



## PLANNING COMMITTEE

**DATE:** Tuesday, 18 January 2022  
**TIME:** 6.00 pm  
**VENUE:** Committee Room - Town Hall,  
Station Road, Clacton-on-Sea, CO15  
1SE

### MEMBERSHIP:

Councillor White (Chairman)	Councillor Codling
Councillor Bray (Vice-Chairman)	Councillor Fowler
Councillor Alexander	Councillor Harris
Councillor Baker	Councillor Placey
Councillor Casey	

Most Council meetings are open to the public and press. The space for the public and press will be made available on a first come first served basis. The meeting will normally be live streamed and the link to this is available at [www.tendringdc.gov.uk/livemeetings](http://www.tendringdc.gov.uk/livemeetings). Those attending the meeting may therefore be filmed. After the meeting the recording of the live stream will normally be available using the same link.

Agendas and Minutes are published on the Council's website [www.tendringdc.gov.uk](http://www.tendringdc.gov.uk). Agendas are available to view five working days prior to the meeting date and the Council aims to publish Minutes within five working days of the meeting.

Meeting papers can be provided, on request, in large print, in Braille, or on disc, tape, or in other languages.

For further details and general enquiries about this meeting, contact Emma Haward on 01255 686007.

DATE OF PUBLICATION: Monday, 10 January 2022



## AGENDA

### **1 Apologies for Absence and Substitutions**

The Committee is asked to note any apologies for absence and substitutions received from Members.

### **2 Declarations of Interest**

Councillors are invited to declare any Disclosable Pecuniary Interests or Personal Interest, and the nature of it, in relation to any item on the agenda.

### **3 Questions on Notice pursuant to Council Procedure Rule 38**

Subject to providing two working days' notice, a Member of the Committee may ask the Chairman of the Committee a question on any matter in relation to which the Council has powers or duties which affect the Tendring District **and** which falls within the terms of reference of the Committee.

### **4 A.1 PLANNING APPLICATION – 21/00046/FUL – TOPSL HOUSE, HIGH STREET MISTLEY, MANNINGTREE (Pages 1 - 10)**

This application was originally referred to Planning Committee at the request of Councillor Coley due to concerns with the building being listed and being in a Conservation Area, the introduction of a stairway access to the first floor, change of use of the first floor to residential, the building is located on the edge of a busy working dock and parking issues. This application was deferred from the Planning Committee meeting held on 28th September 2021. The Planning Committee deferred the application to allow for further negotiations on the application in relation to the omission or amendment of the balcony details to the rear and to address ECC Heritage objections as well as consideration of the external staircase to address overlooking and private amenity issues with the immediate neighbouring property.

The application has now been amended with the external staircase omitted. As such, the application now relates solely to the proposed balcony and window to a door to the Quay elevation only.

### **5 A.2 PLANNING APPLICATION – 21/00202/FUL – MANOR FIELD, THORPE ROAD, TENDRING (Pages 11 - 26)**

The application has been called in by Councillor Peter Harris

The proposal is for the change of use of part of an existing agricultural building into an agricultural vehicle repair workshop for agricultural vehicles, machinery and limited models of Landrover. The site is located within a larger site which is used for agricultural purposes for sheep farming.

### **6 A.3 PLANNING APPLICATION – 20/00907/FUL – LAND REAR OF 87 TO 89 TOWER STREET, LIME STREET, BRIGHTLINGSEA (Pages 27 - 38)**

The application is referred to the Planning Committee at the request of Ward Councillor Jayne Chapman, due to concern over the scale of the proposed storage building and the site's location (remote from the host dwelling), in an area liable to flooding where historic covenants would preclude the development.

**7** **A.4 PLANNING APPLICATION – 21/01270/FUL – TESCO EXPRESS 32 - 34 HIGH STREET, MANNINGTREE CO11 1AJ (Pages 39 - 50)**

The application is referred to the Planning Committee by Councillor Giancarlo Guglielmi on grounds of the negative impact on the street scene and the Manningtree and Mistley Conservation Area with the incongruous gas cooler sited inappropriately imparting a constant noise by its humming which not only is impacting on neighbours' amenity, but also on their quality of life.

The application seeks retrospective planning permission for the CO2 gas cooler and as part of the application a timber enclosure is proposed.

**8** **A.5 PLANNING APPLICATION – 21/01527/FUL – 152 CONNAUGHT AVENUE, FRINTON ON SEA CO13 9AD (Pages 51 - 60)**

Councillor Nick Turner has called in the application, in relation to the impact of the proposal on the Conservation Area.

The proposal is for a disabled access ramp to be located at the front entrance to the pharmacy. The site is located within the defined Settlement Development Boundary of Frinton-on-Sea and also sits within the Frinton and Walton Conservation Area.

**Date of the Next Scheduled Meeting**

*The next scheduled meeting of the Planning Committee is to be held in the Committee Room - Town Hall, Station Road, Clacton-on-Sea, CO15 1SE at 6.00 pm on Wednesday, 16 February 2022.*

# Tendring District Council



## PLANNING COMMITTEE MEETINGS PUBLIC SPEAKING SCHEME March 2021

This Public Speaking Scheme is made pursuant to Council Procedure Rule 40 and gives the opportunity for a member of the public and other parties identified below to speak to Tendring District Council's Planning Committee when they are deciding a planning application.

### TO WHICH MEETINGS DOES THIS SCHEME APPLY?

Public meeting of the Council's Planning Committee are normally held every 4 weeks at 6.00 pm in either the Council Chamber at the Council Offices, Thorpe Road, Weeley CO16 9AJ or at the Town Hall, Station Road, Clacton-on-Sea CO15 1SE or entirely by remote means and the public are encouraged to check the venue etc. on the Council's Website before attending.

### WHO CAN SPEAK & TIME PERMITTED? All speakers must be aged 18 or over:

1. The applicant, his agent or representative; or (where applicable) one person the subject of the potential enforcement action or directly affected by the potential confirmation of a tree preservation order, his agent or representative. A maximum of 3 minutes to speak is allowed;
2. One member of the public who wishes to comment on or to speak in favour of the application or someone who produces a signed, written authority to speak on their behalf. A maximum of 3 minutes to speak is allowed;
3. One member of the public who wishes to comment on or speak against the application or someone who produces a signed, written authority to speak on their behalf. A maximum of 3 minutes to speak is allowed;
4. Where the proposed development is in the area of a Parish or Town Council, one Parish or Town Council representative. A maximum of 3 minutes to speak is allowed;
5. All District Councillors for the ward where the development is situated ("ward member") or (if the ward member is unable to attend the meeting) a District Councillor appointed in writing by the ward member. Member(s) of adjacent wards or wards impacted by the proposed development may also speak with the agreement of the Chairman. Permission for District Councillors to speak is subject to the Council's Code of Conduct and the declarations of interest provisions will apply. A maximum of 5 minutes to speak is allowed;

In accordance, with Council Procedure Rule 34.1, this Public Speaking Scheme takes precedence and no other Member shall be entitled to address or speak to the Planning Committee under Rule 34.1; and

6. A member of the Council's Cabinet may also be permitted to speak on any application but only if the proposed development has a direct impact on the portfolio for which the Cabinet

member is responsible. The Leader of the Council must approve the Cabinet Member making representations to the Planning Committee. A maximum of 3 minutes is allowed.

Any one speaking as a Parish/Town Council representative maybe requested to produce written evidence of their authority to do so, by the District Council's Committee Services Officer (CSO). This evidence may be an official Minute, copy of standing orders (or equivalent) or a signed letter from the Clerk to the Parish/Town Council and must be shown to the DSO before the beginning of the Planning Committee meeting concerned.

No speaker, (with the exception of Ward Members, who are limited to 5 minutes) may speak for more than 3 minutes on any agenda items associated with applications (such as a planning application and an associated listed building consent application). Speakers may not be questioned at the meeting, nor can any public speaker question other speakers, Councillors or Officers. Speakers are not permitted to introduce any photograph, drawing or written material, including slide or other presentations, as part of their public speaking.

All Committee meetings of Tendring District Council are chaired by the Chairman or Vice-Chairman (in their absence) whose responsibility is to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community. The Chairman of the Planning Committee therefore, has authority to use their discretion when applying the Public Speaking Scheme to comply with this duty.

#### **WHICH MATTERS ARE COVERED BY THIS SCHEME?**

Applications for planning permission, reserved matters approval, listed building consent, conservation area consent, advertisement consent, hazardous substances consent, proposed or potential enforcement action and the proposed or potential confirmation of any tree preservation order, where these are the subject of public reports to the Planning Committee meeting.

#### **HOW CAN I FIND OUT WHEN A MATTER WILL BE CONSIDERED?**

In addition to the publication of agendas with written reports, the dates and times of the Planning Committee meetings are shown on the Council's website. It should be noted that some applications may be withdrawn by the applicant at short notice and others may be deferred because of new information or for procedural reasons. This means that deferral takes place shortly before or during the Planning Committee meeting and you will not be able to speak at that meeting, but will be able to do so at the meeting when the application is next considered by the Planning Committee.

#### **DO I HAVE TO ATTEND THE PLANNING COMMITTEE MEETING TO MAKE THE COMMITTEE AWARE OF MY VIEWS?**

No. If you have made written representations, their substance will be taken into account and the Committee report, which is available to all Planning Committee Councillors, will contain a summary of the representations received.

#### **HOW DO I ARRANGE TO SPEAK AT THE MEETING?**

You can:-

Telephone the Committee Services Officer ("CSO") (01255 686007) during normal working hours on any weekday after the reports and agenda have been published; or

Email: [democraticservices@tendringdc.gov.uk](mailto:democraticservices@tendringdc.gov.uk)

**OR**

On the day of the Planning Committee meeting, you can arrive in the Council Chamber or Town Hall (as appropriate) at least 15 minutes before the beginning of the meeting (meetings normally begin at 6.00pm) and speak to the CSO.

