

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Planning Officer recommendation:	BB	01/05/2025
EIA Development - Notify Planning Casework Unit of Decision:	N/A	
Pre-commencement condition agreement:	N/A	
Team Leader authorisation / sign off:	MP	02/05/2025
Assistant Planner final checks and despatch:	ER	02/05/2025

Application: 24/01853/FULHH **Town / Parish:** Thorpe Le Soken Parish Council

Applicant: Mr Jack Nethercott - Prime Oak

Address: Jasmine Cottage Tendring Road Thorpe Le Soken

Development: Householder Planning Application - erection of oak framed garage with first floor home office, entertainment and gym space.

1. Town / Parish Council

Thorpe-Le-Soken Parish Council No comments received

2. Consultation Responses

Essex County Council Built Heritage Advice pertaining to a Householder Planning Application for the erection of an oak framed garage with first floor home office, entertainment and gym space.
Heritage 29.01.2025 (initial comments)

The site is located within the setting of the Grade II Listed Building Millington House (List Entry No. 1147589) that neighbours the site to the southwest. Its significance is derived from its special historic interest as a house formed of three cottages, and from its special architectural interest being a well-crafted building of vernacular design. Some significance is drawn from its setting having maintained a front and rear garden that matches the size of the plot (No. 168) shown upon the Tithe map for the cottages, an unobstructed relationship to Thorpe Green, and surroundings where the land is generally spacious and open.

This proposal has the potential to impact the significance of the Listed Building through changes to its setting, which could alter the way in which the Listed Building is appreciated and experienced. In consideration of the proposal's impact, the application is not supported on the basis that the new development within the setting of the Listed Building would result in less than substantial harm.

The harm comes from the new outbuilding's close and forward positioning to the Listed Building being adjacent to the shared boundary, and its overly large size being one-and-a-half-storey height. Its mass will diminish the sense of openness and spaciousness the setting of the Listed Building has and detract from views of the Listed Building when looking from the green during the winter season when the trees have dropped their leaves. It is noted that the applicant's garden is land that was formerly part of the green and has been historically undeveloped, therefore it is recommended

that this proposal be amended to reposition the new outbuilding closer to the dwelling at a reduced scale.

With regards to the National Planning Policy Framework (NPPF), Paragraph 215 is engaged, and the Local Planning Authority should weigh this harm against any public benefits that flow from the development. Whilst the scale of harm is 'less than substantial' great weight should be given to the heritage asset's conservation as per Paragraph 212, and Paragraph 213 requires that clear and convincing justification be provided for any level of harm to the designated heritage asset, including harm arising from development within its setting. There is also insufficient information submitted for this application to meet the requirements of Paragraph 207.

Furthermore, the proposal fails to preserve the setting of the listed building, contrary to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Essex County Council
Heritage
16.04.2025 (following
amended plans)

These further comments follow those dated the 29th of January 2025 and consider the set of amended drawings that have been submitted on the 24th of March 2025 for this proposal. Having reviewed the changes to the design and positioning of the new development, the proposal is still considered to give rise to less than substantial harm to the significance of the Grade II Listed Building 'Millington House' (List Entry No. 1147589), from the negative impacts that the new development has upon its setting.

Although the new outbuilding has been repositioned away from the garden boundary shared with the Listed Building, it is still situated upon the land that was formerly a part of Thorpe Green and has historically been undeveloped. The scale of the new outbuilding has also been increased using an L-shaped layout, which spreads the one-and-a-half-storey mass across a larger area of the garden and thus has an urbanising effect that does not preserve the positive contribution the land makes to the setting and way that the Listed Building can be experienced in open and spacious surroundings with an unobstructed relationship to Thorpe Green. The positioning and overly large scale of the new development would erode the appreciation of the historic relationship 'Millington House' has had with Thorpe Green, and detract from the views of the Listed Building gained across the green during winter when the trees have dropped their leaves, and it is noted that a Public Right of Way (PROW) footpath is routed from the green between the Listed Building and the extended garden of Jasmine Cottage.

