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Response to planning refusal and support for subsequent design changes and variation application

Document directed around refusal letter for convenient reference and context. - 20/02/2024 V2.0

Note: Our responses in 'blue text', *Black Italics* text is writing from refusal on previous application.

Prev Application: 23/01224/FULHH Town / Parish: Brightlingsea Town Council

Applicant: DR J Nicholson

Address: 70 Ladysmith Avenue Brightlingsea Colchester

Development: 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.

4. Relevant Policies / Government Guidance

NATIONAL:

National Planning Policy Framework July 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

CP1 Sustainable Transport and Accessibility

Supplementary Planning Guidance:

Essex Design Guide

Local Planning Guidance:

Essex County Council Car Parking Standards - Design and Good Practice

No emerging or adopted neighbourhood plan

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 Council 2013-33 and Beyond Local Plan (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 brought into force.

5. Officer Appraisal (including Site Description and Proposal)

5.1 Site Context

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 a 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, Timber frame roof with asphalt covering,

5.2 Proposal

This application seeks planning permission the erection of a new outbuilding which will comprise of a garage and residential annexe at ground floor and offices and WC at first floor. The erection of the proposal will result in the demolition of the existing garage. The proposal also requests permission for a new access door and front boundary wall.

5.3 Representations Received

Brightlingsea Town Council have objected to the scheme and two other letters of representation have been received raising the following concerns.

- (1) Overdevelopment of the site;
- (2) Too close to the boundary;
- (3) Significant reduction in privacy, outlook and light to neighbouring sites.
- (4) Out of keeping with the area.
- (5) Use of building as a separate dwelling
- (6) Loss of Parking.

The below report will take into account these comments.

5.4 Assessment

Visual Impact

Paragraph 130 of the National Planning Policy Framework 2023 (NPPF) requires that developments are visually attractive as a result of good architecture, are sympathetic to local character and history, including the surrounding built environment, function well and add to the overall quality of the area, and establish or maintain a strong sense of place.

Adopted Tendring District Local Plan Section 1 (TDLPS1) Policy SP7 seeks high standards of design that responds positively to local character and context. Policy SPL3 states that development must relate well to its site and surroundings particularly in relation to its siting, height, scale and massing. Furthermore, **the development must respect or enhance existing street patterns.**

The design of the proposal offered through previous application 23/01224/FULHH and likewise in the new improved variation Feb 2024, to match in form and materials at street elevations whereby, ridge height, set back positioning and matching building line the street scene up Spring Road. Combined to this, the detailing on the Western facing gable and flank wall, in mirroring the proportions, fenestration and brick details of the main dwelling at 70 Ladysmith Ave. This considered approach in our view, relates well to its site and surroundings particularly in relation to its siting. The guidance of the aforementioned policy P.130 NPPF 2023 and in particular Local Plan Section 1 (TDLPS1) Policy SP7.

Such consideration and matching to host dwelling we believe, does fully respect and enhance the existing street pattern. The proposed design having been fully considered in line with the guidance of the said policies, leaving only the restrictive subjectivity of the design, as perceived by planners.

It must be argued the whole purpose of Architectural design is to bring new fresh ideas to the built environment within an already highly restrictive framework of policy, let alone the existing constraints of site and brief. We are NOT requiring planning permission on highly contemporary Architecture or of internal style, wild ideas or experimentation. We are proposing Sustainable Architecture to balance with the adjacent site and surrounding buildings. We are told repeatedly in the planning refusal that we are offering a contemporary building this is wholly untrue and can only ascertain from this planner response is that the scheme, proposal and materials are not understood.

After all, you cannot hire a builder who can build a Victorian house. It is a simple fact we are limited to building suppliers current offerings of materials to be cost effective and the skills of builders that most likely are lesser in specialist skills. And inclusive to this modern CAD drafting solutions generally have a more uniform and illustrative aesthetic. With these factual points in mind we must ask planners to compromise on re attributing Architectural styles of yesterday and accept the dichotomy of policy and housing requirement combined with Graphical Software output.

If planners view reflecting brick details of the main dwelling of 70 Ladysmith on the proposed building, as NOT in keeping with the host building (Which seems wholly hypocritical to policy) then we offer that omitting those details is considered.

Same applies to the western flank fenestration it can also be reduced in fenestration aperture size if planners wish to set such conditions.

