

Reference:	21/00383/FULH	
Application Type:	Full Application - Householder	
Ward:	St Lukes	
Proposal:	Erect three single storey outbuildings to rear and convert existing outbuilding to be used as ancillary to main dwelling (Class use C3) (Retrospective)	
Address:	The Lodge By The Bridge, Eastern Avenue, Southend-On-Sea	
Applicant:	Mr Brian Ayling	
Agent:	N/A	
Consultation Expiry:	8th April 2021	
Expiry Date:	20th April 2021	
Case Officer:	Spyros Mouratidis	
Plan Nos:	BA01-P101, BA01-P102	
Recommendation:	GRANT PLANNING PERMISSION subject to conditions	

1 Site and Surroundings

1.1 The application site is located on the southern side of Eastern Avenue and to the east of the rail line connecting Liverpool Street and Southend Victoria. The site is occupied by an “L”-shaped single storey dwelling and outbuildings to the rear. The dwelling covers the whole width of the site. The surrounding area comprises two-storey dwellings to the east and commercial buildings to the north. There are trees to the west and south marking the area between domestic gardens and the rail line. The area to the north is a designated industrial estate. No other designations affect the site or the area.

2 The Proposal

2.1 Planning permission is sought for the erection of three outbuildings to be used for purposes ancillary to the enjoyment of the dwellinghouse. Permission is also sought for the change of use of an existing outbuilding from an incidental use to an ancillary to residential use. The development has already been carried out. This application has been submitted retrospectively, under the provisions of section 73A of the Town and Country Planning Act 1990.

2.2 The buildings have been erected near the southern and western boundary of the site. Outbuilding A, to the south, measures 5.1m by 2.5m with a maximum height of some 3.2m. Outbuilding B measures 1.8m by 2.5m with its ridge height reaching 2.6m above ground. Outbuilding C measures 3m by 3.7m with the apex being 2.8m high. The outbuildings are finished with horizontal timber boarding painted brown. The applicant states that the outbuildings are used for purposes ancillary to the dwelling, including as guest bedrooms for domestic visitors to the main dwelling.

2.3 This application is the second submission of the same scheme which was previously refused planning permission under application 20/01972/FULH (the “2020 Application”). The only difference between the two applications is that the current application contains an additional outbuilding which was originally erected to be used for purposes incidental to the enjoyment of the main dwellinghouse and was converted subsequently to an ancillary use.

2.4 The applicant is an elected member of the Council. According to the Council’s constitution the application has to be determined by the Council’s Development Control Committee.

3 Relevant Planning History

3.1 The relevant planning history of the site is shown on Table 1 below:

Table 1: Relevant Planning History of Application Site

Reference	Description	Outcome
03/01484/FUL	Incorporate land into curtilage of residential dwelling, erect single storey building for use as additional residential accommodation, ancillary to 108A Ennismore Gardens, lay out parking and turning area and form vehicular access onto Eastern Avenue	Permission Granted [07.01.2004]
10/00063/ENFNOT	Enforcement Notice against the creation	Notice Issued

	of a self-contained dwelling on site.	[30.06.2010] Notice Quashed on Appeal [22.12.2010]
20/01972/FULH (the “2020 Application”)	The Lodge By The Bridge Eastern Avenue Southend-On-Sea Essex SS2 5GL	Refused [16.02.2021]

- 3.2 The 2020 Application was refused because the outbuildings, by virtue of their design, were not found to be ancillary to the main dwelling and to represent an overdevelopment of the site to the detriment of its prevailing character. The officer’s report to the Development Control Committee is appended to this report as Appendix 1. The decision notice is appended to this report as Appendix 2.

4 Representation Summary

Public Consultation

- 4.1 Seven (7) neighbouring properties have been consulted and a site notice was displayed. At the time of drafting this report no representations have been received. If any representations are received between the drafting of the report and the presentation date at committee, they will be summarised and included in the supplementary report to the committee.

5 Planning Policy Summary

- 5.1 The National Planning Policy Framework (NPPF) (2019)
- 5.2 Planning Practice Guidance (PPG) – National Design Guide (NDG) (2019)
- 5.3 Core Strategy (2007): Policies KP1 (Spatial Strategy), KP2 (Development Principles), CP3 (Transport and Accessibility), CP4 (Environment and Urban Renaissance).
- 5.4 Development Management Document (2015): Policies DM1 (Design Quality), DM3 (Efficient and Effective Use of Land), DM15 (Sustainable Transport Management).
- 5.5 Design & Townscape Guide (2009)
- 5.6 Community Infrastructure Levy (CIL) Charging Schedule (2015)

6 Planning Considerations

- 6.1 The main considerations in relation to this application are the principle of the development, the design and impact on the character of the streetscene and wider area including whether the application would overcome the previous reason for refusal, the impact on residential amenity, traffic and transportation issues and whether the development would be liable for CIL.

