



Appeal Decision

Site visit made on 23 September 2025

By Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 06 October 2025

Appeal Ref: APP/P1560/D/25/3367105

Jasmin Cottage, Tendring Road, Thorpe Le Soken, Clacton-on-Sea, CO16 0AA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Jack Nethercott against the decision of Tendring District Council.
 - The application Ref is 24/01853/FULHH.
 - The development proposed is the erection of an oak framed garage with home office, entertainment and gym space.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are: i) the effect of the proposed building on the appearance of the area; ii) the effect of the proposal on the setting of the Grade II Listed Building, Millington House.

Reasons

3. The appeal site is located on the eastern side of Tendring Road, accessed by a short driveway which leads to Jasmin Cottage, a detached two storey dwelling behind No.1 Tendring Road. To the front of the dwelling lies a large area of shingle which allows off road parking. Adjacent the shingle to the west is a large building containing a double garage, with conservatory, games room and store. To the south of this is where the proposed development would be placed. A Public Right of Way runs along the site's southern boundary. The Grade II Listed Building, known as Millington House, lies just the other side of this right of way.
4. The planning policy and legislative background, against which the appeal proposal must be considered, is Tendring District Local Plan and Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The latter imposes a statutory duty on the 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.
5. As far as the Local Plan is concerned, 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, and 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 are set

out in SPL3: new alterations should be well designed and maintain or enhance local character and distinctiveness; and the development should relate well to its site and surroundings particularly in relation to its siting, height, scale, design and materials. Policy PPL9 reflects the s66(1) duty.

The effect of the proposed building on the appearance of the area

6. Jasmin Cottage is effectively hidden from the road because it is behind the frontage buildings. What is seen along the entrance drive is the large garage with ancillary accommodation. The proposed building would be seen next to this, although set back behind the line of its rear, west, elevation. The proposed oak framed garage with home office, entertainment and gym space is a substantial building of two elements which form an L shape.
7. The main part of the structure, housing the home office, entertainment and gym, measures 12.0m in length, 6m in width with an overall height of 6.1m. Part of the accommodation is within the roof space, so that it is reasonable to describe it as being of 1½ storeys. The smaller element, which is joined so that it is a single structure, would house motor vehicles in the form of a 'cartlodge'. This measures 6.0m in length, 7.0m in width with a maximum height of 4.6m. The lower cartlodge element is sited towards the listed Millington House to minimize any effect on the setting of the listed building.
8. Visually, the proposed building has no relationship to Jasmin Cottage, although an observer may infer that it has some connection with the existing garage building. Generally, it may not matter that the host dwelling cannot be seen in the same view as a curtilage building. Taken as an isolated building, its design has a lot to commend it, with its stepped roof profile and traditional structural form and materials, but in this case, due to its position close to the existing garage building and its size, it would be incongruous, and thus would have a harmful effect on the appearance of the area which otherwise relates to the open space of Thorpe Green

The effect of the proposal on the Grade II Listed Millington House.

9. The proposed building is little more than 12m from the nearest boundary of Millington House, just beyond the public right of way. The appellant points out that it has been deliberately positioned behind a 45° line taken from the nearby front corner of the listed building. While having meaning in relation to the effect on a window, this is a purely abstract angle when considering the visual impact on the setting of the listed building. This setting is one of open and verdant land, closely associated with Thorpe Green. During the time of my site visit, with trees in full leaf, there would be little impact from the public highway, although that is not the case from the public right of way, where the proposed building would sit in what should be an open setting. In winter, with bare branches, the evidence is that the building would detract from the views of the listed building gained across the green, and this has not been directly contradicted.
10. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 is clear about the desirability of preserving a listed building or its setting or any features of special architectural or historic interest. I emphasize, in this case, the words preserving ... or its setting. Preserving might be achieved by simply not harming, but it does not include any level of harm.

11. The siting of the substantial and incongruous building within the setting of Millington House amounts to less than substantial harm, to use the words of the National Planning Policy Framework (NPPF) at paragraph 212, and great weight should be given to it. As paragraph 215 states: "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". For the appellant it is suggested that such harm must be weighed against the public and private benefits of the proposal in a proportionate manner, but this is not correct, it is only public benefits that come into the balance in relation to the policy at paragraph 215.
12. The benefits, public or otherwise, suggested by the appellant are improved off-road parking, thereby reducing visual clutter and on-street parking; enhanced use of the property by the current occupants, and supporting the long-term viability of the heritage asset. Clearly the enhancement for the occupants is not a public benefit, and no reduction of on-street parking is required in view of the current parking provision. If anything, the proposal does not reduce clutter, but adds to it. How the proposed building would support "the long-term viability of the heritage asset" is left to conjecture.

Conclusion

13. For the reasons that I have set out above, I conclude that the proposed oak framed garage with home office, entertainment and gym space would be incongruous, and would have a harmful effect on the appearance of the area which otherwise relates to the open space of Thorpe Green. I also find that the proposal would be harmful to the setting of the Grade II listed building Millington House, and that this amounts to less than substantial harm. Such harm can only be weighed, in terms expressed in the NPPF, against public benefits. Not such benefits are apparent in this case.
14. For these reasons the appeal will be dismissed.

Terrence Kemmann-Lane

INSPECTOR