If more than one person wants to speak who is eligible under a particular category (e.g. a member of the public within the description set out in numbered paragraphs 2 or 3 above), the right to speak under that category will be on a “first come, first served” basis.

Indicating to the Chairman at a site visit that you wish to speak on an item is **NOT** formal notification or registration to speak; this must be made via the Committee Services Officer in the manner set out above.

### **WHAT WILL HAPPEN WHEN THE MATTER CONCERNED IS CONSIDERED?**

- Planning Officer presents officer report
- Public speaking takes place in the order set out above under the heading “WHO CAN SPEAK?”
- Officer(s) may respond on factual issues arising from public speaking and may sum up the key policies and material planning considerations relevant to the application
- Committee Members may ask Officers relevant questions and may move, debate and vote

Normally, the Committee then determines the matter, but sometimes the Councillors decide to defer determination, to allow officers to seek further information about a particular planning issue. If a matter is deferred after the public speaking, the Committee will not hear public speaking for a second time, unless there has been a substantial change in the application which requires representations to be made. The Executive Summary section of the Planning Committee Report will identify whether public speaking is going to be permitted on an application being reconsidered after deferral. If there is an update since the Report was published, the Council’s website will confirm this information.

### **WHAT SHOULD I SAY AT THE MEETING?**

Please be straightforward and concise and try to keep your comments to planning matters which are directly relevant to the application or matter concerned. Planning matters may include things such as planning policy, previous decisions of the Council on the same site or in similar circumstances, design, appearance, layout, effects on amenity, overlooking, loss of light, overshadowing, loss of privacy, noise or smell nuisance, impact on trees, listed buildings or highway safety.

Matters such as the following are not relevant planning matters, namely the effect of the development on property value(s), loss of view, personality or motive of the applicant, covenants, private rights or easements and boundary or access disputes.

Please be courteous and do not make personal remarks. You may wish to come to the meeting with a written statement of exactly what you want to say or read out, having checked beforehand that it will not overrun the 3 minutes allowed.

### **WHO DO I CONTACT FOR MORE INFORMATION?**

The Council’s website will help you and you can also contact the relevant planning Case Officer for the matter. The name of the Officer is on the acknowledgement of the application or in the correspondence we have sent you.

Tendring District Council, Planning Services,  
Council Offices, Thorpe Road, Weeley, CLACTON-ON-SEA, Essex CO16 9AJ  
Tel: 01255 686161 Fax: 01255 686417  
Email: [planningservices@tendringdc.gov.uk](mailto:planningservices@tendringdc.gov.uk) Web: [www.tendringdc.gov.uk](http://www.tendringdc.gov.uk)

It always helps to save time if you can quote the planning application reference number.

**As approved at the meeting of the Full Council held on 16 March 2021**

## **Information for Visitors**

### **FIRE EVACUATION PROCEDURE**

There is no alarm test scheduled for this meeting. In the event of an alarm sounding, please calmly make your way out of any of the fire exits in the hall and follow the exit signs out of the building.

Please heed the instructions given by any member of staff and they will assist you in leaving the building and direct you to the assembly point.

Please do not re-enter the building until you are advised it is safe to do so by the relevant member of staff.

Your calmness and assistance is greatly appreciated.

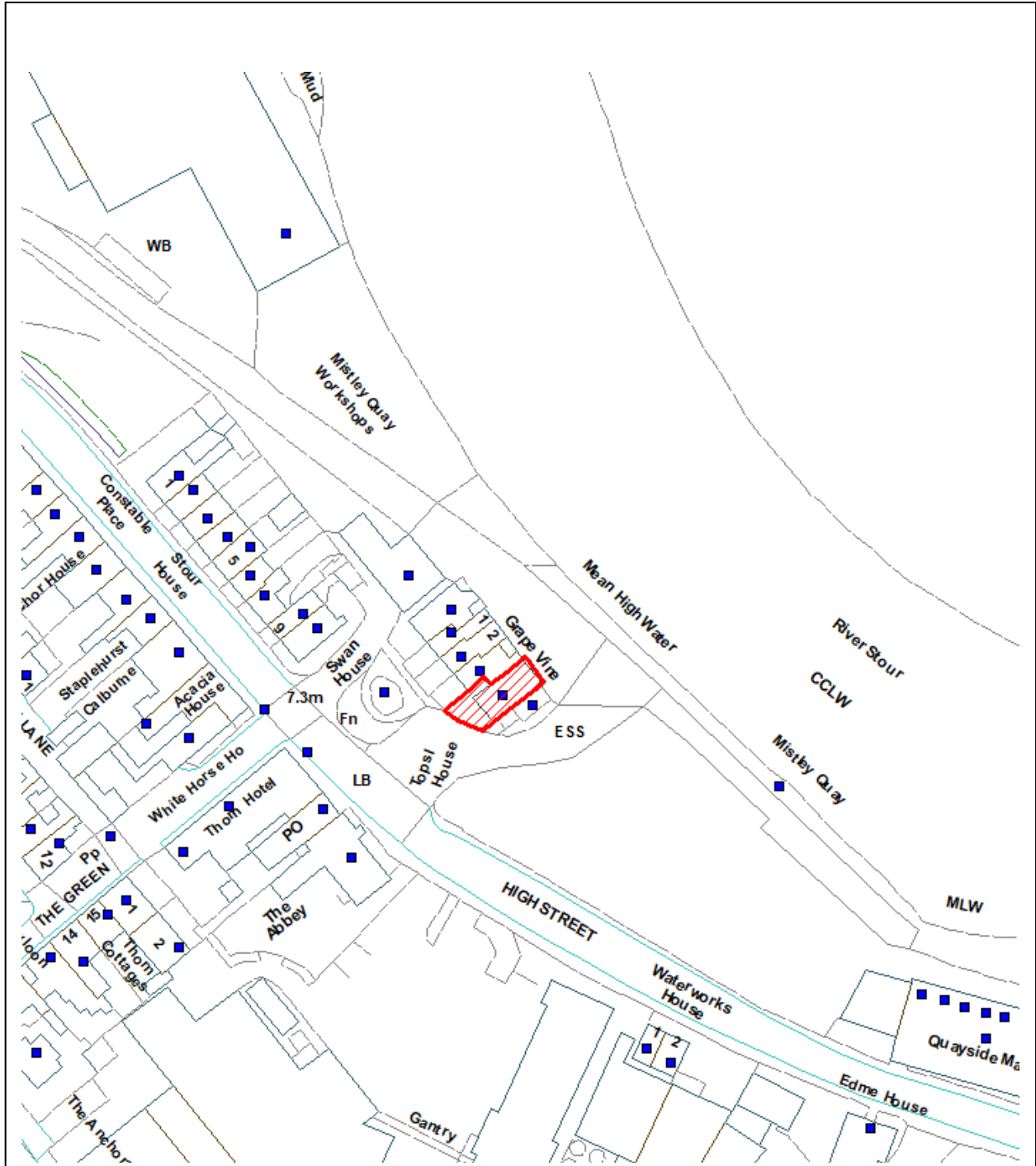


## PLANNING COMMITTEE

18 January 2022

### REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

#### **A.1 PLANNING APPLICATION – 21/00046/FUL – TOPSL HOUSE HIGH STREET MISTLEY MANNINGTREE**



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:** 21/00046/FUL

**Town / Parish:** Mistley Parish Council

**Applicant:** Sarah Misra & Julia Hegelstad

**Address:** Topsl House High Street Mistley Manningtree CO11 1HB

**Development:** Proposed balcony and window to a door to the Quay elevation

## 1. Executive Summary

- 1.1 This application was originally referred to Planning Committee at the request of Councillor Coley due to concerns with the building being listed and being in a Conservation Area, the introduction of a stairway access to the first floor, change of use of the first floor to residential, the building is located on the edge of a busy working dock and parking issues. This application was deferred from the Planning Committee meeting held on 28th September 2021. The Planning Committee deferred the application to allow for further negotiations on the application in relation to the omission or amendment of the balcony details to the rear and to address ECC Heritage objections as well as consideration of the external staircase to address overlooking and private amenity issues with the immediate neighbouring property.
- 1.2 The application has now been amended with the external staircase omitted. As such, the application now relates solely to the proposed balcony and window to a door to the Quay elevation only.
- 1.3 The application site is located within the settlement development boundary as defined within both the adopted Tendring District Local Plan 2007 and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017. The application is located within the Conservation Area and adjacent to a Grade II Listed Building.
- 1.4 ECC Heritage have been consulted and have an objection to the proposed balcony.
- 1.5 The proposals are not considered to cause any impact upon the neighbouring amenities.
- 1.6 Mistley Parish Council have not commented on the amended application and no further letters of representations have been received.

### **Recommendation:**

That the Head of Planning be authorised to grant planning permission for the development subject to:-

- a) Subject to the conditions stated in section 8.1

## 2. Planning Policy

- 2.1 The following Local and National Planning Policies are relevant to this planning application.
- 2.2 This planning application was first submitted when the NPPF - National Planning Policy Framework February 2019 was in place. During the LPA assessment phase of the development

proposals, a revised version of the National Planning Policy Framework (NPPF 2021) was published by the Ministry of Housing, Communities and Local Government (MHCLG) with revisions to both the NPPF and National Model Design Guide (NMDG), following consultation in January 2021. Among the key changes to the NPPF are updated policies aiming to improve the design of new developments, in response to the findings of the government's Building Better, Building Beautiful Commission. Due regard is given to both the NPPF 2019 as well as the NPPF 2021 (collectively referred to as the 'NPPF' in the remainder of this report) and as part of the assessment of this planning application.