7 Appraisal

Principle of Development

- 7.1 Paragraphs 7.1 to 7.2 of the officer’s report the 2020 Application (Appendix 1) discuss the principle of development which was found to be acceptable. The current application

includes an outbuilding which was erected and used for incidental purposes before being used for ancillary purposes. This is not a material change of use for which planning permission would be required and as such it does not alter the findings from the previous application in any meaningful way. The current application is acceptable in principle and other considerations are discussed in the following sections of this report.

Design and Impact on the Character of the Area

- 7.2 The officers' analysis for this consideration is contained in paragraphs 7.3 to 7.4 of Appendix 1. The reason for refusal stated in the decision notice for the 2020 Application (Appendix 2) describes the committee's reasoning for refusing to grant planning permission previously, contrary to the officers' recommendation. The committee previously considered that the development is unacceptable in the above regards as they were in doubt whether these outbuildings can reasonably be considered to be ancillary. Without the outbuildings being ancillary their use would result to overdevelopment of the site.
- 7.3 While there are no material differences between the current application and the refused 2020 Application, it should be noted that it is an established principle that an outbuilding can reasonably be considered to be in an ancillary use to a dwellinghouse if a condition can be imposed to control this. This principle is well established planning case law. Given members' concerns, it is suggested that an additional condition to ensure that there are no cooking facilities within the outbuildings would be sufficient to overcome them. Subject to such additional condition, alongside the more commonly used one requiring the overall use to be ancillary to the main dwelling, the development is found to be acceptable and policy compliant in the above regards.

Impact on Residential Amenity

- 7.4 Paragraphs 7.5 to 7.6 of the officer's report the 2020 Application (Appendix 1) discuss these matters. The application, as the 2020 Application was found to be previously, is acceptable and policy compliant in the above regards.

Traffic and Transportation Issues

- 7.5 Paragraphs 7.8 to 7.9 of the officer's report the 2020 Application (Appendix 1) discuss these matters. Similarly to the 2020 Application which was previously found to be acceptable, the current application is acceptable and policy compliant in the above regards.

Community Infrastructure Levy (CIL)

- 7.6 As the development did not create more than 100m² of new floorspace and does not involve the creation of a new dwelling (Class C3), the development benefits from a Minor Development Exemption under the Community Infrastructure Levy Regulations 2010 (as amended) and as such no charge is payable.

8 Conclusion

- 8.1 Having taken all material planning considerations into account, including the planning history of the site, it is found that the development is acceptable and in line with local and national planning policies. With the conditions recommended the proposal is

acceptable in relation to its design and its impact on the character and appearance of the area and in terms of its impact on the neighbouring residential amenity. No harmful impact has been identified in terms of highway safety, parking conditions and the free flow of traffic. The application is, therefore, recommended for approval subject to conditions.

9 Recommendation

9.1 GRANT PLANNING PERMISSION subject to conditions:

- 01 The development hereby approved shall be retained in accordance with the approved plans: BA01-P101, BA01-P102.**

Reason: To ensure the development is carried out in accordance with the development plan.

- 02 The buildings hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as The Lodge By The Bridge, Eastern Avenue, Southend-On-Sea. The buildings hereby permitted shall not be used for any other purpose including as an independent self-contained residential unit.**

Reason: To ensure a satisfactory standard of accommodation and to protect the amenities of current and future occupiers, to protect the privacy and environment of people in neighbouring residential properties, and to prevent additional parking demand which cannot be met within the application site, in line with the stipulations of the National Planning Policy Framework (2019), the Core Strategy (2007) Policies KP1, KP2, CP3 and CP4, the Development Management Document (2015) Policies DM1, DM3 and DM15, and the Design and Townscape Guide (2009).

- 03 The buildings hereby permitted shall not be allowed to accommodate any cooking facilities.**

Reason: To ensure a satisfactory standard of accommodation and to protect the amenities of current and future occupiers, to protect the privacy and environment of people in neighbouring residential properties, and to prevent additional parking demand which cannot be met within the application site, in line with the stipulations of the National Planning Policy Framework (2019), the Core Strategy (2007) Policies KP1, KP2, CP3 and CP4, the Development Management Document (2015) Policies DM1, DM3 and DM15, and the Design and Townscape Guide (2009).

