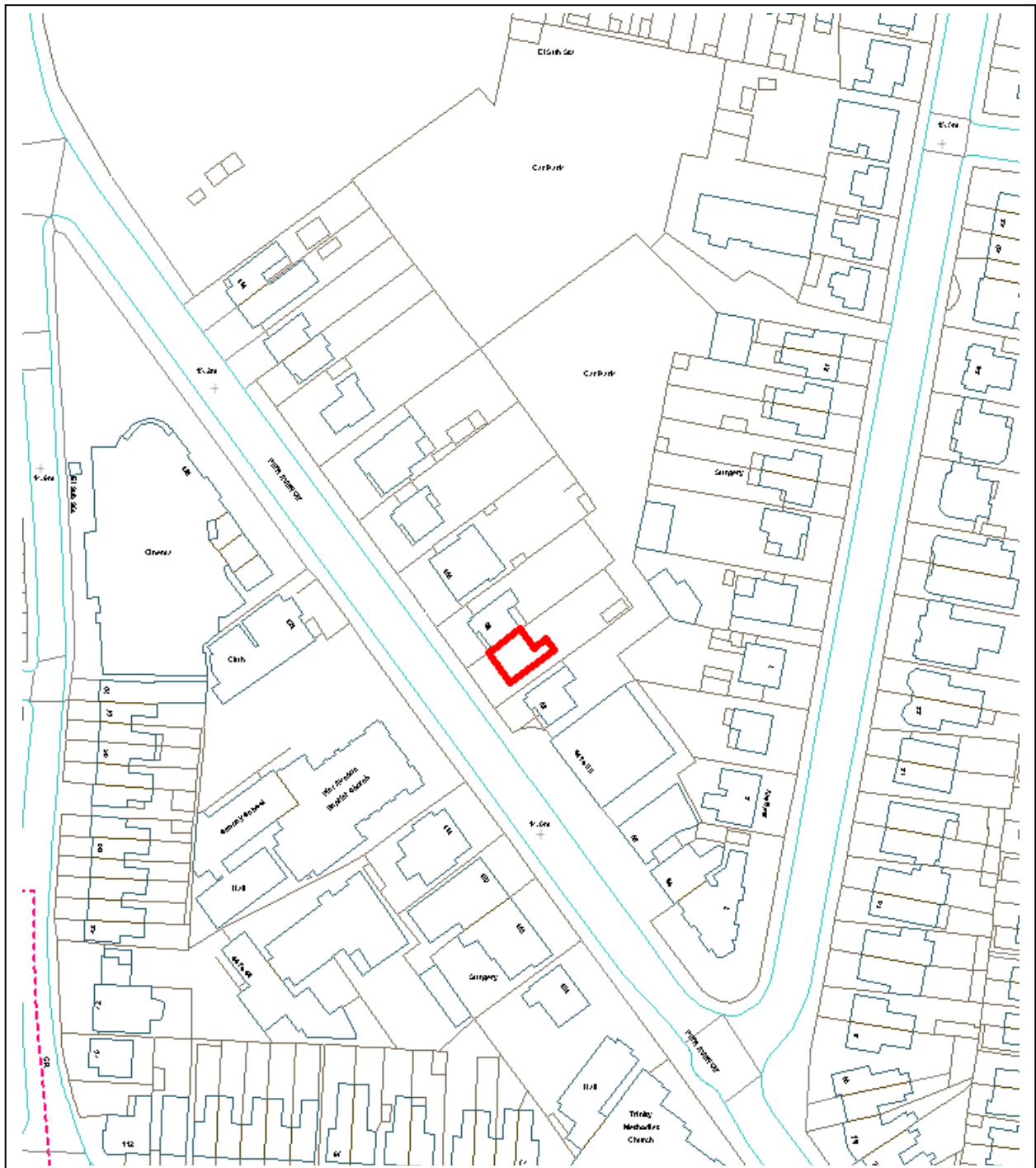


PLANNING COMMITTEE

28 MAY 2013

REPORT OF THE HEAD OF PLANNING

A.2 - PLANNING APPLICATION - 13/00165/FUL - 94 PIER AVENUE, CLACTON-ON-SEA, CO15 1NJ



DO NOT SCALE

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.

Application:	13/00165/FUL	Town / Parish: Clacton Non-Parished
Applicant:	Mr Mohammad Melal Miah	
Address:	94 Pier Avenue, Clacton-on-Sea, CO15 1NJ	
Development:	Change of use of premises from A1 use into a Cultural and Educational Community Centre D1 use.	