*NPPF National Planning Policy Framework February 2019*

*National Planning Practice Guidance*

*Adopted Tendring District Local Plan 2007 (part superseded)*

QL11 Environmental Impacts and Compatibility of Uses (part superseded)

EN17 Conservation Areas

EN23 Development Within the Proximity of a Listed Building

*Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) (Section 1 adopted on 26th January 2021)*

*Relevant Section 2 Policies (emerging)*

PPL8 Conservation Areas

PPL9 Listed Buildings

SPL1 Managing Growth

### **Status of the Local Plan**

- 2.3 Planning law requires that decisions on planning applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework 2021 (the Framework).
- 2.4 The 'development plan' for Tendring comprises, in part, the 'saved' policies of the 2007 Local Plan. Paragraph 219 of the Framework allows local planning authorities to give due weight to policies adopted prior to its publication according to their degree of consistency with the policies in the Framework. On the 26<sup>th</sup> January 2021 Section 1 of the 2013-2033 Local Plan was adopted and now also forms part of the 'development plan' for Tendring, superseding some of the more strategic policies in the 2007 Local Plan. Notably, the housing and employment targets were found sound and have been fixed, including the housing requirement of 550 dwellings per annum.
- 2.5 Paragraph 48 of the Framework allows weight to be given to policies in emerging plans, according to their stage of preparation, the extent to which there are unresolved objections to relevant policies, and the degree of consistency with the policies of the Framework. On 24<sup>th</sup> November 2021, the Council received the Planning Inspectors' final report on the legal compliance and soundness of Section 2 of the emerging Local Plan. The report has confirmed, that with the inclusion of a number of 'Main Modifications' (which have already been the subject of formal public consultation), the Plan is legally compliant and sound and can now proceed to

adoption. The report is due to be considered by the Planning Policy and Local Plan Committee on 11<sup>th</sup> January 2022 which is likely to recommend adoption of the Section 2 Local Plan to Full Council on 25<sup>th</sup> January 2022. On adoption, the new Section 2 Local Plan will join the new Section 1 Local Plan to form the 'development plan' for Tendring and the old 2007 Local Plan will be superseded in full.

- 2.6 Now that the Inspectors' final report is received, the Section 2 Local Plan has virtually reached the final stage of preparation, all objections have been resolved and the Inspector has confirmed that the Plan is sound and therefore in conformity with the Framework. For these reasons, Officers now advise that the emerging Plan should now carry 'almost full weight' in decision making.
- 2.7 Until the new Local Plan is adopted in January 2022, the 2007 adopted Local Plan, legally, will still form part of the 'development plan' and there will still be a requirement to refer to the 2007 Local Plan in decision making. However, the level of weight to be afforded to the policies in the 2007 Plan is reduced to very limited weight given that a more up to date Plan has progressed to such an advanced stage of the plan making process.

### 3. Relevant Planning History

94/00764/FUL	(4 Grape Vine, Mistley Quay, Mistley) Alterations to existing offices	Approved	16.09.1994
21/00040/FUL	Proposed external changes to fenestration including; the change of a window to a door to the front elevation, a change of a window to a door to the Quay elevation, a change from a door to a window to the side elevation and erection of a safety hand rail.	Approved	29.09.2021

### 4. Consultations

Essex County Council Heritage  
08.12.2021

The application is for a proposed balcony and window to a door to the Quay elevation.

The building is situated within Manningtree and Mistley Conservation Area in Character Area 4 - The planned town along the High Street. Concerns were outlined within the first response regarding the potential impact to the significance of the Conservation Area and nearby listed buildings.

The balcony was previously noted as not being considered acceptable. Whilst the design has been amended, it is still considered inappropriate and should be omitted from the application to preserve the character of the building. Particularly in consideration with the recently approved 21/00040/FUL, the ground floor window will also be converted to a door. The Quay Street Scene elevation drawing demonstrates that the proposal would result in a door over a door and would not be considered in keeping with the character of the building or to the character and appearance of the Conservation

Area, contrary to Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

The harm to the significance of the Conservation Area is a small level of 'less than substantial' and paragraph 202 of the NPPF is relevant. Regard should also be given to paragraph 199 which affords great weight to the conservation of heritage assets.

As previously noted, if the balcony is omitted from the proposals, there are elements within the application that are acceptable in principle, but further detail is required to ensure that they will be in keeping with character and appearance of the Conservation Area and do not impact the surrounding listed buildings. As such the following conditions should be applied:

- Details of the types and colours of all external materials, shall be submitted to and approved by the Local Planning Authority in writing prior to their first use on site.

- Additional drawings that show details of any new windows and doors by section and elevation at scales between 1:20 and 1:1 as appropriate, shall be submitted to and approved by the Local Planning Authority in writing prior to their first construction or installation on site.

Subject to the balcony and the conditions, the proposals will be in line with Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and chapter 16 of the NPPF.

## **5. Representations**

- 5.1 Mistley Parish Council have not commented on the amended plans.
- 5.2 No letters of representation have been received in regards to the amended plans.

## **6. Assessment**

### Site Context

- 6.1 The application site relates to Topsl House which is a two storey building located within the settlement boundary of Manningtree and located within the Conservation Area.
- 6.2 The building is located to the end of the row of buildings with views over the Quay and adjacent Grade II Listed Building.

### Site History

- 6.3 Planning Permission was granted by the Planning Committee on 28<sup>th</sup> September under application reference 21/00040/FUL for the proposed external changes to fenestration including the change of a window to a door to the front elevation, a change of a window to a door to the

Quay elevation, a change from a door to a window to the side elevation and erection of a safety hand rail.

- 6.4 This application originally was for the change of use from an office (Class E (g) (i) to residential dwelling (C3). Due to recent changes to the use class order introduced by the Government, this change of use no longer requires planning permission and requires a prior notification application. Therefore, this is not being assessed within this application.
- 6.5 Under the current application reference 21/00046/FUL, the application was presented to Planning Committee on 28<sup>th</sup> September and requested planning permission for an external staircase, balcony, window to a door to the quay elevation and a window to a door to the North West elevation. The Planning Committee deferred the application to allow for further negotiations on the application in relation to the omission or amendment of the balcony details to the rear and to address ECC Heritage objections as well as consideration of the external staircase to address overlooking and private amenity issues with the immediate neighbour property.

#### Proposal

- 6.6 This application seeks planning permission for a proposed balcony and window to a door to the Quay elevation.
- 6.7 This application is to assess external changes only.

#### Principle of Development

- 6.8 The site is located within the Development Boundary therefore there is no in principle objection to the proposal, subject to the detailed considerations discussed below.

#### Design and Appearance (including Heritage Assessment)

- 6.9 Adopted Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design which responds positively to local character and context. Emerging Policies SPL3 and LP4 of Section 2 of the 2013-33 Local Plan also require, amongst other things, that developments deliver new dwellings that are designed to high standards and which, together with a well-considered site layout, create a unique sense of place - avoiding the use of ubiquitous standard house types. Paragraph 130 of the Framework requires that developments are visually attractive as a result of good architecture, are sympathetic to local character, and establish or maintain a strong sense of place.
- 6.10 Policy EN17 of the Tendring District Local Plan 2007 and Policy PPL8 of the Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document (July 2016) state that development within a Conservation Area must preserve or enhance the special character or appearance of the Conservation Area.
- 6.11 Policy EN23 of the Tendring District Local Plan 2007 states that proposals for development that would adversely affect the setting of a Listed Building, including group value and long distance views will not be permitted, emerging Policy PPL9 reflects these considerations.
- 6.12 The proposed works, external balcony and the window to a door to the Quay elevation will be visible to the Quay. The fenestration changes from a window to a door are not considered harmful to the street scene.
- 6.13 As the application relates to the Conservation Area and is adjacent to a Grade II Listed Building, ECC Heritage have been consulted on this application.

- 6.14 ECC Heritage have noted that the application is now solely for a proposed balcony and window to a door to the Quay elevation. The building is situated within Manningtree and Mistley Conservation Area in Character Area 4 - The planned town along the High Street. Concerns were outlined within the first response regarding the potential impact to the significance of the Conservation Area and nearby listed buildings.
- 6.15 The balcony was previously noted as not being considered acceptable. Whilst the design has been amended, it is still considered inappropriate and should be omitted from the application to preserve the character of the building. Particularly in consideration with the recently approved 21/00040/FUL, the ground floor window will also be converted to a door. The Quay Street Scene elevation drawing demonstrates that the proposal would result in a door over a door and would not be considered in keeping with the character of the building or to the character and appearance of the Conservation Area, contrary to Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 6.16 The harm to the significance of the Conservation Area is a small level of 'less than substantial' and paragraph 202 of the NPPF is relevant. Regard should also be given to paragraph 199 which affords great weight to the conservation of heritage assets. As previously noted, if the balcony is omitted from the proposals, there are elements within the application that are acceptable in principle, but further detail is required to ensure that they will be in keeping with character and appearance of the Conservation Area and do not impact the surrounding listed buildings. As such conditions should be imposed in regards to the external materials and details of new windows and doors.
- 6.17 Subject to the balcony and the conditions, the proposals will be in line with Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and chapter 16 of the NPPF.
- 6.18 The comments and concerns raised by ECC Heritage are noted in regards to the balcony; notwithstanding this, planning permission has previously been given and implemented for a variety of balconies along the Quay. The proposed balcony is, therefore deemed to have no greater effect on the character of the Conservation Area than those already 'in situ' and it would be difficult to substantiate a reason for refusal on this ground alone.

#### Impact upon neighbouring amenities

- 6.19 The NPPF, at paragraph 130 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. Adopted Policy SP7 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) requires that all new development protects the amenity of existing and future residents and users with regard to noise, vibration, smell, loss of light, overbearing and overlooking.
- 6.20 The proposed balcony will be located to the quay elevation and views will be towards the quay and therefore will be away from any neighbouring private amenity space. The change from a window to a door is not considered to cause any impact.