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework. The detailed analysis is set out in a report on the application prepared by officers.

Informatives:

- 1 You are advised that as the proposed extension(s) or change of use to your property equates to less than 100sqm of new floorspace, and does not involve the creation of a new dwelling (Class C3), the development benefits from a Minor Development Exemption under the Community Infrastructure Levy Regulations 2010 (as amended) and as such no charge is payable. See the Planning Portal (www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy) or the Council's website (www.southend.gov.uk/cil) for further details about CIL.**

APPENDIX 1

Reference:	20/01972/FULH
Application Type:	Full Application – Householder
Ward:	St Lukes
Proposal:	Erect three single storey outbuildings to rear and covert existing outbuilding to be used as ancillary to main dwelling (Class use C3) (Retrospective)
Address:	The Lodge By The Bridge, Eastern Avenue, Southend-On-Sea
Applicant:	Mr Brian Ayling
Agent:	N/A
Consultation Expiry:	25th January 2021
Expiry Date:	16th February 2021
Case Officer:	Spyros Mouratidis
Plan Nos:	BA01-P101, BA01-P102
Recommendation:	GRANT PLANNING PERMISSION subject to conditions

1 Site and Surroundings

1.1 The application site is located on the southern side of Eastern Avenue and to the east of the rail line connecting Liverpool Street and Southend Victoria. The site is occupied by an “L”-shaped single storey dwelling and outbuildings to the rear. The dwelling covers the whole width of the site. The surrounding area comprises two-storey dwellings to the east and commercial buildings to the north. There are trees to the west and south marking the area between domestic gardens and the rail line. The area to the north is a designated industrial estate. No other designations affect the site or the area.

2 The Proposal

2.1 Planning permission is sought for the erection of three outbuildings to be used for purposes ancillary to the enjoyment of the dwellinghouse. The development has already been carried out. This application has been submitted retrospectively, under the provisions of section 73A of the Town and Country Planning Act 1990.

2.2 The buildings have been erected near the southern and western boundary of the site. Outbuilding A, to the south, measures 5.1m by 2.5m with a maximum height of some 3.2m. Outbuilding B measures 1.8m by 2.5m with its ridge height reaching 2.6m above ground. Outbuilding C measures 3m by 3.7m with the apex being 2.8m high. The outbuildings are finished with horizontal timber boarding painted brown. The applicant states that the outbuildings are used for purposes ancillary to the dwelling, including as

guest bedrooms for domestic visitors to the main dwelling.

- 2.3 The applicant is an elected member of the Council. According to the Council's constitution the application has to be determined by the Council's Development Control Committee.

3 Relevant Planning History

- 3.1 The relevant planning history of the site is shown on Table 1 below:

Table 2: Relevant Planning History of Application Site

Reference	Description	Outcome
03/01484/FUL	Incorporate land into curtilage of residential dwelling, erect single storey building for use as additional residential accommodation, ancillary to 108A Ennismore Gardens, lay out parking and turning area and form vehicular access onto Eastern Avenue	Permission Granted [07.01.2004]

4 Representation Summary

Public Consultation

- 4.1 Six (6) neighbouring properties have been consulted and a site notice was displayed. At the time of drafting this report objecting comments from one (1) interested party have been received and are summarised below. However, the public consultation is still running. If any further representations are received between the drafting of the report and the presentation date at committee, they will be summarised and included in the supplementary report to the committee.

- 4.2 The objecting points are summarised as follows:

- The application was for the cabins to be used as occasional accommodation but one of the cabins is occupied on a permanent basis by a family member since the beginning of last year.
- The term cabin is misrepresentative as the structures are sheds made mainly of wood.
- Concern regarding fire safety of structures and the property as a whole.

- 4.3 The comments have been taken into consideration and the relevant to planning matters raised are discussed in subsequent sections of the report. The objecting points raised by the representation are not found to represent material reasons for recommending refusal of the planning application.

Parks and Greenspace Officer

- 4.4 No comment.

5 Planning Policy Summary

- 5.1 The National Planning Policy Framework (NPPF) (2019)

- 5.2 Planning Practice Guidance (PPG) – National Design Guide (NDG) (2019)

- 5.3 Core Strategy (2007): Policies KP1 (Spatial Strategy), KP2 (Development Principles), CP3 (Transport and Accessibility), CP4 (Environment and Urban Renaissance).
- 5.4 Development Management Document (2015): Policies DM1 (Design Quality), DM3 (Efficient and Effective Use of Land), DM15 (Sustainable Transport Management).
- 5.5 Design & Townscape Guide (2009)
- 5.6 Community Infrastructure Levy (CIL) Charging Schedule (2015)

6 Planning Considerations

- 6.1 The main considerations in relation to this application are the principle of the development, the design and impact on the character of the streetscene and wider area, the impact on residential amenity, traffic and transportation issues and whether the development would be liable for CIL.