1. **Executive Summary**

- 1.1 Councillor P B Honeywood has requested that the application be presented to Planning Committee.
- 1.2 The application site is outside of the Primary Shopping Frontage and therefore the proposed change of use of the retail premises does not conflict with relevant development plan policies.
- 1.3 The National Planning Policy Framework (NPPF) states that town centres should include community/cultural uses.
- 1.4 It is considered that the scale of the proposed development is such that it would not cause material harm to the vitality of the shopping centre, residential amenity or highway safety.
- 1.5 Approval is recommended.

Recommendation: Approve

Conditions:

1. Standard time limit.
2. Development to be carried out in accordance with the submitted plans.
3. Limiting the hours of use to that applied for (0600-2200).
4. Retention of car parking spaces.
5. No amplification equipment to be used except as may be agreed in writing with the LPA.

Reasons for Granting Planning Permission

The proposed development accords with the objectives of the NPPF which seek to secure a range of uses in town centres including retail, leisure, commercial, office, tourism, cultural, community and residential uses.

The application site is located outside of the primary shopping frontage and the loss of the retail floor space would not conflict with the Tendring District Local Plan 2007 or the Tendring District Local Plan Proposed Submission Draft and would not materially affect the viability or vitality of the town centre.

Subject to conditions limiting the hours of use, preventing the use of amplification equipment and requiring the retention of the car parking spaces, the development would be not adversely effect residential amenity or highway safety.

2. **Planning Policy**

National Policy:

National Planning Policy Framework (NPPF)

Local Plan Policy:

Tendring District Local Plan 2007

QL9	Design of New Development
QL10	Designing New Development to Meet Functional Needs
QL11	Environmental Impacts and Compatibility of Uses
ER31	Town Centre Hierarchy and Uses
ER32a	Primary Shopping Area
COM1	Access to All
COM2	Community Safety
COM4	New Community Facilities
TR7	Vehicle Parking at New Development

Tendring District Local Plan Submission Draft

SD9	Design of new development
PRO5	Town, District, Village and Neighbourhood Centres
PEO18	Community Facilities
COS2	Clacton Town Centre
COS5	Warwick Castle Market Site

Other guidance:

Essex Parking Standards

3. **Relevant Planning History**

06/00809/FUL	Conversion of flat to offices, rear extension and new garages.		04.08.2006
09/01293/FUL	Installation of photovoltaic panels to front and side of roof.	Approved	12.01.2010

4. **Consultations**

4.1 Highway Authority – Does not wish to object to the proposals as submitted.

5. Representations

- 5.1 The application has generated significant public interest. At the time of writing this report, there have been 90 representations objecting to the application, 30 representations in support of the application, a petition in favour of the proposal with 89 signatories, and 8 neutral comments.
- 5.2 Many of the letters of objection raise matters which are not material planning considerations. Those objections which are planning considerations may be summarised as follows:
- (i) Highway safety – concerns have been raised that the level of on-site parking is inadequate;
 - (ii) Residential amenity – concerns have been expressed regarding noise pollution and late night disturbance;
 - (iii) Potential conflict with other existing commercial and D1 uses in the vicinity of the site which could lead to crime and disorder; and,
 - (iv) Adverse impact on shopping centre from loss of retail unit.

6. Assessment

- 6.1 The main planning considerations are:
- Loss of Retail Unit;
 - Impact of Residential Amenity and Other Existing Uses; and,
 - Parking and Impact on Highway Safety.

Site and Surroundings

- 6.2 The application building is a two storey semi-detached premises. The application relates to the ground floor of the building which is currently vacant and was last used as a beauty salon (Harmony Hand and Nail).
- 6.3 The first floor of the premises comprises a self contained flat. There is space at the front of the premises to park 2 cars. A driveway to the side of the building leads to a yard at the rear which could accommodate additional parking for 5 cars. The application site is attached to a building which is used as an Optician on both floors. The building to the south of the site is an office. The rear of the site backs onto a public car park. Located opposite the site is the Pier Avenue Baptist Church.
- 6.4 The application site is within the section of Pier Avenue located between Wellesley Road and Old Road, being numbers 84-114 and 101-129. The current uses of these properties are set out in the table below.