### **7. Conclusion**

- 7.1 The proposed works are considered acceptable subject to details of the external materials as well as the details of the windows and doors. The proposed works will not result in any harm to neighbouring amenities.

### **8. Recommendation**

- 8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives.

## 8.2 Conditions and Reasons

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:

- Drawing no. TH05 REV12
- Drawing no. TH06 REV1
- Drawing no. TH12 REV1

Reason - For the avoidance of doubt and in the interests of proper planning.

- 3 Before any work is commenced drawings to a scale of not less than 1:20 fully detailing the new windows and doors and their surrounds to be used and indicating: materials; cross sections for glazing bars, cills, heads etc at a scale of 1:20; and method of glazing shall be submitted to and approved in writing by the Local Planning Authority. The approved works shall be installed/carried out in complete accordance with the approved details.

Reason - The application relates to a building in the Conservation area and adjacent to a Grade II Listed building and therefore such details are necessary in order to preserve and enhance the historic character.

- 4 No development shall be commenced until a schedule of external finish materials shall be submitted to and agreed, in writing, by the Local Planning Authority. Such materials as may be agreed shall be those used in the development and permanently maintained as such.

Reason - To ensure materials are of a very high quality to respect the building and its setting.

## 8.3 Informatives

### Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

## 9. Additional Considerations

### Public Sector Equality Duty (PSED)

- 9.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
- 9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;



- 9.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
- 9.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.
- 9.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 9.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

#### Human Rights

- 9.8 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 9.9 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).
- 9.10 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

#### Finance Implications

- 9.11 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.

### **10. Background Papers**

- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report) also form background papers. All such information is available to view on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.

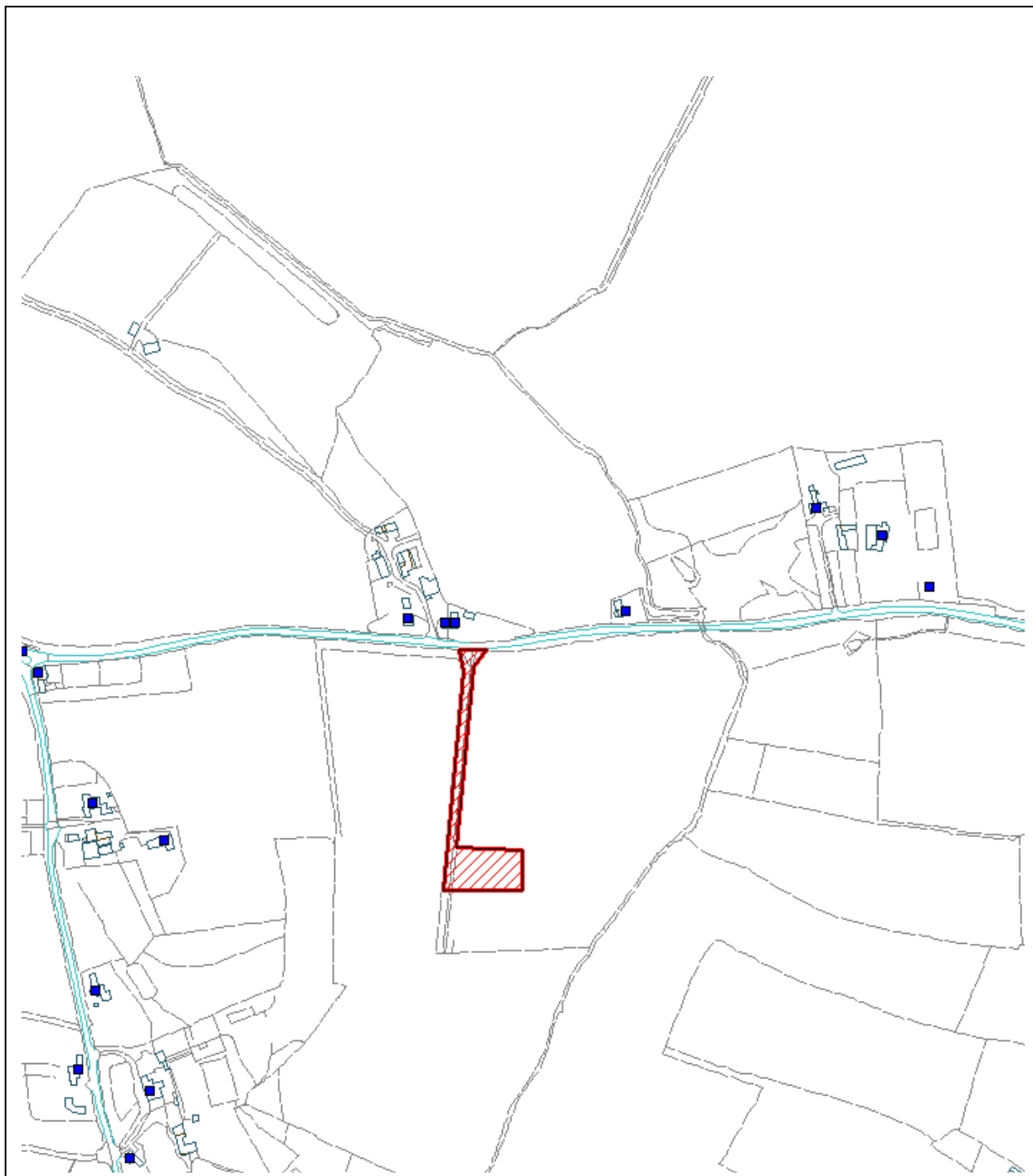
This page is intentionally left blank

## PLANNING COMMITTEE

18<sup>TH</sup> JANUARY 2022

### REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

#### A.2 PLANNING APPLICATION – 21/00202/FUL – MANOR FIELD THORPE ROAD TENDRING



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:** 21/00202/FUL

**Town / Parish:** Tendring Parish Council

**Applicant:** Empire Tuning

**Address:** Manor Field Thorpe Road Tendring

**Development:** Proposed change of use of part of agricultural barn (sheep shelter approved under 19/00078/FUL) to agricultural vehicle repair workshop (B2 Use Class).

## 1. **Executive Summary**

- 1.1 The application has been called in by Councillor Peter Harris
- 1.2 The proposal is for the change of use of part of an existing agricultural building into an agricultural vehicle repair workshop for agricultural vehicles, machinery and limited models of Landrover. The site is located within a larger site which is used for agricultural purposes for sheep farming.
- 1.3 The proposal is in a rural location and would serve the surrounding agricultural community. Objections from Highways regarding the access from Thorpe Road and Environmental Protection regarding noise and ventilation have been overcome and subject to conditions is considered to be acceptable.

### **Recommendation:**

That the Head of Planning be authorised to grant planning permission for the development subject to:-

- a) Subject to the conditions stated in section 8.2

## 2. **Planning Policy**

- 2.1 The following Local and National Planning Policies are relevant to this planning application.

*National Planning Policy Framework July 2021*

*National Planning Practice Guidance*

*Adopted Tendring District Local Plan 2007 (part superseded)*

- QL11 Environmental Impacts and Compatibility of Uses (part superseded)
- ER7 Business, Industrial and Warehouse Proposals
- ER11 Conversion and Reuse of Rural Buildings
- EN1 Landscape Character
- EN6 Biodiversity
- EN16 Agricultural and Related Development
- TR1A Development Affecting Highways

*Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) (Section 1 adopted on 26th January 2021)*

*Relevant Section 1 Policies (adopted)*

SP1	Presumption in Favour of Sustainable Development
SP7	Place Shaping Principles

Relevant Section 2 Policies (emerging)

SPL1	Managing Growth
SPL2	Settlement Development Boundaries
SPL3	Sustainable Design
PP13	The Rural Economy
PPL3	The Rural Landscape
PPL4	Biodiversity and Geodiversity
CP1	Sustainable Transport and Accessibility

Supplementary Planning Guidance

*Essex County Council Development Management Policies 2011 (the Highways SPD)*  
*Essex County Council Parking Standards Design/Good Practice Guide 2009 (the Parking SPD)*  
*Tendring Landscape Character Assessment 2001 (TLCA)*

**Status of the Local Plan**

- 2.2 Planning law requires that decisions on planning applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework 2021 (the Framework).
- 2.3 The 'development plan' for Tendring comprises, in part, the 'saved' policies of the 2007 Local Plan. Paragraph 219 of the Framework allows local planning authorities to give due weight to policies adopted prior to its publication according to their degree of consistency with the policies in the Framework. On the 26th January 2021 Section 1 of the 2013-2033 Local Plan was adopted and now also forms part of the 'development plan' for Tendring, superseding some of the more strategic policies in the 2007 Local Plan. Notably, the housing and employment targets were found sound and have been fixed, including the housing requirement of 550 dwellings per annum.
- 2.4 Paragraph 48 of the Framework allows weight to be given to policies in emerging plans, according to their stage of preparation, the extent to which there are unresolved objections to relevant policies, and the degree of consistency with the policies of the Framework. On 24th November 2021, the Council received the Planning Inspectors' final report on the legal compliance and soundness of Section 2 of the emerging Local Plan. The report has confirmed, that with the inclusion of a number of 'Main Modifications' (which have already been the subject of formal public consultation), the Plan is legally compliant and sound and can now proceed to adoption. The report is due to be considered by the Planning Policy and Local Plan Committee on 11th January 2022 which is likely to recommend adoption of the Section 2 Local Plan to Full Council on 25th January 2022. On adoption, the new Section 2 Local Plan will join the new Section 1 Local Plan to form the 'development plan' for Tendring and the old 2007 Local Plan will be superseded in full.
- 2.5 Now that the Inspectors' final report is received, the Section 2 Local Plan has virtually reached the final stage of preparation, all objections have been resolved and the Inspector has confirmed that the Plan is sound and therefore in conformity with the Framework. For these reasons, Officers now advise that the emerging Plan should now carry 'almost full weight' in decision making.

