



<b>Application:</b>	12/00889/FUL	<b>Town / Parish:</b> Clacton Non-Parished
<b>Applicant:</b>	Mr N Georgiou	
<b>Address:</b>	45 Rosemary Road, Clacton On Sea	
<b>Development:</b>	Proposed change of use of vacant shop to hot food takeaway (A5) including extraction system.	

## 1. Executive Summary

- 1.1 This application is referred to the Planning Committee by Councillor G V Guglielmi as the premises remain empty following a period of marketing and this has an adverse impact on the vitality and image of the town centre and it is felt that there is no demand for retail (A1) premises in this location.
- 1.2 The premises lie within the Primary Shopping Area and within a Primary Shopping Frontage and change of use to a takeaway (A5) at ground floor level would be contrary to Local Plan policies ER32a and ER33 which seek to restrict non-retail uses. The site also lies within the Clacton Seafront Conservation Area.
- 1.3 The policies presume against non-retail uses but consideration has been given to current trading conditions and the need to maintain the vitality of the town centre which could be affected by units remaining vacant and to the proportion of non-retail uses in other town centre shopping frontages near to the site.
- 1.4 Officers consider that notwithstanding these other material considerations that the proposal would be likely to adversely affect the retail function of the town centre which Local Plan policies ER32a and ER33 are designed to protect.

### **Recommendation: Refuse**

#### **Reason for refusal:**

The proposal involves the change of use from Class A1 retail to Class A5 hot food takeaway. The application site is located in Rosemary Road Clacton within a designated primary shopping frontage in the Local Plan.

Policy ER33 of the Local Plan is concerned with non-retail uses within primary shopping frontages. The proposal does not meet the requirements of this policy. It requires that non-retail uses do not dominate and that the proportion does not exceed 10% of the length of the individual street frontage. There are only seven units within the length of frontage in Rosemary Road under consideration and the proposed change of use would double the number of non-retail units increasing the proportion of non-retail frontage to 18%. The proposed change of use would, therefore almost adversely affect the retail function of Clacton town centre contrary to policy ER33 and the principles set out in the Framework. In the absence of any other material planning considerations of sufficient weight to override these policy objections the planning application is refused in accordance with the development plan.

## 2. **Planning Policy**

### National Policy:

National Planning Policy Framework

### Local Plan Policy:

*Tendring District Local Plan*

ER32a Primary Shopping Area

ER33 Non-retail uses within Primary Shopping Frontages

EN17 Conservation Areas

## 3. **Relevant Planning History**

None.

## 4. **Consultations**

### **English Heritage:**

4.1 No comments received

### **Regeneration:**

4.2 There are only 9 vacant units in Clacton town centre (which has 317 units), and one of only 4 in the primary shopping area. Whilst there are already a number of non-retail uses in the immediate vicinity, and this can have a positive effect on the vibrancy and vitality of a town centre, the proposed change of use needs to be considered very carefully so as not to undermine the retail offer in the district's largest town centre by undermining the protected primary shopping frontage policy. No evidence of marketing has been submitted.

### **Public Experience (Environmental Services):**

4.3 The extraction system as shown exhausts above ridge level, and given the locality should not give rise to any nuisance issues.

## 5. **Representations**

5.1 Two letters and a petition in support of the application raising the following issues:

- Lack of interest following marketing – further A1 use not required;
- Should avoid empty premises which adversely affect image and vitality of town centre;
- Departure from policies should be considered in the current economic climate;
- No objection from other premises in Rosemary Road frontage except restaurant/takeaway opposite (see below).

5.2 Two letters and a 10 signature petition objecting to the application as follows;

- Within protected frontage;
- Already a high percentage of non-retail businesses in frontage and further unit would undermine retail function of the town centre;

- No regeneration benefit;
- The applicant's difficulties in selling/letting the premises do not outweigh the best interests of the town and existing businesses, local residents and visitors;
- Little weight should be given to the petition on support;
- Existing A5 uses already in the town, including some in the vicinity of the site, another would weaken the diversity of trade;
- Traffic and parking problems in Rosemary Road – a further takeaway would add to these;
- Few jobs would be created and could cause other A5 units to close with loss of jobs offsetting any increase.

## 6. **Assessment**

The main planning considerations are:

- Impact on primary shopping area/primary shopping frontage;
- Impact on character and appearance of conservation area.

