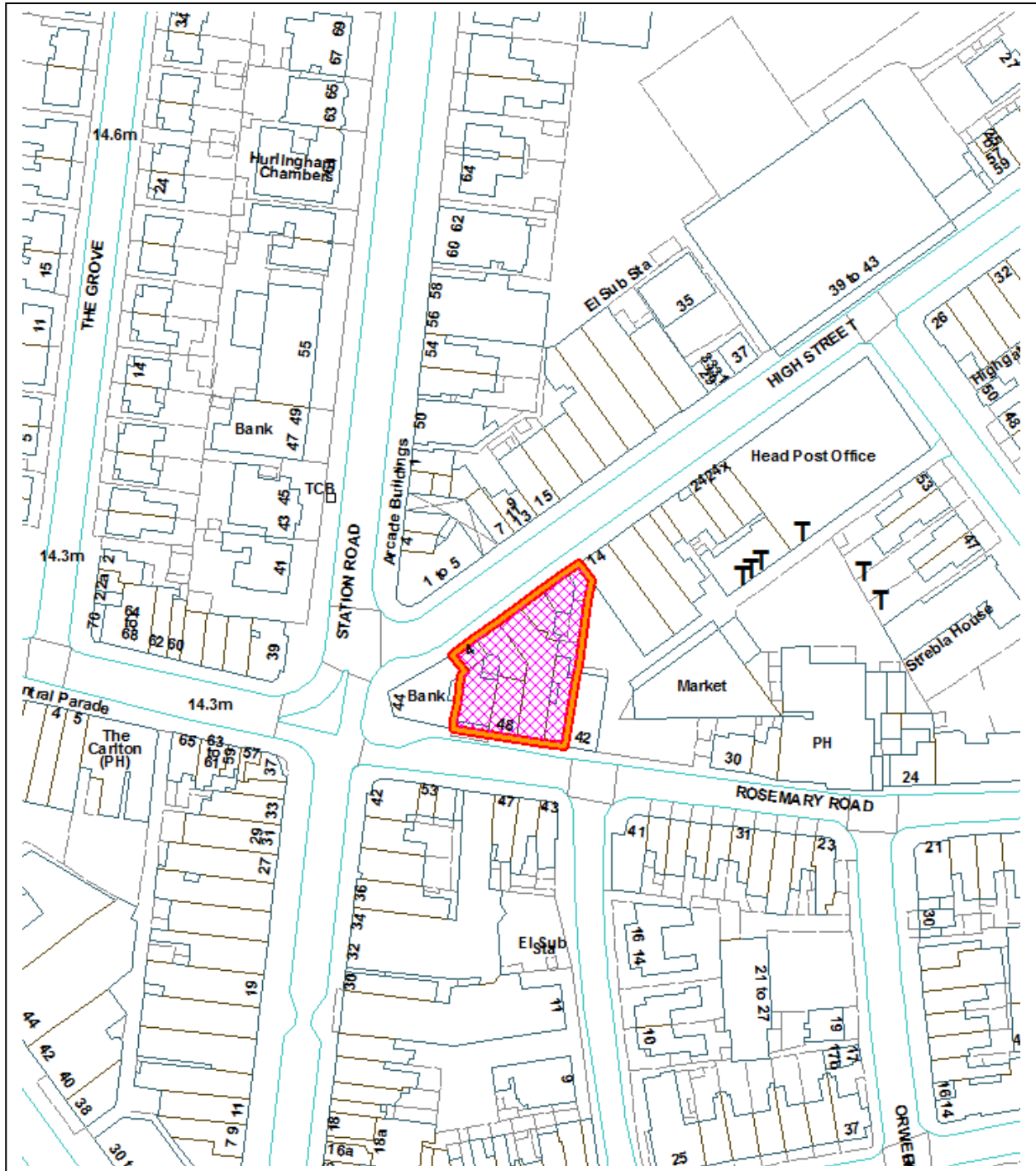


PLANNING COMMITTEE

20<sup>TH</sup> OCTOBER 2015

REPORT OF THE HEAD OF PLANNING

**A.3 PLANNING APPLICATIONS - 14/00593/FUL - RUMOURS NIGHTCLUB 50 ROSEMARY ROAD, CLACTON ON SEA, CO15 1PB**



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<b>Application:</b>	14/00593/FUL	<b>Town / Parish:</b> Clacton Non Parished
<b>Applicant:</b>	Mr Abdul Salam	
<b>Address:</b>	Rumours Nightclub 50 Rosemary Road Clacton On Sea, CO15 1PB	
<b>Development:</b>	Conversion of the existing first and second floors and erection of a third floor and extensions to create 16 self contained flats.	