2.6 Until the new Local Plan is adopted in January 2022, the 2007 adopted Local Plan, legally, will still form part of the 'development plan' and there will still be a requirement to refer to the 2007 Local Plan in decision making. However, the level of weight to be afforded to the policies in the 2007 Plan is reduced to very limited weight given that a more up to date Plan has progressed to such an advanced stage of the plan making process.

**3. Relevant Planning History**

18/01503/AGRIC	Proposed lambing & sheep shelter.	Prior Approval not required	05.10.2018
19/00078/FUL	Proposed barn and sheep shelter including track from existing vehicular access and associated bunds and planting.	Approved	18.04.2019
21/01112/DISCON	Discharge of conditions 2 (Landscaping) and 5 (Bridging of Piped Bridge) of approved application 19/00078/FUL.	Approved	27.07.2021

**4. Consultations**

Tendring Parish Council	This location is not suitable for a performance tuning workshop (based on the equipment that is planned to be there). It will create significant noise nuisance (the sound insulation will not mask the roar of the engines on the dynamometer), there are no water, drainage or power facilities on site and only two years ago approval of the building's construction was allowed for agricultural use.
TDC Tree & Landscape Officer 08.04.2021	<p>The proposed change of use of the existing building will not result in the removal of or cause harm to any existing trees or other vegetation.</p> <p>Nonetheless, the proposed change of use would change the character of the area by way of the introduction of an engineering operation in a rural setting.</p> <p>It is unlikely that machinery used on the application site would justify the creation of the workshop, in itself, so additional vehicular movements would be likely to occur when machinery was brought to the site. This would diminish the agricultural character of the area</p>
TDC Environmental Protection (EP) 24.05.2021 (2 <sup>nd</sup> Consultation)	After reviewing the requested Noise Impact Assessment it can be confirmed that EP are satisfied with its findings and recommendations in relation to the noise emission from the site. Providing the additional, proposed ventilation system is compliant with the recommendations - as outlined on pages 28 and 29 of the above mentioned document, there is no reason to object to the proposal. The following recommendations have been highlighted in the report and should be attached to any approval of this proposal.

Ventilation System: Any new ventilation installation must not exceed a sound emission of 23dB(A) at the nearest residential property - identified as Hillside Cottage on page 12 of the NIA.

The internal passage velocities of the system should not exceed 8-10m/s and appropriate dampening techniques are employed, where necessary, to achieve this level and ensure compliance.

TDC Environmental Protection  
(EP)  
08.03.2021 (1<sup>st</sup> Consultation)

Requested further information regarding Noise mitigation measures, proposed sound proofing and the proposed materials to be utilised, their dampening ability and the potential level of reduction that will be achieved. Details of the mechanical ventilation are also required.

It is also noted the proposed use may require a permit from the Local Authority in respect of solvents being used the application does not give specific information as to whether the site will also be used to spray vehicles; therefore EP suggest initial contact be made to discuss the need, or not, for a permit for a permitted process.

ECC Highways 09.12.2021

The site is situated on a stretch of Thorpe Road that is subject to a de-restricted speed limit and is classed as a Secondary Distributor in the County Council's Route Hierarchy. The current vehicular access serving the site is purely for agricultural purposes serving the barn. The width of Thorpe Road at this point is approximately 5.8 metres in width. In conjunction with approved application 19/00078/FUL the applicant was required to substantially improve the access to the site. The supporting information confirms that the width of the access is wider than a single track and is 4.6 metres in width and that the access was improved in accordance with planning application reference: 19/00078/FUL.

The applicant has advised that repairs would fall into three broad categories:

1. on-site repair of large agricultural vehicles.
2. on-site repair of smaller vehicles such as those of car size.
3. as a base to service agricultural machinery at client's farms.

It is noted that the development would be staffed by one person, but with a view that in time this may increase to two people. Therefore, the site would generate relatively low trips at no more than 2-3 vehicles a day. It is noted that at present a John Deere 4-wheel drive tractor is stored on site and regularly uses the site access road and its junction with Thorpe Road.

Therefore, from a highway and transportation perspective the impact of the proposal is acceptable to

Highway Authority subject to mitigation and conditions in regard to visibility splay at access, vehicular turning facility, no unbound material to be used near highway, no discharge of water onto Highway and new signage on Highway.

## 5. Representations

- 5.1 A number of representations, including one of support, have been received; which have followed a public consultation, including the posting of a site notice at the site and neighbouring consultation letters sent out to the adjacent properties.

### Summary of Matters Raised

- Negative and damaging impacts on neighbouring businesses due to noise and odour from the workshop;
  - Application is misleading – A dynamometer is used for remapping car engines and is not for agricultural vehicles, which are normally fixed on their farm due to logistics of getting large machinery to a workshop, which may be some distance away;
  - No noise survey submitted with the application;
  - No transport plan submitted with the application;
  - Applicants business in Colchester deals with all makes of Land Rovers not agricultural vehicles;
  - Remapping of engines and the use of a dynamometer is an unpleasantly noisy occupation;
  - Impact on neighbouring residents due to noise and increased vehicle movements;
  - No benefit to local community either as a customer base or for employment;
  - Sets a precedent for others to build agricultural buildings and then change their use;
  - Negative visual impact on the landscape;
  - Unsuitable access and impact on Highway Safety with larger vehicles entering and leaving the site;
  - Visibility Splays are not compliant with type of road;
  - Unsuitable location for this type of business, no evidence submitted to demonstrate that there is no suitable alternative premises;
  - Pollution and contamination from vehicle workshop use onto land and nearby watercourses;
  - Light Pollution;
  - Impact on wildlife (Deer and Otters);
  - No mains electricity at the site;
  - Industrial units would spoil the rural outlook of the area;
  - Hours of operation are contrary to a residential and rural setting;
  - Is there a genuine need for this business in the area, as a similar business operates in Beaumont;
  - Commitment to plant several hundred trees outlined in the 2019 planning application has not been undertaken;
  - Objection to recently constructed agricultural building already being repurposed to a B2 use. If building is no longer required then it should be demolished;
  - Could result in an industrial estate being formed in this rural location; and
  - Pre-commencement conditions (from application19/00078/FUL) not adhered to.
- 5.2 The application is the subject of a call-in request from the Ward Councillor for Weeley and Tendring Ward, Peter Harris, in the event that approval were recommended. The grounds for the call-in request are:



- Use of the building for vehicles other than agricultural;
- No demand for the service offered;
- Impact on neighbours (noise and disturbance/light pollution); and
- Effect on the character and appearance of the area including the wildlife.

5.3 The material considerations raised are dealt with in the following assessment.

## **6. Assessment**

### Site Description

- 6.1 The application site is located on the southern side of Thorpe Road to the east of the village of Tendring and is considered to be within a rural location, outside of the defined settlement development boundary of Tendring in both the adopted and emerging Local Plans. The site comprises of an access track, an existing agricultural building (permission granted under 19/00078/FUL as a sheep shelter) and an area of hardstanding around the building of some 0.24 hectares, which is gated and bordered by a post and rail fence.
- 6.2 The site is part of a wider parcel of agricultural land equating to approx. 13 hectares in size and containing an agricultural barn located further to the south of the site. The land is used for sheep rearing/grazing. There is an existing gated accessway from Thorpe Road, which is bordered by a post and rail fence as granted under planning permission 19/00078/FUL.
- 6.3 The wider site slopes down towards the south and west where the eastern boundary is terminated by a brook. The majority of the site is bordered by areas of woodland on its southern, eastern and western boundaries. There are residential dwellings opposite the entrance of the site on Thorpe Road and a restaurant business to the west. Other dwellings and farms are sited around the site, however given the rural nature of the area and the extent of the agricultural land, these are some distance away.

### Proposal

- 6.4 The application seeks planning permission to convert part of the existing agricultural building/sheep shelter to an agricultural vehicle repair workshop (Use Class B2). A partition is to be constructed to divide the building into two. The remaining part of the building will continue to be used as a sheep shelter and as part of the agricultural use of the wider site.
- 6.5 The area of the building to be used measures 13.5m x 12.5m and 5m to ridge and is set 190m back from the access on Thorpe Road. There is a small bund to its northern side. The building has a low pitched roof with shutter doors to the north and south elevations and is clad in black timber which is typically seen on agricultural buildings. No external alterations are proposed.
- 6.6 The application is supported by:

Noise Impact Assessment – Pace consult PC-21-0007-RP1 dated 12<sup>th</sup> April 2021  
 Intermodal Transport report on Highway Matters dated August 2021  
 Supporting Statement - Additional Information  
 Supporting Statement - Applicant

### Principle of Development

- 6.7 The principle of the building on the site, the access and its agricultural use has been established in the planning consent granted under application 19/00078/FUL, therefore it is the principle of the change of use that needs to be considered.

- 6.8 Tendring is classified as a smaller rural settlement and is therefore likely to have a lower provision of services available in terms of job opportunities, local services, facilities and other infrastructure. However, it is recognised that some small scale development is necessary to support the growth of the rural economy, therefore any development should be sympathetic to the rural character of the area. Due to the very advanced stage of the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017), great weight can be given to Policy PP13 which seeks to support the Rural Economy, by granting planning permission for specific types of development outside of defined settlement development boundaries, such as the conversion or re-use of rural buildings in the countryside to employment, leisure or tourism use and/or buildings that are essential to support agricultural, aquaculture, horticulture and forestry and farm diversification schemes. Saved Policy ER11 supports these considerations.
- 6.9 The Council seeks to support the growth of new and existing businesses in the District and is minded to grant permission for any such proposals, providing they have an acceptable impact on visual and residential amenity, rural amenity, and transportation considerations.
- 6.10 Therefore, the principle of the conversion of part of the existing agricultural building to an employment use, namely an agricultural vehicle repair workshop has policy support and is considered to be the type of business suitable for a rural location in that it would directly support the existing agricultural and rural communities of the area.
- 6.11 The proposal is therefore acceptable in principle subject to the detailed considerations outlined below.

