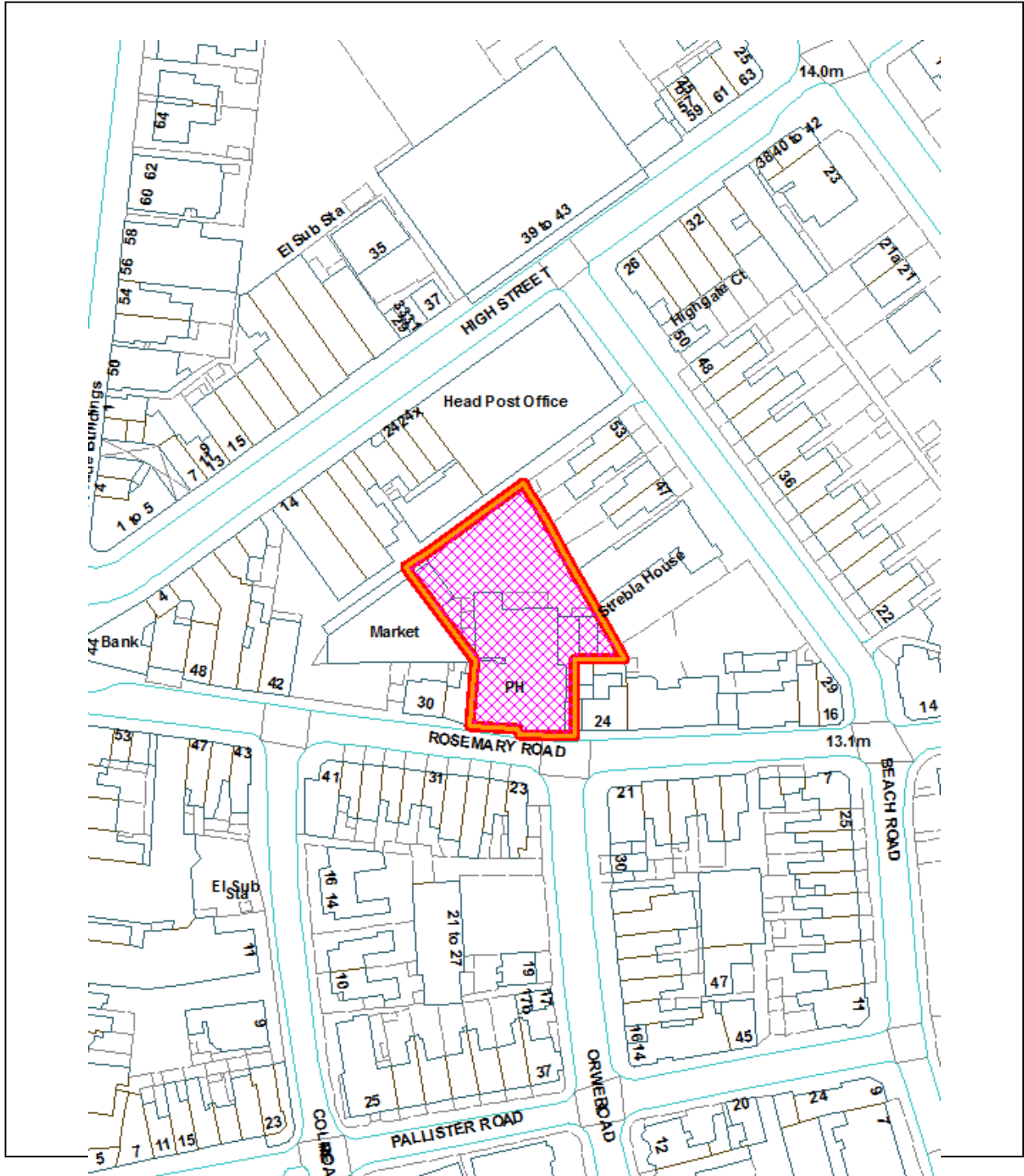


PLANNING COMMITTEE

22 September 2015

REPORT OF THE HEAD OF PLANNING

A.8 PLANNING APPLICATION - 15/00578/FUL- 26 Rosemary Road, Clacton on Sea, CO15 1NZ



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Agenda Item No. A.8

Application: 15/00578/FUL

Town / Parish: Clacton

Applicant: East West Design & Build Ltd.

Address: 26 Rosemary Road, Clacton on Sea, Essex CO15 1NZ

Development: Development of 26 new apartments in two blocks & 2 no. A1 units on the ground floor of the front block. Car park, bike store & amenity space to the interior of the site. Current building out of use, in a derelict state, to be demolished. Existing facade to Rosemary Road to be refurbished & retained. Proposed Change of Use from C1 (Hotels), A3 (Restaurants), A4 (Drinking Establishments) & Sui Generis (Nightclub) to C3 (Dwellinghouses) & A1 (Shops/sandwich bars/internet cafes).