## 1. Executive Summary

- 1.1 The application was originally reported to the Planning Committee on 9<sup>th</sup> December 2014 at the request of Councillor Honeywood. The application was deferred to allow negotiation of a revised scheme that incorporated two and three bedroom flats and retained as many external original features as possible, including the large bay windows on the Rosemary Road West elevations.
- 1.2 The application was amended to 16 flats, rather than 17 flats and with fewer one-bedroom flats and more three-bedroom flats (where previously there were none), and amendments to the southern elevation to retain more of the original fenestration, including some large feature windows. The amended application was reported to the Planning Committee on 3<sup>rd</sup> March 2015 and Members resolved to grant planning permission subject to completion of the S106 agreement within 3 months. That period has now expired, however the engrossed S106 agreement has been sealed by the Council. The report below is as reported to 3<sup>rd</sup> March 2015 Planning Committee with amendments in bold font requesting Planning Committee's resolution to complete the S106 agreement and to issue the planning permission before 30<sup>th</sup> October 2015.
- 1.3 The application site extends to 0.09 hectares and is located between Rosemary Road and High Street and is within the Settlement Development Boundary for Clacton on Sea as established in the saved and draft local plans. The site is also designated as:
- Clacton Town Centre
  - Primary Shopping Frontage (along both Rosemary Road and High Street frontages)
  - Urban Regeneration Area and is adjacent to, but outside of, Clacton Conservation Area.
- 1.4 The site contains a four-storey building. At ground floor level the site contains shops (A1 use), hot food takeaway (A5 use) and a nightclub that also uses the upper floors of the building. The building has distinctive brickwork and fenestration on its upper floors including large bay and full height windows fronting onto Rosemary Road. The site also includes a canopy for the nightclub fronting onto Rosemary Road. Internally, the building is in a poor state of repair.
- 1.5 The redevelopment will regenerate this brownfield site and will preserve the character and appearance of the adjacent Conservation Area. It will also make a contribution towards the Council's housing targets. The proposal will be in keeping with the character and appearance of the surrounding area, which also consists of an active ground floor frontage with flats at upper floors. The proposal has a 24% shortfall in private amenity space provision. However, this is not uncommon for conversions in urban areas, such as this, and is sufficiently offset by the provision of nearby public open spaces. The proposal also does not provide any off-street car parking spaces. However, the site is located within the town centre for Clacton on Sea, which is a town with a wide range of services

and facilities and is served by a variety of sustainable modes of transport, including a railway station, 0.3 miles to the north. Furthermore, the proposal includes provision for bicycle storage.

**Recommendation: That the Head of Planning be authorised to grant planning permission by 30<sup>th</sup> October 2015 for the development subject to:-**

(a) Following Committee's resolution to approve, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 (on such detailed terms as the Head of Planning in their discretion considers appropriate) dealing with the following matters:

- Education contribution
- Local play equipment contribution
- Affordable housing contribution

(b) Planning conditions in accordance with those set out below (but with such amendments and additions, if any, to the detailed wording thereof as the Head of Planning in their discretion considers appropriate:

1. Time limit for commencement
2. Development in accordance with submitted plans
3. Working hours restriction
4. Control of pollution during construction works
5. Noise survey
6. Scheme of odour prevention
7. Drainage strategy
8. Provision of a surface water management strategy.
9. Construction Method Statement
10. Details of provision and retention of parking for powered two wheelers and bicycles
11. Provision of Residential Travel Information Pack

## **2. Planning Policy**

### National Policy:

National Planning Policy Framework (2012)

### Local Plan Policy:

Tendring District Local Plan (2007)