No.	Use
84	A1 Shop
84b	A3 Cafe
86 – 90	TDC Offices
92	B1 Office
94	Application site (A1 Vacant)
96	A1 Optician
98	A2 Solicitor
100	A1 Angling Shop
102	C3 Dwelling

104	C3 Dwelling
106	C3 Dwelling
108	C3 Dwelling
110	A3/A5 Restaurant/Take-away
112	A3/A5 Restaurant/Take-away
114	A1 Shop (Vacant)
101	C3 Flats
103	D1 Surgery
107	C2 Care Home
111	C2 Care Home
	D1 Church
121	A4 Public House
123	A1 Shop
125	A1 Shop
129	Cinema/Bingo Hall

Proposal

- 6.5 The proposed development proposes a community centre for the Tendring Islamic Cultural Association. It is proposed to use half of the ground floor of the building as two class rooms and the remaining half as an office. The application states that there are an estimated “20+ Islamic families living in the Clacton Area” that would benefit from the proposed use.
- 6.6 The applicant’s Planning Statement states in part “The aims and objectives of the community centre is to provide the following:
- To advance the Islamic religion for the benefit of the public particularly but not exclusively through the holding of prayer meetings, lectures and public celebration of religious festivals;
 - To advance education, including education in the Islamic religion, and other subjects, for the benefit of the public;
 - To provide or assist in the provision of facilities in the interests of social welfare for recreation of other leisure time occupation of individuals who have need of such facilities by reason of their youth, age infirmity or disability, financial hardship or social circumstances with the object of improving their livelihood.”
- 6.7 An email from the agent states that the centre will be open from 0600 to 2200 every day including weekends and public holidays.
- 6.8 The agent also confirms that the applicant is the prospective purchaser of the whole of the premises and will decide whether to live in the first floor flat himself or to let it.
- 6.9 The application forms indicate that the use will have 8 part time staff.

Assessment

- 6.10 The application is solely for a change of use of the premises, no external building operations are proposed. The proposed use falls within Class D1 of the Town and Country Planning (Use Classes) Order 1987 (As Amended). Class D1 includes the following uses: medical or health services; a crèche or nursery; an education facility; an art gallery; a library or reading room; a public hall; and, a place of worship or religious instruction.
- 6.11 The applicant has described the proposal as a ‘Cultural and Educational Community Centre’. However, if planning permission were to be granted, unless conditioned otherwise, the building could be used for any other purposes within Class D1.

- 6.12 It is clear from the application details that the building is to be used by the Islamic community. The religion of any group proposing to use a building is not a material planning consideration. In this case, the material planning considerations are as follows:
- (i) Whether the loss of the retail unit would be contrary to national and local planning policies and whether the change would materially effect the vitality and viability of the town centre;
 - (ii) Whether the proposed change of use would have any material adverse impact on residential amenity or any other existing uses in the locality;
 - (iii) Whether the proposal would have any adverse effect on highway safety;

Loss of Retail Unit

- 6.13 Policy ER32 of the Tendring District Local Plan 2007 prevents the change of use of premises to non-retail development at ground floor level within the Primary Shopping Area. In this case, the application site is situated outside of the Primary Shopping Area and therefore the proposal would not conflict with policy ER32a. There are no other retail policies within the local plan which prevent the proposed change of use. Little weight can now be given to the policies of the 2007 Local Plan.
- 6.14 Policy COS2 of the emerging Tendring District Local Plan Submission Draft provides the same protection to Clacton's Primary Shopping Area as policy ER32a. Again, as the application site is situated outside of the Primary Shopping Area, the development would not conflict with Policy COS2.
- 6.15 The site is within an area identified in the emerging Tendring District Council Local Plan Submission Draft as the "Warwick Castle Market Site and adjoining land" to which Policy COS5 applies. This policy identifies the area as "an opportunity for comprehensive or phased mixed-use development which could comprise the following uses: A1 shops; A2 financial services; A3 restaurants and cafes; B1 business; C1 hotels; and D2 leisure". The inclusion within the policy of the phrase "could include" is clearly an indication that this list of uses is not exclusive. Furthermore, now that the Aldi application has been approved (Reference number 12/0856) it is considered unlikely that the Council will receive any other applications for this area and therefore this policy may be or amended in the future. For these reasons, it is considered that the proposal would not conflict with the retail policies of the emerging local plan.
- 6.16 Paragraph 23 of the National Planning Policy Framework (NPPF) is concerned with "Ensuring the vitality of town centres". It states in part that local planning authorities should "allocate a range of suitable sites to meet the scale and type of retail, leisure, commercial, office, tourism, cultural, community and residential development needed in town centres. It is important that needs for retail, leisure, office and other main town centre uses are met in full and are not compromised by limited site availability. Local planning authorities should therefore undertake an assessment of the need to expand town centres to ensure a sufficient supply of suitable sites". It is therefore clear from the NPPF that the Government considers that the principle of Class D1 uses within town centres is acceptable.
- 6.17 The existing retail unit has a net retail floor space of approximately 95 square metres. The Council's 2010 Retail Study identified that the town centre had more than 52,000 square metres of ground floor retail floor space. The application site therefore represents less than 0.2% of the town centres retail floor space. It is therefore considered that the loss of 95 square metres of retail floor area on a site outside of the Primary Shopping Area will not have any material impact on the vitality and viability of Clacton town centre as a whole.