1. Executive Summary

- 1.1 The NPPF states that applications for new housing should be considered in terms of the presumption in favour of sustainable development and planning permission should be granted *unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole*. In its favour, the proposal would represent a mixed use scheme that accords with the sentiments of the local plan policy for developments within identified urban regeneration areas; result in the demolition of a problem structure that does not currently preserve or enhance the special qualities of the Clacton on Sea Conservation Area; eradicate the anti social behaviour associated with the vacant property; represent a substantial financial investment into Clacton town centre and create 26No. two-bedroom flats that would contribute towards the Districts required housing numbers in a sustainable town centre location, along with two new retail units and their associated employment opportunities which would, in themselves, add to the vitality and vibrancy of the town centre. The proposed, substantial investment in Clacton town centre is to be welcomed. In order to be policy compliant, the report will need to carefully consider whether these benefits are outweighed by any harm which would be caused to the significance of heritage assets and to local and residential amenities or whether there would be any conditions or Section 106 mitigation measures that would overcome any concerns and make the development acceptable.
- 1.2 The application site lies within and adjacent to a designated conservation area, where the Council is required by law to have *special regard* to the desirability of preserving or enhancing the character or appearance of the area, or its setting. National planning policy requires *great weight* to be given to the conservation of heritage assets.
- 1.3 The proposal would involve the demolition of all of the buildings on the site, except for the façade to Sandles Inn. The existing Rosemary Road frontage buildings comprise the former Osborne Hotel and the two adjacent houses, which together were among the first parts of Clacton-on-Sea to be developed. The buildings are not listed for their special architectural or historic interest nationally but are heritage assets of significance locally both in terms of the early historic development of the planned resort and their traditional appearance.
- 1.4 The proposed redevelopment of the site includes the addition of a fourth floor to both the Sandles Inn building and the proposed replacement frontage building adjacent. This would provide residential units under a flat roof, the appearance of which would be harmful to appearance in the street scene, including from Orwell Road, where the public view to the

campanile (the only existing four-storey element) is particularly important. The demolition of the two dwellings would result in the loss of those heritage assets, harmful to the character of the conservation area. This harm would not be mitigated by the appearance of the proposed replacement building, which seeks to reproduce the appearance of traditional fenestration and detailing.

- 1.5 Towards the rear of the site, the proposal includes a block of flats of contemporary design, mainly four storeys high, which would be accessed from Rosemary Road. The scale and appearance of the flats (which would be visible from Beach Road) would neither preserve nor enhance the open and historic setting of this part of the conservation area. Further, the bulk and siting of the flats close to the rear boundaries of the adjacent houses in Beach Road would result in a material loss of outlook and open aspect to those properties, harmful to residential amenity.
- 1.6 The proposal would result in the loss of six mature lime trees, which have been protected by a Tree Preservation Order and are important to local amenity.
- 1.7 Careful regard has been paid by your officers to the benefits associated with the scheme including the substantial level of investment that the proposal would bring to Clacton town centre; the removal of a problem structure and associated anti social behaviour; the contribution that it would make to the Council's housing figures and the vibrancy of the town centre and identified Urban Regeneration Area; and the creation of retail units that would add to the vitality and vibrancy of the town centre. However, the balance of the benefits is, in your officers' view, greatly outweighed by the harm that would be caused to heritage assets; local amenity and residential amenity. Furthermore, it is not considered that the imposition of planning conditions or planning obligations would be sufficient to render the scheme acceptable. The recommendation is therefore to refuse.

Recommendation: Refuse

Reasons for refusal:

1. The proposal lies within and adjacent to the designated Clacton Seafront Conservation Area. Section 72 of the of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty upon the local planning authority to have *special regard* to the desirability of preserving or enhancing the character or appearance of designated conservation areas, or the setting of such areas.

This duty is reflected in the National Planning Policy Framework paragraph 129, which requires local planning authorities to identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset). Paragraph 132 of the Framework states that when considering the impact of a proposed development on the significance of a heritage asset, *great weight* should be given to the asset's conservation. Under paragraph 13, it is necessary to consider whether a proposal would be harmful and, if so, whether the harm would be "substantial" or "less than substantial".

The Adopted Tendring District Local Plan (2007) saved Policy EN17 - Conservation Areas, states that development within a conservation area will be refused permission where, amongst other things:

- a) It would harm the character or appearance of the Conservation Area, including historic plan form, relationship between buildings, the arrangement of open areas and their enclosures, grain, or significant natural or heritage features;
- b) The height, siting, form, massing, proportions, elevation, design or materials would not preserve or enhance the character of an area;
- c) (for development located outside a Conservation Area) it would prejudice the setting and

- surroundings of a Conservation Area or harm the inward or outward views;
- e) It would involve the demolition of a building or structure positively contributing to the character or appearance of the area.

The Tendring District Local Plan Proposed Submission Draft (2012) including Pre-submission Focused Changes (2014) contains draft replacement local policies. Policy PLA6: The Historic Environment and Policy PLA7: Conservation Areas are the equivalent policies in the draft plan. Little weight is given generally to the plan at this stage of preparation, although those proposed policies are consistent with the Framework.