### **Proposal**

- 6.1 This is a full application for a change of use from retail (A1) to hot food takeaway (A5) at ground floor level. The application also includes the construction of a flue through the roof to the rear of the premises. The unit has access from a service yard to the rear for deliveries. The premises are currently vacant but were previously used as a pet shop. The floor area amounts to 101 m<sup>2</sup>.

### **Site location**

- 6.2 The premises are located on the south side of Rosemary Road to the east of the junction with Station Road. The site lies within the Primary Area for Clacton and within the primary shopping frontage.

### **Policy considerations**

- 6.3 The main policy considerations are local plan policies QL11, ER32a, ER33 and EN17 and the National Planning Policy Framework. The Framework sets out general principles to guide local planning authorities on policies in local plans that seek to protect the vitality of town centres. Policies should promote competitive town centres that provide customer choice and a diverse retail offer, including defining primary and secondary frontages and the uses appropriate to them. The current local plan identifies primary and secondary frontages. Therefore, the decision on this application should be made in accordance with these Local Plan policies unless there are other material planning consideration that indicate otherwise.
- 6.4 Policy ER32a applies to the primary shopping area and states that proposals for non retail development within the area at ground floor level will not be permitted. Policy ER33 details a range of criteria where non-retail uses within primary shopping frontages would be allowed at ground floor level. However, the policy also includes the statement that no non-retail uses will be allowed at ground floor level. Given this, officers have assessed the application against the criteria in ER33 that accepts non-retail uses if certain criteria can be met. These criteria are considered to be applicable to proposals at ground floor level.
- 6.5 The application proposes an A5 use within a primary shopping frontage that would result in a loss of an A1 retail unit. This part of the Rosemary Road frontage has only one non-retail unit which occupies 9% of the frontage. The criterion in the policy is 10%. With the

addition of the new unit the proportion would reach 18%. Therefore, the proposal would fail the policy on this basis which is a ground for refusing planning permission.

- 6.6 In relation to the other criteria of ER33 the primary shopping frontage in this part of Rosemary Road is already has a number on non-retail uses, especially on the north side. An additional non-retail unit could be considered to result in non-retail uses dominating or detracting from the core retail activities of the town centre. The proposed change of use would almost double the non-retail frontage on the south side. However, the site is towards the end of the defined primary shopping frontage and the change might be considered not to significantly affect the retail function of the town centre. Consideration has been given to this circumstance.
- 6.7 The site lies within the Clacton Seafront Conservation Area. The only impact on the conservation area would be from the proposed extraction system and flue. This would be behind the frontage and would not be readily visible and officers consider that it would have no materially adverse impact on the character and appearance of the conservation area. English Heritage has been consulted on the proposed change of use and at the timing of writing a response is still awaited.
- 6.8 There are residential premises at first floor level in the vicinity of the site; however, given this is a town centre location where a high level of public activity is to be expected the effect on residential amenity is unlikely to be significant. Extraction systems are subject to separate environmental control that would address issues such as noise and odour. No objections have been raised by Environmental Services.
- 6.9 As a town centre location the additional impact of any traffic arising is not likely to be significant. Short term parking is allowed on this part of Rosemary Road and on adjoining streets.
- 6.10 Both policies ER32a and ER33 are restrictive on non-retail uses at ground floor level. Planning permission for such uses in both the primary shopping area and primary shopping frontage would normally be refused. When assessed against the criteria in ER33 the proposed change of use is considered to be unacceptable given the likely adverse impact on the retail function of the town centre by undermining the retail offer.
- 6.11 The premises have been vacant for about a year after the previous occupier ceased trading. Since then the site has been marketed through three agents for over 9 months for lease or purchase. There has been little interest and no formal offers made even though the premises have been offered at favourable rates. The two previous tenants ceased trading before the end of their leases indicating the difficult trading situation in this part of Clacton. Other parts of the primary shopping frontage have a proportion of non-retail frontage that is above 10%. The eastern side of Station Road which is continuous with that in Rosemary Road has 13.8%.
- 6.12 The policy considerations outlined above indicate that planning permission should be refused. However, account of other material considerations which have been raised need to be balanced against the policy objections. Officers consider that the policy consideration should carry greater weight and planning permission should be refused.

#### Background Papers

None.