7 Appraisal

Principle of Development

- 7.1 National and local planning policy promotes the effective use of land subject to safeguarding and improving the environment and local amenity but are silent in relation to extension of residential gardens to undesignated land within an urban area.
- 7.2 Given that permission was previously granted for the residential use of the northern part of the site, the principle of using the southern part of the site as residential garden with associated facilities is, on balance, acceptable. The creation of additional facilities ancillary or incidental to the enjoyment of an existing dwelling is also acceptable in principle. Other material planning considerations are discussed in the following sections of this report.

Design and Impact on the Character of the Area

- 7.3 Good design is a fundamental requirement of new development to achieve high quality living environments. Its importance is reflected in the NPPF, in Policies KP2 and CP4 of the Core Strategy and also in Policy DM1 of the Development Management Document. The Design and Townscape Guide also states that: "the Borough Council is committed to good design and will seek to create attractive, high-quality living environments."
- 7.4 The development has not detrimentally impacted on the urban grain of the area and its layout is acceptable on the basis that it is ancillary or incidental to the main dwelling. In terms of scale, form, appearance and choice of materials, the outbuildings are not dissimilar to typical sheds and other similar structures designed to be used within domestic gardens. This typical style of design is acceptable within this context. In relation to landscaping, it is understood that some trees have been lost as a result of the development. While this is unfortunate, these would have not been protected and as such limited weight can be given to their loss. Overall, the development is acceptable and in line with policy in these regards.

Impact on Residential Amenity

- 7.5 Policy DM1 of the Development Management Document requires all development to be appropriate in its setting by respecting neighbouring development and existing residential amenities and also: “having regard to privacy, overlooking, outlook, noise and disturbance, sense of enclosure/overbearing relationship, pollution, daylight and sunlight.”
- 7.6 The site is located to the rear of properties facing Ennismore Gardens and backs their gardens. Given the nature of the use, the single-storey scale of the outbuildings and the separation distance of more than 26m from the rear elevation of neighbouring residential properties, no material harm to the residential amenity of neighbours is identified in terms of loss of light, overbearing relationship or loss of outlook, loss of privacy and overlooking, pollution, noise and disturbance. In the round, the development is acceptable and in line with policy in the above regards.

Traffic and Transportation Issues

- 7.7 Policy DM15 of the Development Management Document states: “Development will be allowed where there is, or it can be demonstrated that there will be, physical and environmental capacity to accommodate the type and amount of traffic generated in a safe and sustainable manner”. The policy also requires that adequate parking should be provided for all development in accordance with the adopted vehicle parking standards.
- 7.8 The development has not altered the access and parking arrangements of the site. As the outbuildings offer ancillary accommodation related to the main dwelling use and do not result in the creation of new self-contained dwelling, the development would not generate a requirement for additional parking according to the adopted parking standards. The development has no material impact on the highway safety, parking provision or free flow of traffic in the area. The development is acceptable and policy compliant in these regards.

Community Infrastructure Levy (CIL)

- 7.9 As the development did not create more than 100m² of new floorspace and does not involve the creation of a new dwelling (Class C3), the development benefits from a Minor Development Exemption under the Community Infrastructure Levy Regulations 2010 (as amended) and as such no charge is payable.

8 Conclusion

- 8.1 Having taken all material planning considerations into account, it is found that the development is acceptable and in line with local and national planning policies. The proposal is acceptable in relation to its design and its impact on the character and appearance of the area and in terms of its impact on the neighbouring residential amenity. No harmful impact has been identified in terms of highway safety, parking conditions and the free flow of traffic. The application is, therefore, recommended for approval subject to conditions.

9 Recommendation

- 9.1 **GRANT PLANNING PERMISSION subject to conditions:**

- 01 The development hereby approved shall be retained in accordance with the approved plans: BA01-P101, BA01-P102.**

Reason: To ensure the development is carried out in accordance with the development plan.