The proposal would result in the demolition of all buildings within the site except for the front elevation of No.26 Rosemary Road, which it is proposed to retain. The proposed addition of a fourth floor to the rebuilt structure would involve replacing the existing pitched slate roof with a flat roof, which would appear out-of-character with the traditional appearance of the existing building in the conservation area. Although the overall height of the building would be comparable with the existing building, the visual impact of the extra storey would be seriously harmful in the street scene, particularly when viewed from Orwell Road. The less than substantial harm caused by the apparent increase in scale would be compounded by the juxtaposition with the attractive existing campanile which is, at present, the only fourth-storey element to the building, in an area which is predominantly of two - three storeys in scale.

The two adjacent houses to the west of No.26 also represent an important part of the early development of the planned resort. Their proposed total demolition and replacement with a building which seeks to recreate the general appearance of the houses to some degree, whilst also allowing for a means of vehicular access to the rear of the site to be formed, would also include a fourth floor of accommodation which would further compete visually with, and detract from, the adjacent campanile. The total loss of these original buildings would result in substantial harm to the character of the conservation area in terms of the significance of the heritage assets identified, including cultural heritage and understanding of place.

The proposal would include the erection of a new block of flats to the rear of the site, mainly of four stories and of a modern appearance. The Council recognises that modern design solutions might be appropriate within a conservation area and that a well-designed contemporary building might add to the qualities of an area. However, in this case it considers that the appearance, layout, massing and scale of the proposed building show little regard to the existing and historic built form surrounding the site. The new block of flats would be clearly visible from Beach Road to the east and, although set back from the main surrounding public roads, it would appear as a large and modern building in an area which is characterised by mainly traditional development of domestic scale.

As such, the proposal to demolish and alter buildings in the designated conservation area, fronting onto Rosemary Road would, in the Council's opinion, cause both substantial and less than substantial harm to the special character and appearance of that area, contrary to the National Planning Policy Framework and adopted and proposed local planning policies which seek to preserve or enhance designated conservation areas.

The proposal to erect a block of flats to the rear of the site does not, in the Council's opinion, respond appropriately to its context would cause less than substantial harm to the setting of the designated conservation area, contrary to the National Planning Policy Framework and adopted and proposed local planning policies which seek to preserve or enhance the settings of designated conservation areas.

2. The National Planning Policy Framework states that the Government attaches great importance to the design of the built environment and includes as a core principle that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Paragraph 56 states that good design is a key aspect of sustainable development, is indivisible from good planning and should contribute to

making places better for people. Paragraph 64 states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

The Adopted Tendring District Local Plan (2007) saved Policy QL9 – Design of New Development and QL11 – Environmental Impacts and Compatibility of Uses require new development, amongst other things, to relate well to its site and surroundings – particularly in relation to its siting, height, scale, massing, form, design and materials and that the development will not have a materially damaging impact on the amenities of nearby properties.

The Tendring District Local Plan Proposed Submission Draft (2012) including Pre-submission Focused Changes (2014) contains draft replacement local policies. Policy SD9: Design of New Development is the equivalent policy in the draft plan. Little weight is given generally to the plan at this stage of preparation, although the proposed policy is consistent with the Framework.

The proposal would include the erection of a new block of flats to the rear of the site, mainly of four stories and of modern appearance. The Council recognises that a well-designed contemporary building might add to the qualities of an area. However, in this case it considers that the appearance, layout, massing and scale of the proposed building would be harmful to the existing and historic built form surrounding the site. The new block of flats would be clearly visible from Beach Road to the east and, although set back from the main surrounding public roads, it would appear as a large and modern building in an area which is characterised by its mainly traditional development of domestic scale.

The three-storey section of the new block of flats would be sited 1.8m (min.) 3.2m (max.) from the rear boundaries of the two pairs of semi-detached houses adjacent in Beach Road. Those dwellings are two storeys in scale and would be overpowered visually by the bulk of that proposed new building. There would, in the Council's opinion, be a serious loss of outlook from, and open aspect to, those properties due to the height and siting of the proposed adjacent new building and such loss of residential amenity could not be mitigated adequately by landscaping.

As such, the proposal to erect a large block of flats to the rear of the site does not respond appropriately to its context and would be harmful to both local and residential amenity, contrary to the National Planning Policy Framework and adopted and proposed local planning policies. These seek to ensure that new development is well-designed, having beneficial, not harmful, effects.

3. The National Planning Policy Framework (paragraph 61) requires that decisions should address the integration of new development into the natural, built and historic environment.

The site includes six mature lime trees, subject to a Tree Preservation Order (No.15/0006/TPO), which would be removed to allow the development. In the Council's opinion, the lime trees make a positive contribution to local amenity, particularly as there are very few mature trees of this scale in the local area, and their loss would be harmful to the appearance of the locality. As the proposal would fail to incorporate those important existing site features of amenity value, it is contrary to national planning policy and to saved Policy QL9 – Design of New Development of the Adopted Tendring District Local Plan (2007) and draft Policy SD9 – Design of New Development of the Tendring District Local Plan Proposed Submission Draft (2012), including Pre-submission Focused Changes (2014).