This also applies to white render. If all that will be permitted as far as walling materials is to propose matching brick to dwellings adjacent on Spring Road, then we are fully open to using those materials. Our concern is that the final aesthetic would appear darker in material tone, thus appear to have more mass, resulting in a 'more modern aesthetic', differential to the host building and working against our proposals attempt for balance.

Due to the objections by BTC and Neighbors of adjacent dwellings (Well outside of overlooking distances of 11m or more{fact}) on the mass of the building, denoted further in the planning refusal letter, combined with the below stated facts highlighted...

The existing area comprises of a mixture of differently designed houses which vary in terms of size and design. Many of these houses are two storey in nature and are either predominantly constructed from brick or finished in light coloured render.

We are proposing the same Architectural form and arrangement, by precedent of the highlighted facts above. Making our proposal in line with said policies, NOT against it as planners have commented.

The existing garage is located to the rear of the site; however, given the corner plot setting is accessed and most visible from Spring Road. The existing garage is of a single storey design and is erected along the site's side boundary which is shared with the public pavement of Spring Road.

The existing house benefits from a relatively large rear garden and is sited some distance away from its boundary with 69 Spring Road. Whilst the existing garage is located along the shared boundary with 69 Spring Road it is of a single storey design allowing for there to be a significant amount of open space to be retained between the house and other nearby houses. As the remainder of Spring Road is built up **this open space is considered to be a significant characteristic to the site and streetscene.**

We completely agree to the above refusal letter statement and requirement to maintain the open-space significant characteristic. In following the said policies guidelines and impacts of the proposal as indicated in objections. We propose re-use of the footprint of the original building fully, adding only 34.14m² of additional footprint. With the physical siting of existing building as further precedent re-developing the remaining footprint area as to be the most sustainable method of utilising the existing built environment for development. In our view this leaves the open space significant characteristic predominantly unchanged as viewed from the street scene from both Ladysmith Ave and Spring Road.

Although it is understood the second storey element proposed does add scale/mass, we refer to precedents of statements in refusal letter above, highlighted in 'orange text' to our variation proposal to remarkably reduce such concerns on mass as perceived from the street scene.

We have proposed in our variation, a heavy compromise in overall mass objected. This by means of 5 primary design changes.

1. Reduction of two storey element, ridge height by over 1m, with a reduction in roof pitch to 24°, matching the mono-pitch of the set-back roof of the garage at the Spring Road frontage. This reduces the roof mass/volume by 30% or more.
2. Removal from the design, of access and use of roof terrace. Removal of privacy screens, mono-pitch and parapet wall elements. Removal of second stairs (even though contrary to building control general requirements for fire escape). Instead replacing the first floor workspace with a inward opening French door or sliding door system and Juliet balcony, whose height is within building regulation of 1100mm.
3. Vertically recessing the rear single storey element of the annex and some of the 2 storey element downwards into the landscape by 440mm.

Reducing the overall eaves and roof heights throughout. Resulting in the following ridge and eaves heights, please see table below.

As viewed and measured from the street, measurements in mm.

Differences in heights of building elements. Between Refused Proposal and Variation Proposal Feb 2024.

Building Element	Old Height	Newly Proposed Height	Reduction
Ridge Height – 2 Storey Element	7280	6200	1080
Eaves Height – 2 Storey Element	4650	4500	150
Eaves Height Garage Roof Element	2617	2400	217
Annex Ridge	2870	2496	374
Annex Eaves	2643	2570	73

It should be noted that although each element reductions are not large in themselves, these combined over the area and volume of the building amount to a substantial reduction in volume and mass.