- QL1 Spatial Strategy
- QL6 Urban Regeneration Areas
- QL9 Design of New Development
- QL10 Designing New Development to Meet Functional Needs
- QL11 Environmental Impacts and Compatibility of Uses
- QL12 Planning Obligations

- EN17 Conservation Areas
- ER31 Town Centre Hierarchy and Uses
- ER32a Primary Shopping Area
- HG3 Residential Development Within Defined Settlements
- HG9 Private Amenity Space
- COM6 Provision of Recreational Open Space for New Residential Development
- TR1A Development Affecting Highways
- TR5 Provision for Cycling
- TR7 Vehicle Parking at New Development

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

- SD1 Presumption in Favour of Sustainable Development
- SD5 Managing Growth
- SD7 Securing Facilities and Infrastructure
- SD8 Transport and Accessibility
- SD9 Design of New Development
- PRO4 Priority Areas for Regeneration
- PRO5 Town, District, Village and Neighbourhood Centres
- PLA6 The Historic Environment
- PLA7 Conservation Areas
- PEO22 Green Infrastructure in New Residential Development
- COS2 Clacton Town Centre

### **3. Relevant Planning History**

- 3.1 Planning permission (ref: 13/01137/FUL) was granted for the conversion of ground floor of the existing night club into a retail shop.

### **4. Consultations**

- 4.1 Tendring District Council (TDC) Housing Services require an affordable housing contribution.
- 4.2 The TDC Building Control and Access Officer states that they have no adverse comments at this time.

- 4.3 TDC Regeneration state that they are broadly supportive of this application, but would like to ensure that an upper floor residential development does not negatively impact on any of the businesses currently operating from the ground floor. This is especially important as one of the businesses is a hot food takeaway which has the potential to cause a nuisance to residential neighbours if not managed carefully.
- 4.4 TDC Environmental Health have no objection subject to conditions relating to:
- Noise survey
  - Scheme of odour prevention
  - Working hours restriction
  - Control of pollution during construction works
- 4.5 TDC Leisure state that they require a financial contribution towards local play facilities.
- 4.6 Anglia Water Services Ltd Anglia Water recommend the imposition of an informative relating to nearby Anglian Water assets close to or crossing the site. They also recommend conditions requiring:
- a drainage strategy and
  - provision of a surface water management strategy.
- 4.7 Essex County Council Highways Department raises no objection subject to conditions:
- Construction Method Statement
  - Details of provision of parking for powered two wheelers and bicycles
  - Provision of Residential Travel Information Pack
- 4.8 Essex County Council Schools Service require a contribution towards local primary and secondary school provision.

## **5 Representations**

- 5.1 An objection has been received on behalf of the owners of the adjacent Clacton Covered Market. The material grounds for objection, accompanied by officer comments, are as follows:
- (i) Loss of historic bow window and clay tile detailing on southwest elevation, resulting in a reduction in the quality of the character of the area.  
*Officer comment: This is addressed in appraisal below*
  - (ii) Potential reduction in accessibility to the covered market from the north-west by closure of a covered walkway  
*Officer comment: This covered walkway is shown to be retained.*
  - (iii) Increase in local on-street parking demand  
*Officer comment: This is addressed in appraisal below*
  - (iv) A shortfall private amenity space provision  
*Officer comment: This is addressed in appraisal below*
  - (v) Proposal should include affordable housing  
*Officer comment: This is addressed in appraisal below*
- 5.2 This letter of objection also raises issues of inaccuracies in the submitted planning application. These highlighted inaccuracies, accompanied by officer comments, are as follows:
- (a) Inaccurate red line around the application site.

*Officer comment: This has been amended and a new period of reconsultation has been undertaken.*

- (b) Submitted plans do not show the rear external staircases.  
*Officer comment: Revised drawings have been submitted that include the relevant staircase.*
- (c) Description of development does not include mention of a new build element on the eastern elevation.  
*Officer comment: This has now been included in the description and included in the above-mentioned reconsultation period.*
- (d) Submitted drawings do not fully reflect the extent of the rear of No. 44 Rosemary Road.  
*Officer comment: Revised drawings have been submitted to address this issue.*

5.3 Additionally, a petition was received with 58 names with the following concerns, accompanied by officer comments:

- i. Impact on the market caused by the demand for on-street car parking spaces.  
*Officer comment: This is addressed in appraisal below.*
- ii. Potential impediment to access the neighbouring covered market.  
*Officer comment: This covered walkway is shown to be retained.*
- iii. Insufficient private amenity space.  
*Officer comment: This is addressed in appraisal below.*
- iv. Lack of affordable housing provision.  
*Officer comment: It is proposed that this is addressed by a Section 106 Agreement.*

5.4 Since the last presentation to the Planning Committee a consultation response has been received from the Theatres Trust, who object to the proposal. The objection relates to the loss of a potential cultural facility without providing justification for doing so.