4. The Council cannot demonstrate an adequate supply of land for new housing and the provisions of paragraphs 14 and 49 of the Framework therefore apply. Applications for new housing should be considered in terms of the presumption in favour of sustainable development and planning permission should be granted *unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole*. Paragraph 65 of the Framework states that local planning authorities should not refuse planning permission for buildings which promote high levels of sustainability

because of concerns about incompatibility with an existing townscape if those concerns have been mitigated by good design (*unless the concern relates to a designated heritage asset or its setting which is not outweighed by the proposal's economic, social and environmental benefits*). The Council does consider that concerns over the harmful impacts of the scheme have been mitigated by good design and therefore the harm identified to the heritage asset would not be outweighed by the economic and social benefits of the scheme (including the provision of new housing in a sustainable location and the inclusion of a retail element to help support the vitality and vibrancy of the town centre). Moreover, there would be significant dis-benefits in terms of social and environmental aspects (including to cultural well-being and the natural, built and historic environment). The harm which would be caused to the conservation area, including to its setting, is not outweighed by the public benefits of the scheme.

As such, the proposal would not represent sustainable development, in the Council's opinion, contrary to national planning policies.

5. The National Planning Policy Framework (paragraph 103) requires that when determining planning applications, local planning authorities should ensure that flood risk is not increased.

The Adopted Tendring District Local Plan (2007) saved Policy EN13 – Sustainable Drainage Systems, requires that development proposals should normally include measures to manage surface water runoff. Policy QL11 – Environmental Impacts and Compatibility of Uses, requires all new development to minimise any adverse environmental impacts, which include that the development will not have a materially damaging impact on the amenities of occupiers of nearby properties or water (including ground water).

The Tendring District Local Plan Proposed Submission Draft (2012) including Pre-submission Focused Changes (2014) Policy PLA3 – Water conservation, Drainage and Sewerage, states that all new development, excluding householder development, should incorporate Sustainable Drainage Systems (SuDS) as a means of reducing flood risk and improving water quality. Justification must be given for not using SuDS.

The Local Lead Flood Authority has objected to the proposal, as no surface water drainage strategy has been submitted to show that there would be no risk of flooding on and/or off site. In the absence of any details to show that flood risk would not be increased, as required, the proposal is contrary to the above-mentioned national and local planning policies.

6. In order to assess whether the development might otherwise be made acceptable by way of planning obligations to mitigate its impact, the need for financial and other contributions must also be considered. National Planning Practice Guidance confirms that obligations should only be sought where they are necessary to make the development acceptable in planning terms. Where local planning authorities are requiring affordable housing obligations or tariff style contributions to infrastructure, they should be flexible in their requirements. Their policy should be clear that such planning obligations will take into account specific site circumstances. On individual schemes, applicants should submit evidence on scheme viability where obligations are under consideration. In this case, the requirements for contributions relate to the provision of affordable housing and equipped play space.

The Adopted Tendring District Local Plan (2007) saved Policy HG4 – Affordable Housing in New Developments, requires the provision, in this case, of 40% of the residential units to be affordable (10.4 units).

The Tendring District Local Plan Proposed Submission Draft (2012) including Pre-submission Focused Changes (2014) Policy PEO10 – Council Housing, requires the provision, in this case, of 25% of the residential units to be affordable (6.5 units).

The Adopted Tendring District Local Plan (2007) saved Policy COM6 – Provision of Recreational Open Space for New Residential Development, requires a financial contribution

towards meeting the demand which two-bedroom units could create for equipped play space, which would otherwise not be met, thereby placing further pressure on existing nearby facilities.

The Tendring District Local Plan Proposed Submission Draft (2012) including Pre-submission Focused Changes (2014) Policy PEO22: Green Infrastructure in New Residential Development, requires a financial contribution towards meeting the demand which two-bedroom units could create for equipped play space, which would otherwise not be met, thereby placing further pressure on existing nearby facilities.

Having regard to the nature and extent of harm which would be caused by the development, the Council does not consider that the development could be made acceptable by way of planning obligations. Nevertheless, having regard to the Council's most up-to-date evidence base, the proposal would generate a technical requirement for:

Affordable housing – 6.5 units

Public Open Space – equipped play space - £43,940

Although the application supporting Planning Statement includes that the applicant agrees to enter into a S.106 agreement, in the absence of a formal agreement to make such contributions the proposal is contrary to the abovementioned local planning policies.

2. **Planning Policy**

National Policy:

National Planning Policy Framework (2012)

National Planning Policy Guidance

Local Plan Policy:

Saved Adopted Tendring District Local Plan (2007)