4. A max ridge height of the annex to under 3m and an overall drop in building fabric 440mm downward vertically from overlooking aspects overall. In addition to this, the annex is then predominately obscured by existing fencing with flat roof only visible. Whereby, with the addition of a fence top trellis may fully obscure the flat roof and annex. Meaning, that the two storey element is the only remaining mass and volume to consider in any visible splay. This means only the second storey element, which is then set back into the building line at Spring Road with its newly reduced ridge height and mass offering an aesthetic which amounts to the proposal appearance of a subservient building to that of the host dwelling at no 70 Ladysmith Ave.
5. Inclusive to items 1,2 and 3, we propose reducing the annex internal ceiling height to 2.3m and further lowering the now proposed flat roof ridge height and eaves height as measured by the ground level raised bund of land above the line of the street. This vast reduction in height means that with a trellis on the East and South timber fence it will hide the flat roof annex negating any overlooking of that building element. This new height will also obscure the projection of the annex to the West elevation from the street whereby the existing wall and trellis will obscure such building elements.
6. Further to these design changes, to maintain a level of flush thresholds and disability access along with wider doorway apertures (Lifetime homes design) as the original stated 'intention for use of the annex - is for elderly family residence, with priority to access, mobility, disability access and privacy' and NOT as presumed by objectors/BTC or potential public perception of a second dwelling. This accessibility is facilitated by moving the annex hallway main entrance closer to the West flank wall, to give rise to space for 2-3 new treads in the office stair with resultant building regulation space for wheelchair turning and free-space at the base of the stair of 500mm to the left jamb of the main door. It also required an internal step to the garage for access and in so doing retains the fenestration lines of the ground floor doors, all the while allowing for an access ramp. If a disability access ramp at 1:12 cannot be facilitated in a straight run then it is proposed as staggered at 90° and set back Westward into the garden.

Other Outcomes of design changes:

Reduces the mass and shadowing (not an issue due to proposal orientation and track of the sun, 69 Spring Road windows being obscured glazing and not main rooms), vastly reducing proposal impact to the aforementioned open-space significant characteristic of site and street scene. Please note loft and 1st floor windows of no 69 now can gain direct sunlight from the West.

Reduction in built fabric, material and cost to build further supporting sustainability in line with SP1 2.1, SP7 and SP3 National Planning Policy Framework (NPPF) albeit set against additional fabric required in creating larger parking areas – see section on parking.

Maintaining best access for mobility and disability as part of a lifetime home.

Design Changes and its effects against refusal/objections.

The proposal will result in the loss of this single storey garage and replacement with two storey outbuilding which would be positioned along the site's boundary shared with Spring Road. This siting would result in the new building appearing as a prominent addition within Spring Road and its two-storey nature would occupy the open space between the application house and its neighbour resulting in a loss of a significant characteristic here.

Spring Road is made up of largely two storey semi-detached buildings which are either finished in render or brick contributing to a traditional streetscene.

See above comments relating to street scene precedents and changes in design proposed, also 'orange text'. Defining the new proposal as more subservient to host dwelling at No 70 in its reduced mass/volume. Now a balanced stepping down occurs at the end of the cottages of Spring Road.

The existing single storey garage also contributes to this traditional appearance by being single storey and very much subservient in appearance to the host dwelling. The design of the new building is modern in comparison which would not relate well to the traditional appearance set by other houses within Spring Road.

Due to the existing and proposed distance from the host dwelling, it is our view that such subservient locale existing and proposed remains unchanged. We also point out as mentioned earlier in this document, the reduction in mass and scale of the building reduces the building to a smaller mass and scale physically this bolstered by stepping the building down into landscape by 440mm. The resultant design aesthetic from the street scene now proposed as as being subservient to the host dwelling.

The new two storey outbuilding would allow for a garage at ground floor with large opening door for vehicles whilst at first floor it would be render with a small number of forward-facing windows and a pitched roof design. The proposed footprint of the building would allow for further side and rear projections which would also be visible from Spring Road comprising of vertical timber cladding and balustrading to accommodate for a large roof terraced to the rear.

The now proposed hidden aspect of the annex should no longer be in consideration for its street aesthetic or overlooking, as it is now proposed hidden.

The use of the large front garage door will replicate the existing garage's door and the pitched roof design will incorporate two sideways facing gable ends similar to the neighbouring properties to the Southeast. The height of the new building will match also match that of these neighbouring houses.

In our new proposal with lower ridge height offers a stepping down at the end of the street mass into the clear open space between the proposal and the host dwelling. It should be considered that blending this mass into the open space is a more appropriate way to deal with perceptions of mass and guidance under Local plan and NPPF. The ridge of proposed now lower than the host building and more in balance with the bungalows across from Spring Road which stand above the proposal on their natural terraced locations.

The building itself will comprise of a mixture of parking, storage, home office space and annexe accommodation ancillary to the main house. It is noted that outbuildings of this nature are generally smaller in size and scale and are usually positioned closer to their host dwellings allowing for a suitable relationship between the two buildings.