## 6. **Assessment**

6.1 The main planning considerations are:

- Context and Background;
- Proposal;
- Planning History;
- Policy Context;
- Principle of development;
- Impact on setting of conservation area;
- Character and appearance;
- Residential amenities;
- Sustainable transport;
- Housing provision; and,
- Section 106 Agreement.

### **Context and Background**

6.2 The site is located between Rosemary Road and High Street and is within the Settlement Development Boundary for Clacton on Sea as established in the saved and draft local plans. The site is also designated as:

- Clacton Town Centre
- Primary Shopping Frontage (along both Rosemary Road and High Street frontages)
- Urban Regeneration Area and is adjacent to, but outside of, Clacton Conservation Area.

- 6.3 The site contains a four-storey building. At ground floor level the site contains shops (A1 use), hot food takeaway (A5 use) and a nightclub that also uses the upper floors of the building. The building has distinctive brickwork and fenestration on its upper floors including large bay and full height windows fronting onto Rosemary Road. The site also includes a canopy for the nightclub fronting onto Rosemary Road. Internally, the building is in a poor state of repair.
- 6.4 Adjacent to the site on Rosemary Road is a similar three-storey building to the east, beyond which is the covered market (a single storey building) and associated hardstanding for the siting of outdoor stalls. To the west along Rosemary Road is a three-storey building that forms the apex of the junction between Rosemary Road and High Street and wraps around to form the western-most boundary of the application site along High Street. It is currently used as a betting shop (A2 use) at ground floor level. To the east along the High Street elevation is a walkway that serves the covered market. Further to the north-east are more shops within a two-storey building.

### **Proposal**

- 6.5 The proposal is for the conversion of the existing first and second floors, and the addition of a new top (third) floor alongside new development along the eastern boundary. This will create 16 flats (2 no. 1-bedroom flats, 9 no. 2-bedroom flats and 5 no. 3-bedroom flats). The previous design, as reported to the Planning Committee on 9<sup>th</sup> December 2014, sought 17 flats (4 no. 1-bedroom flats and 13 no. 2-bedroom flats).

### **Planning History**

- 6.6 In December 2013 planning permission (ref: 13/01137/FUL) was granted for the conversion of ground floor of the existing night club into a retail shop.

### **Policy Context**

- 6.7 National planning policy is contained within the National Planning Policy Framework (NPPF). The NPPF promotes the principles of sustainable development through high quality design that respects the intrinsic character of the countryside. Proposals should ensure high standards of design and respond to local character, whilst being visually attractive as a result of good architecture and appropriate landscape design. A similar approach is set out in saved local plan Policies QL9, QL10 and QL11, as well as draft plan Policy SD9. As a result, the proposed development sits comfortably with the overarching sentiments of the NPPF.
- 6.8 The NPPF also recognises the importance of heritage assets and their settings. It states that the impact of the proposed development should be considered on the significance of designated heritage assets. Such significance can be harmed through development in its setting too. If there is any harm, this should require clear and convincing justification. Similarly, saved plan Policy EN17 (and draft plan Policy PLA7) states that development will be refused where it would harm the character and appearance of the Conservation Area.
- 6.9 Saved local plan Policy HG9 and draft plan Policy PEO4 require a provision of private amenity space for all dwellings. There is also a local plan policy requirement for off-street car parking. However, the availability of sustainable modes of transport and local services and facilities are material planning considerations.