QL1 – Spatial Strategy

QL2 – Promoting Transport Choice

QL6 – Urban Regeneration Areas

QL8 – Mixed Uses

QL9 – Design of New Development

QL10 – Designing New Development to Meet Functional Needs

QL11 – Environmental Impacts and Compatibility of Uses

QL12 – Planning Obligations

ER3 – Protection of Employment Land

ER31 – Town Centre Hierarchy and Uses

ER32a – Primary Shopping Area

HG1 – Housing Provision

HG3 – Residential Development within Defined Settlement Limits

HG4 – Affordable Housing in New Developments

HG6 – Dwelling Size and Type

HG7 – Residential Densities

HG9 – Private Amenity Space

HG13 – Backland Residential Development

COM1 – Access for All

COM2 – Community Safety

COM6 – Provision of Recreational Open Space for New Residential Development

COM26 – Contributions to Education Provision

COM31a – Sewerage and Sewage Disposal

EN12 – Design and Access Statements

EN13 – Sustainable Drainage Systems

EN17 – Conservation Areas

EN20 – Demolition within Conservation Areas

TR1a – Development Affecting Highways

TR5 – Provision for Cycling

TR7 – Vehicle Parking at New Development

CL7 – New Town Centre Retail and Mixed-Use Development

CL8 – Specialist Shop/Café Area

Tendring District Local Plan: Proposed Submission Draft (2012) as amended by the
Tendring District Local Plan: Pre-Submission Focused Changes (2014)

SD1 – Presumption in Favour of Sustainable Development

SD2 – Urban Settlements

SD5 – Managing Growth

SD7 – Securing Facilities and Infrastructure

SD8 – Transport and Accessibility

SD9 – Design of New Development

SD10 – Sustainable Construction

PRO2 – Improving the Telecommunications Network

PRO3 – Improving Education and Skills

PRO4 – Priority Areas for Regeneration

PRO5 – Town, District, Village and Neighbourhood Centres

PRO8 - Retail, Leisure and Office Development

PEO1 – Housing Supply

PEO2 – Housing Trajectory

PEO3 – Housing Density

PEO4 – Standards for New Housing

PEO6 – Backland Residential Development

PEO7 – Housing Choice

PEO10 – Council Housing

PEO12 – Flats, Apartments and Maisonettes

PEO22 – Green Infrastructure in New Residential Development

PEO23 – Children’s Play Areas

PLA1 – Development and Flood Risk

PLA3 – Water Conservation, Drainage and Sewerage

PLA4 – Nature Conservation and Geo-diversity

PLA6 – The Historic Environment

PLA7 – Conservation Areas

COS1 – Regeneration at Clacton Town Centre and Seafront

COS2 – Clacton Town Centre

Other guidance:

Clacton Seafront Conservation Area Character Appraisal

Essex Design Guide

Essex Parking Standards

3. Relevant Planning History

13/00573/FUL - Alterations to building, including new roof coverings, alteration to roof pitch over villas, new windows including rebuild of bay windows, new shopfront entrances and windows. Approved 16.07.2013

13/30147/PREAPP – Renovation and repairs of existing building.

In making the new planning application, the applicant has relied upon pre-application advice given to a third party for a different scheme.

Having regard to the decline in the physical condition of the building, two consultant structural engineers have previously been commissioned to prepare reports - one on behalf of the former owner and one on behalf of the Council. The latter report concluded that the façade of No.26 could be retained, although the building has continued to deteriorate and works are needed to safeguard its structural integrity.

4. Consultations

- 4.1 ECC Education 29/05/15 – It is likely there is sufficient early years and childcare provision in Pier Ward to accommodate children from the development.
- 4.2 The development is located within the Tendring primary group 2 (Clacton) forecast planning group. This has an overall capacity of 4,202 places of which 133 places are in temporary accommodation. The group is forecast to have a deficit of 313 permanent places by the school year 2018-2019.
- 4.3 The development is located within the Tendring secondary group forecast planning 1 (Clacton). This has an overall capacity of 5,365 places. The group is forecast to have a deficit of 233 permanent places by the school year 2018-2019.
- 4.4 If planning permission is granted for the development, it is requested that a S106 Agreement includes a contribution towards primary education to mitigate its impact. The required contribution would be £47,471 to be used to replace temporary accommodation.
- 4.5 ECC Planning & Environment – Flood and Water Management Service 18/05/15 – In the absence of a surface water drainage strategy we object to this application and recommend refusal of planning permission until a satisfactory surface water drainage scheme has been submitted.
- 4.6 The application is within Flood Zone 1, defined by the Technical Guide to the National Planning Policy Framework as having a low probability of flooding. However, the proposed scale of development may present risks of flooding on site and/or off-site if surface water run-off is not managed effectively.
- 4.7 The proposed development is classified as a Major development and the applicant needs to demonstrate that the necessary information has been supplied to assess the suitability of sustainable drainage systems, in line with paragraphs 103 and 109 of the NPPF.
- 4.8 In the absence of a sustainable drainage strategy the surface water flood risks resulting from the proposed development are unknown. The absence of a Drainage Strategy and Flood Risk statement(s) is therefore sufficient reason in itself for a refusal of planning permission.
- 4.9 ECC Highways 16/07/15 – The Section 36 Register shows High Street Rear Service Road – Beach Road to Rosemary Road 0.111km as adopted.
- 4.10 The proposed layout shows that the usual requirements for on-site parking could not be met. Although these may be relaxed in a town centre, it would be necessary to increase the sizes of the car parking spaces and ensure that some provision was made for disabled persons and visitors. This would reduce the amount of parking which could be provided overall and for future residents. Additional cycle storage

would be required and could be provided. It would not be acceptable to include the entrance gates shown as they would impede access for vehicles and bin collection.