- 6.18 Consequently, in the absence of any policy conflict, it is considered that an objection based on the impact on the town centre resulting from the loss of the retail premises could not be sustained.

Impact of Residential Amenity and Other Existing Uses

- 6.19 This section of Pier Avenue contains a diverse range of uses some of which are active from early in the morning and others which are open until late at night. There are two other buildings in the vicinity which are used for purposes within Class D1.
- 6.20 The buildings either side of the site are both in commercial use. It has been alleged by some members of the public who have objected to the application that an Islamic Community Centre would not be compatible with the existing church and public house nearby due to cultural clashes and potential crime and disorder. However, in determining this application members of the Committee must be minded that the religion of the proposed use is not a planning consideration and the application must be considered as if it were an application for a centre for any faith. There is no planning reason why community centres and places of worship of different faiths cannot be located within close proximity. The NPPF seeks to achieve healthy inclusive communities with paragraph 58 stating in part that planning decisions should aim to achieve places which promote opportunities for meetings between members of the community who might not otherwise come into contact with each other.
- 6.21 Crime and disorder can be a material planning consideration. Paragraph 58 of the NPPF also states in part that planning decisions “should create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion”. In this case, there is no evidence that the introduction of an additional D1 use within Pier Avenue would result in crime or undermine the quality of life or community cohesion in the area.
- 6.22 The nearest dwellings to the site are No102 Pier Avenue and No7 Wellesley Road both of which are separated from the site by a distance of approximately 25 metres.
- 6.23 Due to the existing level of traffic using Pier Avenue, it is considered unlikely that the introduction of the proposed use would have a material adverse impact on the amenity of the occupants of dwellings in the vicinity in terms of noise and disturbance from vehicle movements.
- 6.24 Although the application is not described as a mosque or place of worship, if planning permission were to be granted, the ground floor of the premises could be used for those purposes without the need for any further permission. As previously stated, although the denomination of a religion is not a planning consideration, any material adverse impact arising from the use would be a material consideration and so it is necessary to understand the activities which would take place within the building. These activities as described by the application are set out in section 3 of this report. Of those listed, it is considered that the only activities which have the potential to affect the amenity of the area are the prayer meetings (due to the early morning and late night prayer meetings) and the celebration of religious festivals.
- 6.25 If the first floor flat above the centre were to be let separately then the early morning/late night activities could have an adverse effect on the amenity of the occupants, especially as there would be no respite at weekends or public holidays. At this stage it is not certain whether the flat would be occupied in association with the education centre or separately let. However, if it is separately let then any future occupier would be aware of the ground floor use and it would be for them to decide whether the relationship between the education centre and the flat was something they could live with.

- 6.26 With regards to other dwellings in the vicinity, it is considered unlikely that the proposed use would have a material adverse impact on the amenity of residents given that the site is in a town centre location and not located immediately adjacent to any dwellings.
- 6.27 For these reasons, it is considered that subject to conditions limiting the hours of use and preventing the use of amplification equipment, the development would be unlikely to result in any material adverse impact on residential amenity. The extension of these hours would require a further application for planning permission and the impact of this would fall to be judged on its merits.

Parking and Impact on Highway Safety

- 6.28 The Highway Authority has not raised any objections to the application on highway safety grounds.
- 6.29 With regards to parking, the Essex standards state that an A1 use should provide a maximum of 1 space per 20sqm of floor area and a D1 use 1 space per 10sqm of floor area. The ground floor of the building measures 95sqm and that there would be 7 car parking spaces. There is some on-street parking available nearby in Pier Avenue and to the rear in the public car park and the site is in a sustainable location where those visiting the site could be expected to walk and/or use public transport.
- 6.30 For these reasons it is considered that an objection on highway safety could not be sustained at appeal.

Background Papers

None.