### **Principle of Development**

- 6.10 National and local planning policy directs new residential dwellings to within defined settlement boundaries. The general concept of settlement development boundaries is

fundamental to achieving the Government's intentions to create more sustainable patterns of development, make more efficient use of urban land, and follow a sequential approach to the location of new housing development. As a result of this intention, policy HG3 within the Local Plan sets out the requirements for new residential development within these defined settlements. Countenanced against approach is Paragraph 17 of the National Planning Policy Framework ("the Framework") which states the planning decisions should take account of, and support local strategies to improve health, social and cultural wellbeing for all and deliver sufficient community and cultural facilities and services to meet local needs. Paragraph 70 goes on to state that in "protecting healthy communities", planning decisions should "plan positively for cultural buildings" and "guard against the loss of cultural facilities and services". However, in this instance the existing building is internally in a poor state of repair and has been vacant since 2010. Councils are encouraged to bring vacant buildings back into active use and deliver housing to meet the Council's housing shortfall. Whilst theoretically there would be merit in retaining the building for future cultural use, the use of the site for housing represents the only proposed alternative for this vacant building with any likelihood of being delivered. On this basis, the proposed development is acceptable in principle.

- 6.11 The application site is located within the defined settlement limits of Clacton-on-Sea, and would be seen as a brownfield site where there is a presumption in favour of new residential development. However, policy HG3 within the Local Plan sets out the requirements which would need to be assessed for new residential development within these settlement boundaries, for example issues such as visual and residential amenity, design, density, environmental matters, highway safety, local housing needs and sustainability issues, as well as can the development take place without material harm to the character of the local area, would need to be assessed before planning permission was granted. These issues are considered below.

#### **Impact on Setting of Conservation Area**

- 6.12 Properties on the southern side of Rosemary Road are within the Clacton on Sea Conservation Area. These are two-storey terraced buildings with shops at ground floor and converted flats above. They exhibit a variety of external materials including both slate and concrete roof tiles, as well as painted smooth render and exposed brickwork. The Conservation Area also includes an area of hardstanding to the east of the site, which is used for market stalls.
- 6.13 Saved plan Policy EN17 states, in criterion c) that development located outside a Conservation Area would be refused where it would prejudice the setting and surroundings of a Conservation Area or harm the inward or outward views. Within this context any impact of the proposal is quite limited now that the fenestration design has been altered to retain three large feature windows on the Rosemary Road elevation. Changes to this façade are now relatively minor and the resulting fenestration, building heights, styles and materials along Rosemary Road would not affect the setting of the Conservation Area. Aside from the changes to the façade, the proposed change of use would similarly not cause significant harm to the setting of the Conservation Area, as the principle of active street frontages with flats at upper floors is prevalent within the town centre. On this basis, the proposal would not be contrary to this afore-mentioned criterion or any part of this policy, and would uphold the Council's duty to preserve or enhance the character or appearance of the Conservation Area.

#### **Character and Appearance**

- 6.14 The main character of this part of Rosemary Road and High Street is typical for a town centre with a mixture of ground floor uses, including shops, hot-food take-aways, hairdressers, betting shops and cafes. The application site was last used as a night-club.



The built form follows the strong building line of the pavement edge except at the adjacent market where there is an area of hardstanding and a covered market. On the High Street there is also a walkway through to the market from this street. The building heights vary from two-storey to four-storey. The upper floors are of exposed red brickwork with Georgian style windows. Some buildings have some ornamental brickwork features on their facades.

- 6.15 The overall massing of the proposal will not substantially alter, although there is extra massing proposed along the eastern boundary of the site, fronting onto the market. However, this extra massing, at this part of the site will not be out of character with the surrounding area or be of an appearance that would be harmful in visual terms. This conclusion applies to the other proposed elevational changes and also in terms of the proposed use of the site, which will match that of other nearby properties with an active ground floor with residential flats above.
- 6.16 In terms of potential overdevelopment of the site, aside from the addition of 3 no. new build 2-bedroom flats on the eastern elevation, the remaining flats are converted from the existing built form. The average sizes of the flats are 54 square metres for the 1-bedroom flats, 76 square metres for the 2-bedroom flats and 92 square metres for the 3-bedroom flats. Draft local plan Policy PEO4 requires at least 51 square metres for 1-bedroom flats, 66 or 77 square metres for 2-bedroom flats for either 3 or 4 people and 93 square metres for 3-bedroom flats. Therefore there is a minor shortfall. However, the shortfall is only 1 square metre for 2-bedroom and 3-bedroom flats in a local plan that only has limited weight. There is no equivalent policy in the saved local plan. This is accompanied by a level of private amenity space, discussed in more detail below. These flat sizes differ slightly from those in the design presented to the Planning Committee on 9<sup>th</sup> December 2014. In the 2014 design the average size of the 1-bedroom flats was 54 square metres (unchanged) whilst the 2-bedroom flats had 79 square metres (now shown as 76 square metres). As is normal these dwellings would be classed as Planning Use Class C3. Any future change to Planning Use Class C4 (Houses of Multiple Occupation), or other uses, would require additional planning permission by virtue of an Article 4 Direction in place in Tendring District.