With regards to the National Planning Policy Framework (NPPF), the amended proposal engages Paragraph 215, and the Local Planning Authority should weigh this harm against any public benefits that flow from the development. Whilst the scale of harm is a low level of 'less than substantial' great weight should be given to the heritage asset's conservation as per Paragraph 212, and Paragraph 213 requires that clear and convincing justification be provided for any level of harm to the designated heritage asset, including harm arising from development within its setting. The application is also still lacking in a sufficient level of information to meet the requirements of Paragraph 207, that requires the applicant to describe the significance of the affected heritage asset, including the contribution of setting. In respect of the Planning (Listed Buildings and Conservation Areas) Act 1990, the amended proposal still fails to preserve the setting of

the listed building, contrary to Section 66(1) of the Act.

There is considered to be potential for an acceptable scheme to come forward for a new outbuilding situated closer to the dwelling and at a reduced scale, therefore it is recommended that the applicant engages in a pre-application service to explore alternative options for its siting and design.

3. **Planning History**

08/00439/FUL	Erection of first floor rear extensions, first floor free standing balcony with 1.8m high obscure glazed screen and alterations to front porch and dormer windows.	Approved	30.05.2008
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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>

At the time of writing, there are no draft or adopted neighbourhood plans relevant to this site.

6. **Relevant Policies / Government Guidance**

National:

National Planning Policy Framework 2025 ([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

PPL9 Listed Buildings

7. Officer Appraisal (including Site Description and Proposal)

Application Site

The application site is located on the eastern side of Tendring Road and can be accessed by a short driveway which leads to a detached two storey dwelling, which faces south. To the front of the dwelling lies a large area of shingle which allows off road parking. Adjacent the shingle to the east is a large double garage complete with conservatory, games room and store. To the south of is open amenity space which has been laid to lawn with tall dense vegetation dotted along the boundary. A Public Right of Way runs along the sites southern boundary. The site is located inside the Settlement Development Boundary for Thorpe-le-Soken and is located within close proximity to the Grade II Listed Building known as Millington House.

Proposal

This application seeks planning permission to erect a 1.5 storey outbuilding which consists of a garage, home office, entertainment and gym space. Following on from discussions with the agent for the application, the proposal has been re-designed and re-positioned closer with this revision forming the basis of the following report.

Assessment

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

Design and Appearance

Paragraph 131 of the NPPF states: The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Paragraph 135 adds planning decisions should ensure that developments are visually attractive as a result of good architecture, and establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit.

Local Plan Policy SP7 states that all new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Policy SPL3 seeks to ensure all new development makes a positive contribution to the quality of the local environment and protect or enhance local character. The following criteria must be met: new alterations are well designed and maintain or enhance local character and distinctiveness; and the development relates well to its site and surroundings particularly in relation to its siting, height, scale, design and materials.

The proposed outbuilding consists of two elements which form an L shape. The main bulk of the structure, which houses the home office, entertainment and gym measures 12.0m in length, 6m in width with an overall height of 6.1m, whilst the smaller element which will house motor vehicles measures 6.0m in length, 7.0m in width with a maximum height of 4.6m. The proposal as a whole is considered excessive in size and scale with the overall height of the outbuilding being 0.6m less than the host dwelling's 6.7m height whilst having an overall footprint of 114sqm which is 4sqm more than the 110sqm of the host dwelling. Because of this, the proposal gives the appearance of the structure being a separate planning unit rather than a subservient addition which is further exacerbated by the proposed outbuilding being sited some 19.5m away from the host dwelling. As

a result of the above, the proposal appears an incongruous addition which would significantly impact the visual amenities of the local area.

Impact to Neighbours

The NPPF, Paragraph 135, states that planning should always seek to secure a high standard of amenity for all existing and future occupants of land and buildings. In addition, Policy SP7 of the adopted local plan states that all development should protect the amenity of existing and future residents and users with regard to noise, vibration, smell, loss of light, overbearing and overlooking. These sentiments are carried forward in emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022).

Despite the proposals substantial size, it is located a minimum of 31.7m away from the dwellings to the north, which will have little to no views of the outbuilding due to screening offered by the existing garage and bulk of the two storey host dwelling. The proposal will appear prominently to Millington House to the south where a window is proposed on the rear elevation at first floor level that will allow views over this neighbouring property. That being said, this property is already overlooked by an adjacent dwelling to the south. Additionally, the outbuilding is sited some 22.5m away from this neighbouring property limiting the outlook over Millington House and with a dense hedgerow offering some screening of the proposal, the harm posed to the outlook, privacy and light to this neighbouring property is considered minimal and not grounds for refusal.

Heritage Impact

Paragraph 212 of the National Planning Policy Framework (2025) states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.

Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a statutory duty on the Local Planning Authority to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest.

Policy PPL9 of the Tendring District Local Plan 2013-2033 and Beyond Section 1 states that proposals for new development affecting a listed building will only be permitted where they will protect its special architectural or historic interest, its character, appearance and fabric, although the Plan recognises that the scope for a listed building to adapt to modern life and requirements will itself depend upon a number of considerations and it will not always be possible to incorporate modern design solutions without also causing harm to its special character fabric, or appearance.

Due to the neighbouring building's status, Essex County Council Heritage Team (Place Services) have been consulted for their advice, and their full comments can be found above. The proposed outbuilding is situated upon the land that was formerly a part of Thorpe Green which has historically been undeveloped. The size and scale of the outbuilding has an urbanising effect that does not preserve the positive contribution the land makes to the setting of the Listed Building and the way it is experienced in open and spacious surroundings with an unobstructed relationship with Thorpe Green. The siting of the outbuilding and its excessive size would erode the appreciation of the historic relationship 'Millington House' has had with Thorpe Green, and detract from the views of the Listed Building gained across the green during winter when the trees have dropped their leaves.

This harm is considered to be less than substantial harm and therefore paragraph 215 of the NPPF is engaged: Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. As the proposal is for personal use by the applicant there is no public benefits on this occasion that would outweigh the adverse harm the outbuilding poses to the setting of the Listed Building.

Other Considerations

Thorpe-Le-Soken Parish Council have raised no concerns.

One letter of representation has been received expressing the following concerns:

- Proposed development runs adjacent to our front garden and due to its size would become a dominant and unwelcome feature. It would also disrupt the historical setting of our heritage property. (This concern has been addressed in the above report.)
- The large footprint of the building together with new driveway will increase run-off and localised flooding. We have a small ditch that runs parallel to this development that is a soak-away for our water treatment system. This is at capacity during periods of heavy rain and cannot accommodate additional run-off. Equally, the surrounding public green is already subject to flooding during heavy rain. (There is adequate green space around the proposed outbuilding and driveway which will allow water to soak through.)

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 would be imposed on any permission 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 considered that the proposal is unlikely to adversely impact upon protected species or habitats.

Conclusion

The proposed development by virtue of its excessive size and scale will result in an incongruous form of development that is detrimental to the visual amenity of the locale whilst simultaneously creating an urbanising effect over an area of green space that is historically undeveloped which erodes the open and spacious surroundings, which contribute positively to the way the Listed Building and its setting is experienced. The application does not comply with local and national planning policies and is therefore recommended for refusal.

8. Recommendation

Refusal - Full

9. Reasons for Refusal

- 1 The proposed outbuilding having an overall height of 6.1m and a footprint of 114sqm is considered excessive in size and scale in comparison to the host dwelling which is just 0.6m taller and has 4sqm less footprint. As a result of this substantial size, the proposal gives the appearance of being a separate planning unit rather than a subservient addition, which is further exacerbated by the proposal being sited 19.5m away from the host dwelling, resulting in an incongruous form of development which would detract from the visual amenities of the area. The proposal is therefore contrary to the provisions of paragraphs 131 and 135 of the National Planning Policy Framework (2025) and TDLP policies SP and SPL3.
- 2 The proposed outbuilding is situated upon land that was formerly a part of Thorpe Green which has historically been undeveloped. The size and scale of the outbuilding has an urbanising effect that does not preserve the positive contribution the land makes to the setting of the Grade II Listed Building and the way it is experienced in open and spacious surroundings with an unobstructed relationship with Thorpe Green. Further, the siting and excessive size of the outbuilding would erode the appreciation of the historic relationship 'Millington House' has had with Thorpe Green, and detract from the views of the Listed Building gained across the green during winter when the trees have dropped their leaves.

This harm is considered to be less than substantial harm, however, as the outbuilding will be used for residential purposes, there are no public benefits that would outweigh the level of harm identified. The proposal is therefore contrary to the provisions of paragraphs 212 and 215 of the National Planning Policy Framework (2025) and TDLP policies SPL3 and PPL9.

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 determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.

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. 94019/01
- Drawing No. 94019/02 received dated 24th March 2025
- Drawing No. 94019/03 received dated 24th March 2025
- Drawing No. 94019/04 received dated 24th March 2025
- Drawing No. 94019/05 received dated 24th March 2025

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>