Traditionally cart lodges and other parking buildings with offices above are further from the host dwelling, however we seek the sustainable use of built environment in this development and maximising existing green space and biodiversity. To also maintain the greatest clear space between proposal and host dwelling. This affords a natural separation of work from home for the occupants important to maintain a better work from home lifestyle. Such lifestyles post covid becoming far more commonplace and where planning policy has NOT recognised these new changes and needs which could be argued, 'impacts on belief' and 'comfort', 'energy savings', 'reduced travelling' and 'use of fossil fuels'. All of these elements prerequisites of sustainability in planning policy.

The proposed two storey outbuilding will be a significant change from the existing single storey garage that it will replace, in terms of scale. This change would significantly increase the scale/mass of a building that should appear ancillary/subservient to the host dwelling. Due to its size the proposed outbuilding cannot be considered "ancillary" or "Incidental" to 70 Ladysmith Avenue and would provide a perception to public users that this is in fact a separate dwelling within Spring Road.

Public perception, we believe, should not really be an attribute of a planning decision as it has nothing to do with planning or policy except in impact or harm to their own property. And why opportunities for the public to object are in place in the planning process. In fact, the public believe a wide range of differing views and perceive Architecture in numerous ways often driven by popular conception, memory, nostalgia or media representations on desire or distane. Its generally not a learned view albeit often Instinctive. We have provided design changes that create a subservient building to the host dwelling.

The use of white render would exacerbate the appearance of the new building increasing its prominence and impact onto the streetscene. The use of glazed balustrade and vertical cladding would also have a further detrimental impact to the locale it would appear striking and out of character to this largely traditional streetscene. It is therefore considered that the new building due to its size, design and siting on the side boundary would result in a prominent addition to the site which would appear as an incongruous addition to the existing site and its surroundings thereby having a detrimental impact to the character and appearance of the area. This impact would have further adverse effects due to the significant reduction in open space, at first floor level, as you enter Spring Road.

[See previous comments.](#)

5.5 Impact to Neighbours

Paragraph 130 of the National Planning Policy Framework 2023 requires planning policies and decisions to create places with a high standard of amenity for existing and future users. Policy SP7 of Section 1 of the adopted Local Plan endorses this requirement. Adopted Local Plan Section 2 Policy SPL 3 (Part C) seeks to ensure that development will not have a materially damaging impact on the amenities of occupiers of nearby properties. Sited to the south of the site is 68A Ladysmith Avenue which is a two-storey detached house which fronts Ladysmith Avenue. This neighbouring site has an existing modestly sized rear garden which is surrounded by other two storey houses within the vicinity. The rear elevation of this main house achieves views of surrounding houses as well as their associated boundary treatment and outbuildings. The change of this nearby building from a single storey element to two-storey will result in an impact to the existing views achieved from 68A Ladysmith Avenue. Whilst this will result in an increase in terms of loss of light and outlook the proposed building will be set off the shared boundary which will reduce this impact. Therefore, due to the setting off the shared boundary and its design the loss of outlook and light experienced by this neighbour would be considered not so significant to refuse planning permission upon in this instance.

[We propose to reduce this impact further in our new proposal. See previous comments.](#)

The proposed plans supporting the application show that the first-floor space will be accessed via a rear staircase which also leads to a large roof terrace. This roof terrace is large in size and will overlook into the garden and into the rearward openings of 68a Ladysmith Avenue.

Whilst it is appreciated that elements of this neighbour's garden are already heavily overlooked by surrounding houses these openings are small in size achieving only slight glimpses into this nearby house. The new balcony and staircase are close to the shared boundary and large in size allowing a number of users to accommodate the space at any one time. Furthermore, the relationship between the proposal and its neighbour will allow for users to achieve direct views into elements of this neighbouring house significantly reducing the privacy levels already experienced by these nearby occupiers.

[Our new proposal negates these impacts above.](#)

Sited to the Southeast is 69 Spring Road which comprises of a two-storey semi-detached house which fronts Spring Road. This house has a small number of side facing windows which serve the house and are spread amongst the different floors of the house. There is also a second-floor window along this elevation which suggest rooms within the roof of the house. The ground floor side openings currently look onto the existing garage which serves the application site whilst the openings at first and second floor achieve views over the top of this existing structure. This neighbour's ground floor window already looks out onto the existing garage, it is therefore noted that any further impact received by these openings would not be considered significant given that they are already impacted by the existing garage.