### **Residential Amenities**

- 6.17 The proposed layout of the flats, including their sizes and orientation would be acceptable and includes a lift for wheelchair users. The proposal also includes areas of communal private amenity space alongside private balconies for some flats. The provision of amenity space (private and communal) is comprised as follows: Communal amenity space (roof gardens and terraces) comprise 306 square metres and private balcony space of 7 square metres. This quantum of private amenity space remains unchanged from the 2014 design. So as the proposed number of flats has been reduced there is more private amenity space per flat.
- 6.18 For flats saved plan Policy HG9 requires 25 square metres per flat provided communally. Therefore for 16 flats a total of 400 square metres should be provided. On this basis the proposal has a shortfall of 94 square metres of private/communal amenity space, equivalent to a 24% shortfall (the 2014 design had a 26% shortfall). However, the following characteristics make this shortfall acceptable in planning terms. Firstly, the vast majority of the existing built form is already in place, thereby limiting the scope for new amenity space to be provided in this town centre location. Secondly, areas of public open space, including public beaches, can be found approximately 250m to the south of the site.
- 6.19 The proposal would not result in any material loss of privacy for neighbouring residential properties and any new windows and balconies are sited so as to not overlook more than is currently in place. The proposal does include new windows on the eastern elevation towards the market. However, these would not result in any impact on residential amenity as there are no residential dwellings immediately to the east. In terms of security, these

windows will add a small degree of passive surveillance for the adjacent market, which is of benefit. The adjacent market site is not allocated for redevelopment in either the saved or draft local plan and as such any new windows that may be deemed to prejudice potential development on the adjacent market cannot be considered a material planning consideration. Given that the proposal is mostly a change of use, the relatively minor addition of built form will not result in a material impact on sunlight or daylight for any neighbouring properties.

### **Sustainable Transport**

- 6.20 The proposal does not provide any off-street car parking spaces, as required to by saved local plan Policy TR7. This forms one of the grounds of public objection to the proposal and in particular the impact on the adjacent covered market whose customers would have greater difficulty in finding on-street car parking spaces within the vicinity of the site. However, there are material planning considerations that sufficiently offset this requirement. These considerations focus on the fact that the site is located within Clacton on Sea Town Centre, which is designated as an urban settlement in the draft local plan. Clacton on Sea has a wide range of services and facilities and is supported by a wide range of sustainable modes of transport, including a railway station 0.3 miles to the north. Furthermore, the proposal includes provision for bicycle storage, which will also improve the likelihood that journeys from the site will be undertaken by sustainable modes. Any residual increase in on-street car parking need would not be sufficient to form a sustained ground for refusal, defensible at appeal. Additionally, no objection has been raised by the Highways Authority.

### **Housing Provision**

- 6.21 The Strategic Housing Market Assessment Update (2013) states that of market housing 921 no. 1-bedroom units and 2948 no. 2-bedroom units are required. In accordance with saved plan Policy HG1 and draft plan Policy PEO1, the proposal for 16 no. flats will contribute towards these housing targets and is a material planning consideration.

### **Section 106 Agreement**

- 6.22 A Section 106 Agreement is required to offset impacts on local education provision and public play equipment as well as a financial contribution towards affordable housing. The applicant has agreed in principle to make a contribution to address these issues. If the Planning Committee resolve to grant planning permission, it is recommended that this is conditional on a Section 106 Agreement being completed.

### **Background Papers**

None.