#### Proposed Operation of Workshop Business

- 6.12 The application provides information regarding the operation of the business and it is intended to be used for work on agricultural vehicles, including Land Rover Defenders and related machinery. This will include the tuning of Land Rovers, owned by many farmers, and the installation of a dynamometer to facilitate this. Empire Tuning who will operate the workshop have an established site in Colchester (which will remain) and have clients who are farmers in the local area. The workshop would provide them with diagnostic work, breakdown support, electrical fault finding and performance remapping, thus enabling them to service new and existing clients in this location. It is also noted that the existing agricultural workshop in Beaumont does not provide the same services as Empire Tuning would provide.
- 6.13 The operating hours are proposed as 8.30am – 5.30pm Mondays to Fridays and 8.30am – 3.30pm on Saturdays and would be run by the applicant initially with the intention to employ an additional member of staff if the level of work permits. It is not considered that the site will be occupied at all times due to the operation of the two sites, Colchester and Tendring as well as making off-site visits to customers.
- 6.14 The electric and water infrastructure is all in place and will be connected to the mains. Regarding waste water, it is proposed to use a waste management system such as the Ensign system from Marsh industries, this exceeds all current legislation in terms of water outlet, environmental disposal and waste storage, details of which have been submitted with the application.
- 6.15 Given the rural/agricultural nature of the site, it is considered reasonable to limit the use of the site to the purpose of servicing agricultural vehicles (as applied for), the specification of which can be controlled by condition, with a log book to be kept of all vehicles serviced. As this is a specific business use, albeit within Class B2, it would also be prudent to restrict any alternative use of the building within Class B2, other than that proposed by the applicant, Empire Tuning. These elements can also be secured by condition to any grant of planning permission. This would help to alleviate the concerns raised by neighbouring occupiers as to its future use.

### Character and Appearance

- 6.16 With regard to design and appearance, Para 126 of the NPPF states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- 6.17 Policy SP7 states that all new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Emerging Policy SPL3 seeks to provide new development which is well designed and maintains or enhances local character and distinctiveness. The development should relate well to its site and surroundings particularly in relation to its siting, height, scale, massing, form, design and materials and should respect or enhance local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features. Saved Policy QL11 supports these considerations.
- 6.18 Saved Policy EN1 is also relevant to this application and seeks to maintain the quality of the District's landscape and its distinctive local character will be protected and, where possible, enhanced. Any development which would significantly harm landscape character or quality will not be permitted.
- 6.19 There are no external alterations to the building as approved under application 19/00078/FUL. The shutter doors are not currently in place, however these form part of the original consent and are not required to be considered as part of this application.
- 6.20 Therefore, there would be very little alteration to the external appearance of the building and it is not proposed to be extended in anyway, maintaining its overall appearance as an agricultural building and thus mitigating any harm to the surrounding landscape character. It is noted that under the previous approval, significant landscaping works have been undertaken to improve the overall appearance of the site and to screen the development from views along Thorpe Road. Some external lighting to the building is proposed and the details of this can be submitted and agreed by way of a condition to any grant of planning permission.
- 6.21 Internal works include the construction of a partition wall and the fitting out of the workshop.
- 6.22 The proposed change of use is considered to be a low key operation intended to serve the agricultural community in and around Tendring, with limited vehicle movements. Those vehicles visiting the site would be of an agricultural nature and therefore the proposed change of use to an agricultural workshop is not considered to unduly impact on the character of this rural site over and above that which already exists currently.

### Impact on Residential Amenity

- 6.23 Paragraph 130 of The Framework maintains that policies and decisions should result in new development that creates places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users
- 6.24 Adopted Policy SP7 and emerging Policy SPL3 seek to avoid land use conflict and protect the amenity of neighbours. Saved Policy ER7, amongst other things, requires that the scale and nature of a proposal is appropriate to the locality, including its relationship with adjacent uses, and that there is no unacceptable impact on amenity in terms of appearance, noise, smell, dirt or other pollution.

- 6.25 Further to the initial consultation with the Council's Environment Protection (EP) officers, a Noise Impact Assessment was conducted and submitted to overcome the initial concerns raised by EP. The assessment deals comprehensively with the sound reduction techniques to be employed. The report explains the proposed materials to be utilised and the level of noise reduction that will be achieved. The noise assessment shows evidence that the noise from the proposed dynamometer cell if constructed in the manner proposed will be significantly below the pre-existing background noise surrounding the site. Therefore, subject to relevant conditions to ensure the works are carried out as detailed in the submitted NIA, which includes sound proofing the building, EP are satisfied with its findings and recommendations in relation to the noise emission from the site.
- 6.26 The proposed additional ventilation system must be compliant with the recommendations, outlined in the NIA on pages 28 and 29, details of which are to be submitted to and approved by the Local Planning Authority, to which there is no objection raised by EP. No solvents, apart from brake cleaner are to be used on site nor is paint spraying proposed within the building. A suitably designed and approved ventilation system is considered able to appropriately deal with any fumes associated with the workshop use of the building.
- 6.27 It is noted in the application submission that any waste oil would be stored in an appropriate sealed container and taken away from the site by a licensed company. Any other waste would be minimal and would be recycled as and where available. It is considered appropriate to require details of the waste disposal methods, including storage of, to be submitted and agreed with the Local Planning Authority prior to the commencement of the use of the workshop.
- 6.28 Therefore, it can be concluded that any noise and pollution impacts arising from the proposed use of the site can be adequately mitigated to ensure that there is no harm to residential amenity resulting from the use of the building as a vehicle repair workshop.
- 6.29 Given the existence of the building and its distance from any neighbouring residential occupiers no overlooking or loss of privacy concerns are raised. There is likely to be some increase in vehicle movements in and out of the site, opposite the residents on Thorpe Road, however given that this is a main B-road with a de-restricted speed limit it is not considered that these movements would be materially more harmful than the general use and noise associated with traffic using this section of the main highway, particularly given the proposed hours of operation, which again can be controlled by condition and would also prevent any operation of the business outside of these hours or on Sundays or Public/Bank Holidays.
- 6.30 Whilst no details have been submitted with the application, details of any proposed external lighting must be first submitted to and agreed by the Local Planning Authority in order to protect residential amenity and the rural character of the area, including any impacts on wildlife.
- 6.31 In conclusion, it is not considered that the proposal would have an unacceptable harmful effect on the living conditions of the occupants of neighbouring dwellings or businesses.

#### Highway Safety and Parking

- 6.32 Saved Policies TR1a, TR3a and TR7, together and amongst other things, require: transport assessments for proposals which are likely to have transportation implications and compliance with adopted parking standards. For B2 uses, saved Policy ER7 (c) requires satisfactory vehicular access and adequate car parking to be provided, Emerging Policy SPL3 Part B (a) requires that access is practicable and be able to safely accommodate additional traffic generated.
- 6.33 Paragraph 111 of the Framework states that Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

- 6.34 The site is accessed via a track situated on a stretch of Thorpe Road that is subject to a de-restricted speed limit and is classed as a Secondary Distributor in the County Council's Route Hierarchy. The current vehicular access was approved to serve the wider site, being for purely agricultural purposes in respect to the use of the buildings approved on site. The width of Thorpe Road at the access point is approximately 5.8 metres in width. In conjunction with approved application 19/00078/FUL the applicant has substantially improved the access to the site. The supporting information confirms that the width of the access is wider than a single track and is 4.6 metres in width and that the access was improved in accordance with planning application reference: 19/00078/FUL – Condition 4.
- 6.35 The applicant has advised that repairs would fall into three broad categories:
1. On-site repair of large agricultural vehicles.
  2. On-site repair of smaller vehicles such as those of car size – limited to Land Rover Defenders only.
  3. as a base to service agricultural machinery at client's farms.
- 6.36 The workshop is proposed to be staffed initially by the applicant and this in time may increase to two people. Therefore, it is considered that the site would generate relatively low trips and a John Deere 4-wheel drive tractor is stored within the wider site and regularly uses the site access road and its junction with Thorpe Road.
- 6.37 The adopted parking standards state that for a Class B2 use, 1 car parking space per 50sqm and 1 cycle space per 250sqm is required. The floor space of the workshop is approximately 170sqm, therefore 3 – 4 parking spaces are required and 1 cycle space. The area around the workshop is considered to be of sufficient size to accommodate the required level of parking. It is also considered that the access and parking area is large enough to accommodate large agricultural vehicles visiting the site.
- 6.38 As such, from a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to mitigation and conditions in regard to visibility splay at access, vehicular turning facility, no unbound material to be used near highway, no discharge of water onto Highway and new agricultural vehicle warning signage on Highway.

#### Trees, Landscaping and Biodiversity

- 6.39 The fourth bullet point of adopted Policy SP7 requires that all new development should incorporate biodiversity creation and enhancement measures. Emerging Policy SPL3 Part A (d) includes that the design and layout of development should maintain or enhance ecological value. Saved Policies EN1 and EN6 reflect these considerations.
- 6.40 Condition 2 of Planning permission 19/00078/FUL, sought the submission of a soft and hard landscaping scheme to be submitted and agreed by the LPA. This has been submitted and approved and covers the wider site, incorporating the application site.
- 6.41 Information submitted with the application states that the main use of the wider site will remain as a sheep farm and the owners have carried out significant works to the land, having planted over 500 native trees and a natural hedge along the north and west borders of the wider site, planted further natural shrubs on top of the bunds and set aside areas of un-grazed grassland to encourage small mammals and insects and to generally promote wildlife on the wider site. Pesticides are no longer used on the site and the owners intend to farm the area in an environmentally friendly way.
- 6.42 The Council's Tree and Landscape Officer was consulted on the application and has no objection to the proposed change of use per se as this would not result in the removal of or

cause harm to any existing trees or other vegetation. The change of use has potential to alter the character of the area by introducing an engineering operation in a rural setting. However, the machinery and vehicles serviced in this location are of an agricultural nature and what would be expected to be seen in an agricultural setting. Therefore, the change of use as proposed is not considered to materially alter the agricultural character of the area.