- 4.11 Public Experience 07/08/15 – Due to the significant lack of play facilities in the area it is felt that a contribution, in line with the schedule set out in PEO22, towards play is justified and relevant to the planning application and this money would be spent at the closest play area Marine Parade West. Clacton is well provided for in terms of open space and a contribution towards additional formal open space is not necessary or relevant to this application.
- 4.12 Housing – As this will be a block of flats and [neither] the Council nor any other registered provider will own the freehold of the property, the Housing Department would prefer to receive a financial contribution as opposed to on-site provision on this development.
- 4.13 Regeneration 27/07/15 – Very supportive - will include two large retail units which will support five new jobs. This development has the potential to regenerate this end of Rosemary Road.
- 4.14 Essex Police Crime Prevention Design Advisor – no comments received

5. **Representations**

1 objection received

- 5.1 The two villas to the left of the former Osborne Hotel are the first two houses built in Clacton on Sea – the original Peter Bruff development. These buildings are therefore of tremendous historical importance to the town. It is difficult to see how any credibility could be attached to a so called conservation area where these two buildings in particular have been demolished. Whereas I understand the need to update and modernise, why can the original frontage not be retained and redevelopment take place behind the scenes. Failing that, these buildings must be retained as they are for future generations to appreciate the historic significance.

6. **Assessment**

The main planning considerations are:

- Effect upon the special character and appearance of the Clacton Seafront Conservation Area
- Sustainable development and housing land supply
- Highways, access and parking
- Residential amenity
- Drainage and flooding
- Trees
- Section 106 Obligations
- Heritage and regeneration/the economy

Clacton Seafront Conservation Area

- 6.1 The frontage of the site to Rosemary Road lies within the designated Clacton Seafront Conservation Area, with the northern boundary of the area being drawn tightly to the rear elevations of the main frontage buildings. This formal designation affords a degree of legal protection to buildings and trees.
- 6.2 A Conservation Area Character Appraisal for this area was formally adopted by the Council in March 2006, as part of its planning policies for the area under the provisions of Section 71 of the Planning (Listed Buildings and Conservation Areas) Act 1990. It is therefore an important material consideration in relation to the assessment and determination of all

planning and related applications within, or affecting the setting of, the conservation area. The Appraisal considers, amongst other things, that:

- 6.3 “The special character of Clacton Seafront Conservation Area is derived from its seaside architecture and formal planned street pattern. The Area is the heart of the coastal resort and includes Victorian and Edwardian seaside buildings that were part of the early planned development of the resort ...” (p.1) No. 26 Rosemary Road, originally The Osborne Hotel, which (now as Sandles Inn) described in the Appraisal as having an “attractive and valuable façade” (p.6).
- 6.4 The Appraisal also says that Orwell Road (running at a right-angle to the south of Rosemary Road) “is of great interest. This character is enhanced by views northwards to Sandles Inn, of strong period character with an attractive mid-Victorian campanile” (p.5). It adds, “Less happy is the unfortunate building to the right, the lowest-common-denominator-design of which is a negative feature in the street [scene]” (Plate 10.).
- 6.5 Section 72 of the Act places a duty upon the local planning authority to have special regard to the desirability of preserving or enhancing the character or appearance of the designated conservation area. This statutory duty relates both to the land which is within the area (the main buildings in this case) and that outside, but which affects the setting of the area (the largely open land to the rear of the main frontage buildings).
- 6.6 In order to discharge this duty it is necessary to consider in detail the nature, extent and effect of change which would occur if the development was to take place. This is a higher ‘test’ to apply than a more general assessment of planning proposals which would not affect any heritage assets.
- 6.7 In your Officers’ opinion, the proposal would cause significant harm to the special character and appearance of the conservation area, by virtue of the harm to character and appearance which would result from the addition of a fourth storey/flat roof to provide accommodation within those roof spaces. The design of the new storey and its appearance in the street-scene from Orwell Road would be particularly harmful in your Officers’ opinion, compounding the visual harm caused by the existing building to the east, whilst also detracting from the appearance of the campanile, which currently stands out as an attractive feature, above the main roof of No. 26 Rosemary Road. The demolition of the two dwellings would also be harmful in terms of the loss of those heritage assets, having regard to their significance as part of the early development of the planned resort. That loss would not be mitigated effectively by the otherwise more traditional detailing and fenestration of the proposed replacement building. In addition, the open and traditional setting of the conservation area would be harmed by the modern appearance and four-storey (maximum) scale of the proposed new block of flats to the rear, which would neither preserve nor enhance the setting of the conservation area.

Sustainable development - housing land supply

- 6.8 As the Council cannot demonstrate an adequate supply of land for housing, the provisions of paragraphs 14 and 49 of the Framework apply. Housing applications should be considered in terms of the presumption in favour of sustainable development. For decision-taking this means where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole. In your Officers’ opinion, the harm which would result from the development would not be outweighed by the economic and social benefits of the scheme and there would also be significant dis-benefits in terms of social and environmental aspects. Those adverse impacts are identified elsewhere in this report and considered in detail in the recommended reasons for refusal.