- 02 The buildings hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as The Lodge By The Bridge, Eastern Avenue, Southend-On-Sea. The buildings hereby permitted shall not be used for any other purpose including as an independent self-contained residential unit.**

Reason: To ensure a satisfactory standard of accommodation and to protect the amenities of current and future occupiers, to protect the privacy and environment of people in neighbouring residential properties, and to prevent additional parking demand which cannot be met within the application site, in line with the stipulations of the National Planning Policy Framework (2019), the Core Strategy (2007) Policies KP1, KP2, CP3 and CP4, the Development Management Document (2015) Policies DM1, DM3 and DM15, and the Design and Townscape Guide (2009).

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework. The detailed analysis is set out in a report on the application prepared by officers.

Informatives:

- 1 You are advised that as the proposed extension(s) or change of use to your property equates to less than 100sqm of new floorspace and does not involve the creation of a new dwelling (Class C3), the development benefits from a Minor Development Exemption under the Community Infrastructure Levy Regulations 2010 (as amended) and as such no charge is payable. See the Planning Portal (www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy) or the Council's website (www.southend.gov.uk/cil) for further details about CIL.**

APPENDIX 2

Southend-on-Sea Borough Council

Deputy Chief Executive,

Executive Director (Growth and Housing) : Andrew Lewis

📍 Civic Centre, Victoria Avenue, Southend-on-Sea, Essex SS2 6ER

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Mr Brian Ayling
The Lodge By The Bridge
Eastern Avenue
Southend-On-Sea
Essex
SS2 5GL

Our ref: 20/01972/FULH
Dated: 16th February 2021

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED) TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) ORDER 2015

Proposal:

**ERECT THREE SINGLE STOREY OUTBUILDINGS TO REAR AND COVERT
EXISTING OUTBUILDING TO BE USED AS ANCILLARY TO MAIN DWELLING
(CLASS USE C3)**

Location:

**THE LODGE BY THE BRIDGE EASTERN AVENUE SOUTHEND-ON-SEA
ESSEX SS2 5GL**

Applicant: Mr Brian Ayling

Southend-on-Sea Borough Council, as Local Planning Authority, having considered the application described above and specified in the application received on 22nd December 2020 has reached the following decision:-

Refuse Permission

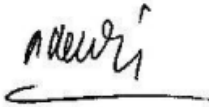
as detailed in Drawing(s):
BA01-P101, BA01-P102
for the following reason(s):-

- 01 The outbuildings, by virtue of their design, are not found to be ancillary to the main dwelling and represent an overdevelopment of the site to the detriment of its prevailing character. This is unacceptable and contrary to the National Planning Policy Framework (2019), Policies KP2 and CP4 of the Southend-on-Sea Core Strategy (2007), Policies DM1 and DM3 of the Southend-on-Sea Development Management Document (2015) and the advice contained within the National Design Guide (2019) and the Southend Design and Townscape Guide (2009).

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and clearly setting these out in the reason(s) for refusal. Furthermore, Members of the planning committee which took the decision to refuse planning permission based their view on a detailed report prepared by officers and have considered whether there are opportunities to amend the development to address this harm. Where a potential way forward has been identified, this has been communicated to the Applicant.

PLEASE NOTE

- 01 You are advised that as the proposed extension(s) or change of use to your property equates to less than 100sqm of new floorspace, and does not involve the creation of a new dwelling (Class C3), the development benefits from a Minor Development Exemption under the Community Infrastructure Levy Regulations 2010 (as amended) and as such no charge is payable. See the Planning Portal (www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy) or the Council's website (www.southend.gov.uk/cil) for further details about CIL.



Andrew Lewis
Deputy Chief Executive, Executive Director (Growth and Housing)

TOWN AND COUNTRY PLANNING ACT 1990

NOTIFICATION TO BE SENT TO AN APPLICANT WHEN A LOCAL PLANNING AUTHORITY REFUSE PLANNING PERMISSION OR GRANT IT SUBJECT TO CONDITIONS

Appeals to the Secretary of State

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice [reference], if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of this notice.

- If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within:
28 days of the date of service of the enforcement notice, or within 6 months [12 weeks in the case of a householder appeal] of the date of this notice, whichever period expires earlier.
- If this is a decision to refuse planning permission for a householder application, if you want to appeal against your local planning authority's decision then you must do so within 12 weeks of the date of this notice.
- If this is a decision to refuse planning permission for a minor commercial application, if you want to appeal against your local planning authority's decision then you must do so within 12 weeks of the date of this notice.
- If this is a decision to refuse express consent for the display of an advertisement, if you want to appeal against your local planning authority's decision then you must do so within 8 weeks of the date of receipt of this notice.
- If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice.
- Appeals can be made online at: <https://www.gov.uk/planning-inspectorate>. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.
- The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. [Further details are on GOV.UK.](#)