- 6.43 Notwithstanding the concerns of objectors, there is no evidence that protected species, biodiversity or habitats would be harmed by the implementation of the change of use on a small part of this wider agricultural site that has a specific landscaping scheme approved.
- 6.44 The proposal would not therefore conflict with the development plan or the Framework in these regards.

## **7 Conclusion**

- 7.1 The site would provide an agricultural vehicle repair workshop which would be beneficial to the surrounding farming community and would provide an employment opportunity in this rural area. The applicant submitted information and reports which have overcome the initial objections from both TDC Environment Protection and ECC Highways.
- 7.2 As such, subject to the imposition of a number of planning conditions, it is considered that the proposed development is consistent with the National and Local Plan Policies identified above. In the absence of material harm resulting from the proposal the application is recommended for approval.

## **8 Recommendation**

- 8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives:

### **8.2 Conditions and Reasons**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in strict accordance with the following approved plans and documents:

Drawing No: MFT/21/1 Block Plan  
Drawing No: MFT/21/2 Site Plan  
Drawing No: MFT/21/3 Elevations and Floorplans

Noise Impact Assessment – Pace consult PC-21-0007-RP1 dated 12th April 2021  
Intermodal Transport report on Highway Matters dated August 2021  
Supporting Statement - Additional Information dated 15/04/21  
Supporting Statement – Applicant 22/12/21

Reason: In the interests of proper planning and for the avoidance of doubt.

3. The use of the building hereby approved shall be limited to agricultural farm vehicles, machinery and Land Rover Defenders only, with all works undertaken within the workshop building. No other vehicles whatsoever shall be worked on within the site. Furthermore a log book shall be maintained of all vehicles worked on, including make, model, registration

number and owner details and shall be made available for inspection at any time by the Local Planning Authority.

Reason: To maintain the agricultural character and appearance of the site and the wider area.

4. The use of the building hereby approved shall be operated by Empire Tuning only.

Reason: To allow the Local Planning Authority to control the use of the building in this sensitive rural location.

5. Prior to the commencement of the use hereby approved details of the proposed Ventilation System must be submitted to and approved in writing by the Local Planning Authority. Any new ventilation installation must comply with the recommendations of the submitted Noise Impact Assessment and must not exceed a sound emission of 23dB(A) at the nearest residential property - identified as Hillside Cottage on page 12 of the submitted Noise Impact Assessment. The internal passage velocities of the system should not exceed 8-10m/s and appropriate dampening techniques must be employed, where necessary, to achieve this level and ensure compliance.

Reason: In the interests of residential amenity

6. Prior to the commencement of the use hereby approved details of the proposed waste management system must be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that an adequate and satisfactory means of foul drainage in accordance with Circular 3/99 is provided to avoid pollution, in the absence of a foul sewer.

7. Prior to first occupation of the repair workshop, the road junction/access at its centre line shall be provided with a clear to ground visibility splay provided with dimensions of 2.4 metres x 215 metres in both directions, in accordance and in compliance with the 2019 permission, (19/00078/FUL) as measured from and along the nearside edge of the carriageway. The necessary works to the visibility splays is to be undertaken prior to first occupation and retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between vehicles using the road junction / access and those in the existing public highway in the interest of highway safety.

8. No unbound material shall be used in the surface treatment of the vehicular access within 15 metres of the highway boundary.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety

9. There shall be no discharge of surface water onto the Highway.

Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety

10. Prior to the first use of the workshop hereby approved, the signage (below) sign diag. no. 553.1 (size: 750x750mm) with sub-plate sign diag. no. 553.2 (Tractors turning) shall be erected either side of the vehicle access (distance from access shall be in accordance with Appendix A of Traffic Signs Manual Chapter 4) details of which to be submitted to and agreed in writing with the Local Planning Authority. The signs will need to be mounted on a post at a minimum height of 1.5 metres and the edge of the sign will need to be set back

0.5 metres back from the edge of the carriageway, to avoid being struck by passing vehicles:



Reason: To notify drivers of possible agricultural vehicles ahead, in the interests of highway safety and in accordance with Policy DM1.

11. No goods or materials shall be stored, stacked or deposited externally.

Reason - The external storage of goods outside the workshop would result in harm to the character and appearance of the rural area.

12. No machinery shall be operated, no process shall be carried out and no deliveries taken at or dispatched from the site outside the following times Mondays to Fridays 8.30am – 5.30pm and 8.30am – 3.30pm on Saturdays and at no time on Sundays or Bank Holidays.

Reason: In the interests of residential amenity

13. No external lighting shall be installed until details of the illumination scheme have been submitted to and approved in writing by the Local Planning Authority. Development shall only be carried out in accordance with the approved details.

Reason - In the interests of amenity to reduce the impact of night time illumination on the character of the area

### 8.3 Informatives

All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to:

SMO1 – Development Management Team  
Ardleigh Depot,  
Harwich Road,  
Ardleigh,  
Colchester,  
CO7 7LT

On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area, it covers, and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for



maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

## **9 Additional Considerations**

### Public Sector Equality Duty (PSED)

- 9.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
- 9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- 9.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
- 9.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.
- 9.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 9.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

### Human Rights

- 9.8 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 9.9 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).
- 9.10 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

### Finance Implications

- 9.11 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.

## **10 Background Papers**

- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report) also form background papers. All such information is available to view on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.



**Application:** 20/00907/FUL

**Town / Parish:** Brightlingsea Town Council

**Applicant:** Mr Tim Clarke

**Address:** Land rear of 87 to 89 Tower Street, Lime Street, Brightlingsea

**Development:** Proposed use of land to form annexed garden ground and erection of storage building, and siting of two water tanks, and retrospective siting of two water tanks and summerhouse (4 water tanks in total).

## 1. **Executive Summary**

- 1.1 The application is referred to the Planning Committee at the request of Ward Councillor Jayne Chapman, due to concern over the scale of the proposed storage building and the site's location (remote from the host dwelling), in an area liable to flooding where historic covenants would preclude the development.
- 1.2 The proposal is situated in an edge-of-settlement location, divorced from the applicant's flatted dwelling in Brightlingsea. Nevertheless, development plan policy would not preclude the proposal in principle and it would not materially harm the character or appearance of the area, or wider landscape. There is a recreational functional need for the development to be located in this location and the proposal is compatible with adjoining land uses. The site is not at risk of flooding and the proposal would not harm the residential amenity of neighbours, having particular regard to privacy and outlook, noise and disturbance. There would be no harm to sites protected for their biodiversity importance, and there is no objection from the Local Highway Authority.
- 1.3 Subject to conditions the proposal would therefore comply with the requirements of the development plan and material considerations do not indicate that planning permission should be refused in this case. Approval is, therefore recommended.

### **Recommendation:**

That the Head of Planning be authorised to grant planning permission for the development subject to:-

- a) the conditions stated in section 8.2

## 2. **Planning Policy**

- 2.1 The following Local and National Planning Policies are relevant to this planning application:

*National Planning Policy Framework July 2021*  
*National Planning Practice Guidance*

*Adopted Tendring District Local Plan 2007 (part superseded)*

QL3 Minimising and Managing Flood Risk  
QL11 Environmental Impacts and Compatibility of Uses (part superseded)  
HG16 Garden Extensions into the Countryside

EN1	Landscape Character
EN3	Coastal Protection Belt
EN6	Biodiversity
EN11a	Protection of International Sites
COM21	Light Pollution
TR1a	Development Affecting Highways
TR4	Safeguarding and Improving Public Rights of Way

*Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) (Section 1 adopted on 26th January 2021)*

*Relevant Section 1 Policies (adopted)*

SP1	Presumption in Favour of Sustainable Development
SP7	Place Shaping Principles

*Relevant Section 2 Policies (emerging)*

SPL1	Managing Growth
SPL2	Settlement Development Boundaries
SPL3	Sustainable Design
PPL1	Development and Flood Risk
PPL2	Coastal Protection Belt
PPL3	The Rural Landscape
PPL4	Biodiversity and Geodiversity
CP2	Improving the Transport Network

*Supplementary Planning Guidance*

*Essex County Council Development Management Policies 2011 (the Highways SPD)  
Tendring Landscape Character Assessment 2001 (TLCA)*

**Status of the Local Plan**

- 2.2 Planning law requires that decisions on planning applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework 2021 (the Framework).
- 2.3 The 'development plan' for Tendring comprises, in part, the 'saved' policies of the 2007 Local Plan. Paragraph 219 of the Framework allows local planning authorities to give due weight to policies adopted prior to its publication according to their degree of consistency with the policies in the Framework. On the 26th January 2021 Section 1 of the 2013-2033 Local Plan was adopted and now also forms part of the 'development plan' for Tendring, superseding some of the more strategic policies in the 2007 Local Plan. Notably, the housing and employment targets were found sound and have been fixed, including the housing requirement of 550 dwellings per annum.
- 2.4 Paragraph 48 of the Framework allows weight to be given to policies in emerging plans, according to their stage of preparation, the extent to which there are unresolved objections to relevant policies, and the degree of consistency with the policies of the Framework. On 24th November 2021, the Council received the Planning Inspectors' final report on the legal compliance and soundness of Section 2 of the emerging Local Plan. The report has confirmed, that with the inclusion of a number of 'Main Modifications' (which have already been the subject of formal public consultation), the Plan is legally compliant and sound and can now proceed to

adoption. The report is due to be considered by the Planning Policy and Local Plan Committee on 11th January 2022 which is likely to recommend adoption of the Section 2 Local Plan to Full Council on 25th January 2022. On adoption, the new Section 2 Local Plan will join the new Section 1 Local Plan to form the 'development plan' for Tendring and the old 2007 Local Plan will be superseded in full.