Highways, access and parking

- 6.9 The existing means of vehicle access to the site is to the rear, behind the covered market. The proposal would form a new means of vehicle access from the Rosemary Road frontage via an entrance in the rebuilt building. This would serve the residential element of the scheme. No provision is made for the parking, loading and unloading of vehicles serving the retail elements. Although this represents a deficiency in terms of current standards, it reflects the existing pattern of retail use in Rosemary Road and the historic form of development in the locality.
- 6.10 The proposal would provide 13No. car parking spaces for residents and no visitor spaces (which equates to 0.5 space per flat total provision). No disabled parking provision is included. 6No. electric charging points are shown to serve the parking area spaces No.8 – 13. A covered bike store is indicated but there are no details of the number of cycles it could contain.
- 6.11 The scale of the residential development proposed would normally require the provision of at least 59No. car parking spaces in this case (2 spaces per dwelling for residents = 52No. spaces, of which 3No. should be disabled parking bays and 0.25 spaces per dwelling for visitors = 7No. spaces). However, your Officers advise that in a sustainable town centre location, the normal required parking standards may be relaxed. Limited on-street parking exists in adjacent roads and the site is a short walk from the High Street public car park and the mainline railway station. In this case a relaxation of the normal car parking standards is considered appropriate in regard to the total number of spaces. The provision of electric charging points and cycle storage would support the sustainability of the scheme. However, the lack of provision for any disabled parking is not explained in the application submission documents.
- 6.12 In considering the commercial aspect of the scheme, regard may also be had to the current lawful use of the premises, which would generate traffic in terms of staff, customers and service vehicles.
- 6.13 The ECC Highways Authority has not objected to the proposal.

Residential amenity

- 6.14 Assessment of this issue concerns both existing and future occupiers of land and buildings. Existing residential occupiers are adjacent to the site in Beach Road (houses and flats) and in High Street (flats) over shops. Having regard to the arrangement of accommodation, the impacts of the development upon existing residents would be mainly in relation to the adjacent houses in Beach Road.
- 6.15 The three-storey section of the new block of flats would be sited 1.8m (min.) 3.2m (max.) from the rear boundaries of the two pairs of semi-detached houses adjacent in Beach Road. Those dwellings are two storeys in scale and would be overpowered visually by the bulk of the proposed block. There would be a serious loss of outlook from, and open aspect to, those properties due to the height and siting of the new building and the loss of residential amenity could not be mitigated adequately by landscaping.
- 6.16 Future occupiers of the proposed flats would enjoy limited outdoor 'semi-private' and communal amenity space at ground floor level. The upper-storey flats to the rear would include covered balcony areas and a roof terrace to the three-storey element. The new top floor to the Rosemary Road frontage would include outdoor sitting areas. Having regard to the town centre location and the proximity of the site to the seafront, your Officers consider that the deficiency in provision overall is not so serious in this case. No over-riding harm would result in that regard. However, concerns about overlooking exist in respect of the adjacent dwellings in Beach Road where the proposed "hit and miss" privacy screen to the proposed roof terrace would not be an adequate safeguard for those adjacent residents. Nevertheless, this issue could be addressed by an alternative design to the screen.

Drainage and flooding

- 6.17 The application form confirms that foul sewage would be disposed of via the existing mains sewer and surface water via the mains sewer and a Sustainable drainage system. However, the scheme does not include a surface water drainage strategy to demonstrate that there would be no risk of flooding on and/or off site. Although the site lies within Flood Zone 1 (low probability of flooding) the scale of development proposed may present risks of flooding both on and off-site unless surface water run-off is managed effectively.
- 6.18 In this circumstance, the Local Lead Flood Authority objects to the proposal.

Trees

- 6.19 The site contains 6No. existing mature Lime trees which have now been protected by a Tree Preservation Order. Although some are indicated on the plan drawing, they have not all been shown accurately. The trees are visible from the public realm and, partly due to the lack of other mature trees of their stature in the local area, your Officers consider they make a significant contribution to local amenity. The proposal would result in their loss and be harmful in that respect. New proposals are expected to incorporate important landscape features to protect the local environment and complement the development. Whilst it is not always possible (or necessary) to retain all existing mature trees on a site, your Officers consider that the harm in this case would be great and would not be mitigated by the proposed new planting.

Section 106 Obligations

- 6.20 The planning statement submitted confirms the applicant's willingness to enter into a S.106 Agreement, with requirements all to be agreed. The three areas for consideration are:
- 6.21 Affordable Housing – Under saved adopted Policy HG4, affordable housing is required to be provided on site at 40% of the total. The need for affordable housing may be able to be met in other ways, including an off-site financial contribution and affordable housing is secured by negotiation, including any necessary consideration of viability. The Council's own viability study evidence, which has informed preparation of the new local plan, has concluded that affordable housing provision at 40% is now unlikely to be viable in the district. Between 10% - 25% provision is more likely to be deliverable. On that basis, the requirement for affordable housing will be in the range 3 – 7 units. As an alternative to on-site provision, it is possible to consider a financial contribution, equivalent to the 25% requirement, towards off-site provision. That is the Council's preferred option in this case due to the applicant's control over the freehold to the proposed flats.
- 6.22 Children's Play Areas – The Children's Play Area sum required will be £43,940. This sum will contribute (subject to any limitation upon the pooling of monies) towards play space in Marine Parade West, where there is a significant lack of play facilities.
- 6.23 Education – The request from ECC is for a specific sum of money (£47,471) in order to replace existing temporary classrooms with permanent classroom accommodation. Whilst your Officers acknowledge that this would be desirable, they do not consider that a contribution could reasonably be required for this purpose. A contribution would only become necessary if additional school places were required to serve the likely demand generated by future occupants.
- 6.24 In the absence of the required contributions being made, or a viability assessment being submitted to, and independently verified on behalf of, the Council to demonstrate that the development could not fund such contributions, at the present time this is a reason for refusal of planning permission. In the event that an appeal is made, however, if this issue is resolved before the appeal is decided the reason for refusal would be withdrawn.