[Our new proposal seeks to hide the single storey annex proposed therefore reducing the existing impact of overlooking.](#)

The proposed change of the outbuilding to a two-storey building will significantly reduce the level of light and outlook already received from this neighbour's first and second floor openings resulting in a harmful impact to this neighbour's existing amenities. It is noted; however, that these side facing windows are small in size and obscure glazed meaning they are likely to serve a bathroom or hallway and therefore not primarily living quarters. It is therefore considered that any impact on these windows would be considered unreasonable grounds to refuse planning permission upon here.

The proposed building will be noticeable to this neighbour given its two storey design however this will reduce to single storey towards the rear and incorporate a hipped roof rear extension with an eaves height of 2.8m. Whilst this will have some impact upon this neighbour's level of light and outlook much of the two storey element will not be visible from the rear of this neighbour's house as it will not protrude beyond its rear wall. The single storey element to the rear will be largely screened by existing boundary treatment and the use of a hipped roof will help soften this impact further. It is therefore considered that the impact to this neighbour in terms of loss of light or outlook would not be so significant to refuse permission upon here.

[Our proposal further reduces such impact.](#)

The side elevation of the proposal shows a number of high-level windows at ground floor and one window at first floor. Whilst these will look onto the side wall of this neighbour the plans have indicated that these will be opaque meaning any views will be reduced and therefore the impact resulting from these openings would not be considered so significant to refuse planning permission upon here.

The roof terrace area will be set off the shared boundary with this neighbour due to the sloping roof design of the building at the rear. The plans also indicate that 1.75m privacy screening will be erected along this edge of the balcony which serves 69 Spring Road. Whilst it is appreciated that elements of this neighbour's garden are already overlooked by surrounding houses these openings which do so are small in size allowing for some of their garden area to retain a level of privacy. The new balcony is close to the boundary and large in size allowing a number of users to accommodate the space at any one time. Whilst it is appreciated that the agent has shown privacy screening measures in place, due to the sheer size of the roof terraced it is considered this would not be enough to reduce the level of overlooking which it would result in having an undesirable impact to this neighbour's rear garden. It is also noted that this roof terraced would also further increase the perception of overlooking to this neighbour having a further negative impact to them.

[Our proposal now will negate the above impact and overlooking.](#)

5.6 Highway Safety

Paragraph 110 of the National Planning Policy Framework 2023 (NPPF) seeks to ensure that safe and suitable access to a development site can be achieved for all users. Policy SPL3 Part B of the adopted Local Plan states that new development (including changes of use) must meet practical requirements; ensuring access to the site is practicable and associated additional traffic can be safely accommodated and that provision is made for adequate vehicle and cycle parking. The EPOA Parking Standards 2009 set out the requirements for commercial and residential parking provision.

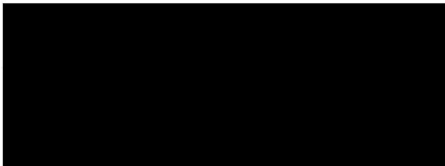
The ECC Parking Standards states that where a house comprises of two or more bedrooms that 2no parking spaces should be retained which measure 5.5m by 2.9m per space. They also request that new garages should have an internal measurement of 7m by 3m. The proposed garage will measure 5.8 by 4.9m internally therefore conflicting with the above standards. Whilst there is some green space located around the front and side of the house this has not been identified as off-street parking on the information provided and due to the position of the existing vehicular access would not be suitable for safe access or the manoeuvring of vehicles. It is also noted that some of the green verge around the house has not been included within the red line of the site plan and would therefore not appear part of this site's residential curtilage.

The existing garage at present is of a size which is under the above requirements and therefore does not provide sufficient parking in line with these standards. The proposed garage will also be under these standards and therefore does meet the parking needs of the house and the additional accommodation proposed. The proposal therefore does not demonstrate sufficient parking measures in line with the above policies or standards.

We propose 2 no. parking bays at 5.5 by 2.9m as required under ECC parking standards, and commented by Essex Highways Consultation. We are also prepared to evidence by means of parking survey that outside 8m of the visibility splay termination and junction from Spring Road to Ladysmith Ave there is 4 no. street parking spaces on the East and West sides of Ladysmith Ave directly adjacent to the host dwelling no 70. This brings the parking facility up to a potential of two primary parking bays in the garage and 4 dynamic street parking spaces, unaffacting parking congestion on Spring Road or Ladysmith Ave.

We hope our new design will now be accepted by planners for full planning agreement.

Yours Sincerely



Stuart Hancock
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