

Condition 03

The plans show that part of the hipped roof of the garage to the side will be removed and replaced with a larger flat roof projection to the side. This element will be set back from the site's boundary shared with Spring Road and, due to its single storey nature, would not appear prominent or adversely within the streetscene. Furthermore, the alteration is considered appropriate to the previously allowed development and would not result in a significant change to the previous submission.

The variations are therefore considered suitable to the existing/ character appearance of the existing site and surrounding area in this instance.

Highway Safety

Paragraph 115 of the National Planning Policy Framework 2024 seeks to ensure that safe and suitable access to a development site can be achieved for all users, whilst Paragraph 109 requires that streets, parking and other transport considerations are integral to the design of schemes and contribute to making high quality places.

Adopted Policy CP1 (Sustainable Transport and Accessibility) of the Tendring District Local Plan 2013-2033 states that planning permission will only be granted if amongst other things; access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate, and the design and layout of the development provides safe and convenient access for people.

The Essex County Council Parking Standards states that where a house comprises of two or more bedrooms that 2no parking spaces should be retained which measure 5.5m by 2.9m per space. They also state that new garages should have an internal measurement of 7m by 3m.

Refusal reason 3 of planning permission 24/00285/FULHH was issued due to the lack of parking at the site. However, the appeal inspector considered the parking to be suitable and stated the following:

“16. The chief concern on access and parking relates to the size of the garage, which strictly fails to comply with accepted standards. However, it does not appear to me that the proposed ancillary building would alter the present parking demand from the appeal property, compared with the present situation, where on-street parking appears to be available on Spring Road in any event.

17. Otherwise, vehicle access to the proposed garage would be much as it is at present, with turning space and visibility available within the comparatively generous width of Spring Road, without material impact on road safety.”

The changes to the previously allowed appeal will not result in a change to the existing parking provision and therefore when assessing the inspector’s comments would not result in an adverse impact in this regard.

Impact to Neighbours

Paragraph 135 of the National Planning Policy Framework (2024) 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 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 previous planning application of 24/00285/FULHH was also refused on the impact of the development to the amenities of neighbouring sites, with the proposed balcony resulting in a significant increase in overlooking to 68A Ladysmith Avenue. However, the appeal inspector stated the following within their decision:

“14. The second reason for refusal cites potential overlooking from a proposed Juliet balcony at first floor level in the southwest elevation of the proposed building facing No 68A Ladysmith Avenue. Noting that the Juliet balcony would be set back behind a flat roof, I do not consider that the degree of overlooking or any consequent reduction in privacy at No 68A would be unacceptable. That is due also to the intervening distance and the generally urban nature the surrounding area, where a degree of overlooking is to be expected.

15. In other respects, I accept that the increased height and massing of the proposed building, over that of the present garage, would to some extent reduce natural lighting to neighbouring properties and affect their outlook, including No 69 Spring Road adjacent. However, I agree with the Council that, due to a lack of main facing windows and the intervening distances, these effects would not be such as to warrant substantive planning objection.”

The changes proposed to the roof and window would be set off the shared boundaries and are located mainly towards to host dwelling and will therefore not be prominently visible to the neighbouring sites, thereby preventing a loss of amenities to them.

The variation to the external materials would not significantly result in a loss of amenities to neighbouring sites given their nature.

Ecology and Biodiversity

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 (BNG) is an approach that aims to leave the natural environment in a measurably better state than it was beforehand. This excludes applications householder development. This proposal is not therefore applicable for Biodiversity Net Gain.

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.

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

Brightlingsea Town Council has no objections to the proposal.

There have been no letters of representation received.

Conclusion

The proposal is therefore considered change to the previous development allowed at appeal and would not result in a significant harm to the visual amenity of the area, highway safety or neighbouring amenities. The proposal is therefore considered compliant with the national and local policies and is recommended for approval.

8. Recommendation

Approve

9. Conditions

1. COMPLIANCE REQUIRED: COMMENCEMENT SECTION 73 TIME LIMIT

CONDITION: The development hereby permitted shall be begun not later the expiration 18th July 2027.

REASON: To comply with the requirements of Section 73 and 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 (if not already commenced) within the timeframe provided unchanged from the permission varied. 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. EXTERNAL FINISHES

CONDITION: The external finishes used in the approved development shall be those listed within the document entitled "COVERING LETTER - REC'D 14.01.25"

REASON: For the avoidance of doubt and in the interests of proper planning.

3. 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.

25/00056/VOC

0/A000/Bp/001 - Proposed Block Plan - Rec'd 14.01.25
0/A100/Pr/001 E - Proposed Floor Plans - Rec'd 14.01.25
0/A100/Pr/003 A - Proposed Roof Plan - Rec'd 14.01.25
0/A200/Pr/001 B - Proposed Elevations - Rec'd 14.01.25
0/A600/Pr/001 B - Proposed Elevations - Rec'd 14.01.25
0/A600/Pr/003 B - Proposed Street Context 1 - Rec'd 14.01.25
0/A600/Pr/004 B - Proposed Street Context 2 - Rec'd 14.01.25

24/00285/FULHH

Site Plan - Rec'd 23.02.24

REASON: For the avoidance of doubt and in the interests of proper planning.

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.

4. SPECIFIC RESTRICTION ON DEVELOPMENT: OCCUPATION

CONDITION: This permission shall only authorise the use and occupation of the accommodation hereby approved for purposes incidental and ancillary to the principal dwelling known as 70 Ladysmith Avenue Brightlingsea Colchester Essex CO7 0JD (or as may be renamed in the future) and does not permit the use of the approved accommodation as a separate household unrelated and not incidental/ancillary to the principal dwelling.

REASON: The proposed annexe would not be acceptable under the established policies of Local Plan and NPPF by representing a net increase in dwelling units were the development to be occupied as an unrelated dwelling and not considered as one household. Furthermore, having regard to its particular relationship with the principal dwelling, there is potential for noise, activity and disturbance detrimental to the amenity of that principal dwelling were the development to be occupied as an unrelated dwelling.

NOTE/S FOR CONDITION

Unless otherwise stated, this condition applies to the site outlined in red and to all new development that forms any net increase in residential accommodation and may include change of use of buildings, change of use of land for the siting of caravans or similar, new buildings and extensions.

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 and Biodiversity

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>

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
Has there been a declaration of interest made on this application?		NO