Heritage and regeneration/the economy

6.25 It is a recognised fact by Government and Historic England that heritage assets can play an important role in economic and physical regeneration. The application site is locally an important historic site that marks a significant time in the development of the town as a coastal holiday resort. The sensitive redevelopment of the site could potentially result in a fantastic opportunity for the regeneration of the town centre. When considering wider heritage asset issues (i.e. beyond the statutory considerations considered above), your Officers consider it is helpful to have regard to advice from Historic England, which is the government's advisor on Heritage matters. Its publication "Conservation Principles, Policies and Guidance" (2015) sets out six high-level principles:

- The historic environment is a shared resource
- Everyone should be able to participate in sustaining the historic environment
- Understanding the significance of places is vital
- Significant places should be managed to sustain their values
- Decisions about change must be reasonable, transparent and consistent
- Documenting and learning from decisions is essential

It explains that the principles respond to the need for a clear, over-arching philosophical framework of what conservation means at the beginning of the 21st century.

6.26 Historic England also publishes an annual report "Heritage and the Economy" (2015). The most recent publication identifies that Heritage Tourism accounts for 2% of GDP (in total in 2011) and highlights the importance of heritage to attracting tourists, businesses and local people to areas.

6.27 Your officers have considered the regeneration aspects and potential implications of the scheme. In doing so, they have had regard to the potential of the development to add to the retail offer in the town centre and the additional demand which would result for local shops and services. They have also considered the longer-term regeneration implications for the area, including that this could be harmed by inappropriate development. Guidance published by English Heritage (now Historic England) "Heritage Works: The use of historic buildings in regeneration" (2013) is a toolkit of good practice in the reuse of historic buildings, issued jointly by the British Property Foundation, Deloitte, the Royal Institute of Chartered Surveyors and Historic England. This document highlights that "heritage can be perceived as a barrier to regeneration" (1.2). However, it provides evidence and examples of the economic value that heritage assets can add to local economies. The English Heritage publication "Valuing Places: Good Practice in Conservation Areas" (2011) also provides examples of successful regeneration in historic environments which have helped to promote tourism and marketability.

6.28 Your Officers are conscious of the poor condition and current appearance of the buildings and site but must advise that those concerns are not reasons to grant planning permission in this case having due regard to the statutory test which applies, as the harm identified to heritage assets is so serious and the environmental and social harm which would result cannot be outweighed by any economic benefits which may result.

6.29 Officers accept that there is potential for the refurbishment and redevelopment of this site to positively contribute towards the qualities of the Conservation Area and to the vitality and vibrancy of the town centre. However, officers are of the view that the current scheme would not achieve this. The NPPF encourages Local Planning Authorities to be positive and proactive when determining planning applications and

officers have sort to do so but cannot support the present scheme but officers of the Council would be happy to provide planning advice and to work with the applicant to secure an acceptable scheme.

The Benefits of the Scheme

6.30 The NPPF requires that, when determining applications for planning permission, the Local Planning Authority must presume in favour of sustainable development unless the adverse impacts of doing so are outweighed by the harm that a development would create. The benefits of the scheme can be summarised as follows:

- it would represent a mixed use scheme that accords with the sentiments of the local plan policy for developments within identified urban regeneration areas;
- result in the demolition of a problem structure that does not currently preserve or enhance the special qualities of the Clacton on Sea Conservation Area;
- eradicate the anti social behaviour associated with the vacant property;
- represent a substantial financial investment into Clacton town centre;
- create 26No. two-bedroom flats that would contribute towards the Districts required housing numbers in a sustainable town centre location;
- create two new retail units which would, in themselves, add to the vitality and vibrancy of the town centre;
- provide employment opportunities both during the construction phase and in the retail units afterwards; and
- represent a substantial investment in Clacton town centre

6.31 The report has given careful consideration to whether these benefits are outweighed by the identified harm which would be caused to the significance of heritage assets and to local and residential amenities. Officers are of the view that, whilst the benefits are numerous, none of them alone or as a whole outweigh the harm that would be caused by the development. Officers have also had careful regard as to whether there would be any conditions or Section 106 mitigation measures that would overcome any concerns and make the development acceptable. It is not considered on this occasion that planning conditions or obligations could address the areas of identified harm and make the development acceptable.

Background Papers

None