- 2.5 Now that the Inspectors' final report is received, the Section 2 Local Plan has virtually reached the final stage of preparation, all objections have been resolved and the Inspector has confirmed that the Plan is sound and therefore in conformity with the Framework. For these reasons, Officers now advise that the emerging Plan should now carry 'almost full weight' in decision making.
- 2.6 Until the new Local Plan is adopted in January 2022, the 2007 adopted Local Plan, legally, will still form part of the 'development plan' and there will still be a requirement to refer to the 2007 Local Plan in decision making. However, the level of weight to be afforded to the policies in the 2007 Plan is reduced to very limited weight given that a more up to date Plan has progressed to such an advanced stage of the plan making process.

**3. Relevant Planning History**

15/01545/FUL	Outbuilding/garage. 73 Tower Street Brightlingsea, CO7 0AN [Adjacent to the application site]	Approved	18.12.2015
13/01355/FUL	Use of land for long term container and boat storage together with tool and plant storage. Land rear of 87 & 89 Tower Street, Brightlingsea CO7 0BH [The application site]	Refused	05.02.2014

**4. Consultations**

ECC Highways  
13.04.2021

The Highway Authority does not object to the proposals as submitted.

Informative1: The public's rights and ease of passage over Public Footpath Nos. 11 and 12 (Brightlingsea) shall be maintained free and unobstructed at all times.

Informative2: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to:

SMO1 - Development Management  
Essex Highways Ardleigh Depot,  
Harwich Road,  
Ardleigh,

Colchester,  
Essex  
CO7 7LT

## **5. Representations**

5.1 The application was publicised by site notice and immediate neighbours were notified in writing. Following the receipt of revised plans reducing the scale of the proposed storage building and including retrospective elements, and a revised description of development proposed (in the interests of precision and clarity) neighbours and objectors were re-consulted. In response to the initial consultation 3 neighbour objection letters were received. In response to re-consultation 2 were received. Objection raised therein may be summarised as follows:

- Noise pollution
- Harm to highway safety through increased traffic
- Harm to outlook
- Loss of light and overshadowing
- Previous applications have been rejected
- Damage to the Public Right of Way

5.2 The application is the subject of a call-in request from Ward Councillor Jayne Chapman in the event that approval is recommended. The reasons given are:

- The building is too large (original proposal)
- There are historic covenants that link this piece of land, where it has historically been used for storage, uncovered
- The area is on a flood plain
- The building is stand alone, whereas the other buildings are in back gardens

5.3 Brightlingsea Town Council (BTC) objected to the original proposal on the same grounds as the Ward Councillor. Following re-notification of the revised proposal BTC comment that their objection and previous comments still apply.

## **6. Assessment**

6.1 By way of background, on initial receipt the proposal was accompanied by various plans and 3D visualisations. These were confusing and incompatible with each other. Furthermore, the proposed scale of the storage building was considered to be excessive for its intended purpose, and harmful to both the character and appearance of the area and to the outlook of neighbouring residents. Nevertheless, revised plans addressing these concerns were received. However, following a further site visit it became clear that a small summerhouse and two water tanks had already been sited on the land and some landscaping undertaken. As a result, further revised plans have been sought and a revised description of development has been agreed with the applicant as set out in the header above.

### The Site

6.2 Located to the rear of Nos. 87 to 89 Tower Street the site has a frontage facing Lime Street. Public Right of Way Brightlingsea Footpath No. 11 follows the route of Lime Street, which also provides means of vehicular access to the rear of dwellings on Tower Street, and to plots of land to the east, many of which have a variety of garages, boat storage buildings and stables. To one side of the site is a block of flat-roofed pre-fabricated modern garages. On the other side, beyond a small parking area, is an outbuilding/garage approved under application reference 15/01545/FUL. The site is located outside of but adjacent to the Settlement

Development Boundary, as defined in the adopted and emerging local plans. Both include the site with the defined 'Coastal Protection Belt'.

### Planning History

- 6.3 As referred to by objectors planning permission for use of the site for the long term storage of shipping containers for boat, tool and plant storage was refused under planning application reference 13/01355/FUL. Three reasons for refusal were given, which may be summarised as follows:
- i) *Lack of compelling functional or critical operational requirement within the Coastal Protection Belt and harm to the character and appearance of the area, contrary to saved Policies EN1 and EN3*
  - ii) *Harm to the living conditions of neighbours, having regard to disturbance, contrary to saved Policy QL11 and the National Planning Policy Framework.*
  - iii) *Harm to highway safety due to the lack of a turning area for vehicles, contrary to saved Policy QL10 [now superseded].*
- 6.4 Adjacent to the site planning permission for an outbuilding/garage of a broadly similar scale and appearance to the current proposal was approved under planning application reference 15/01545/FUL.

### Proposal

- 6.5 The proposal is part-retrospective (siting of water tanks and summerhouse) and proposes the use of the land to form annexed garden ground to serve the applicant's dwelling at the Waterside Marina and the construction of a storage building with further water tanks. The storage building would be set back 2.5m from Lime Street and would measure 5m to the ridge, 3m to the eaves, with a footprint of 36sqm. To the elevation facing Lime Street the gable would contain a 3.6m wide 2.4m high access doorway, above which a 0.6m high x 2m wide rectangular window would be inserted. The rear gable would have a doorway, above which a further rectangular window would be inserted. Two 6000 litre green water storage tanks have been sited on one side of the site, two further are proposed to the other, adjacent to the proposed storage building. A mono-pitched roofed timber summerhouse has been sited behind the two water storage tanks, measuring 2.1m high and approximately 6sqm in floor space. The water tanks are fed by rainwater from the adjacent garages and the summerhouse houses a solar-powered pump for irrigation.
- 6.6 Some aspects of the proposal have already taken place. Therefore, the proposal ought to be considered in part under Section 73A of the Town and Country Planning Act 1990 for development already carried out in part. The Planning Practice Guidance (PPG) makes clear it cannot be assumed that planning permission will be granted, and the Local Planning Authority should take care not to fetter its discretion prior to the determination of any application for planning permission - such an application must be considered in the normal way (Paragraph: 012 Reference ID: 17b-012-20140306).

### Principle of Development

- 6.7 Saved Policy BR4 (Lime Street Area) which is imminently to be superseded is referred to by the applicant in support of the proposal. There is no direct replacement of this policy in the emerging Section 2 Local Plan. However, the site lies outside of this policy area (as it refers to land immediately to the east). Nevertheless, the associated text to this policy is helpful, in that it refers to storage uses in the Lime Street area and recognises that there is a concentration of



such uses close to residential properties on Tower Street, which perform an important function in connection with the recreational activities of the town.

- 6.8 Because the application site is located outside of the Brightlingsea Settlement Development Boundary and the proposal is for the annexed garden ground use of land, saved Policy HG16 which addresses garden extensions in the countryside is broadly relevant. The policy states:

*“Proposals for the extension of a domestic garden into the countryside will only be permitted if:*

- i. there is no material visual harm to the surrounding countryside;*
- ii. there would be no material loss of existing trees, shrubs or hedgerows or damage to other habitats of nature conservation value;*
- iii. it would not result in a material loss of best and most versatile agricultural land, or otherwise seriously interfere with a neighbouring agricultural enterprise; and*
- iv. it would have no material adverse effect on the amenities of neighbouring properties.*

*In order to secure privacy and attain a good standard of visual amenity for the countryside, the planting and retention thereafter of native species trees and hedging will be required. The Council may impose conditions removing Permitted Development Rights within the new area of garden.”*

- 6.9 Again, there is no direct replacement of saved Policy HG16 in the emerging Section 2 Local Plan. Instead, it is expected that countryside and landscape protection policies will address such proposals. However, subject to not offending any of the associated criteria and in considering the objection of the Town Council and Ward Member to the remote nature of the proposal, there is nothing in the adopted or emerging local plans that would preclude the principle of use of the land.

- 6.10 Due to the site’s location within the identified Coastal Protection Area saved Policy EN3 and emerging Policy PPL2 are relevant. Both state the Council will protect the open character of the undeveloped coastline and refuse planning permission for development which does not have a compelling functional or operational requirement to be located there. Part b) of Policy PPL2 states that where development does have a compelling functional or operational requirement to be there, its design should respond appropriately to the landscape and historic character of its context, and applicants will be required to demonstrate that any development proposals will be safe over their planned lifetime.

- 6.11 The preamble to the associated text of Policy PPL2 refers to the origins of the Coastal Protection Belt in Tendring District originally being intended to protect landscape character. It goes on to state that the National Planning Policy Framework (the Framework) requires that local planning authorities should avoid inappropriate development in vulnerable areas [such as those under threat from coastal erosion] and so the Coastal Protection Belt now serves a further purpose; to help ensure new development which does not need to be located within such areas is directed to more sustainable locations. Nevertheless, in this case, the site is not considered to be at undue risk of coastal erosion and it does not appear to be identified for proposed works under the 2010 Essex and South Suffolk Shoreline Management Plan. There is nothing to suggest on the basis of the evidence that the proposal would not be safe over its planned lifetime.

- 6.12 In terms of a compelling functional or operational requirement to be located on the application site, the applicant relies on the fact that they live locally and require boat storage facilities with good access to the marina, together with annexed outdoor amenity space. Having regard to these considerations it is considered that there is a functional and operational recreational requirement for the development to be located in this location. Furthermore, the proposed uses would be a good fit with established surrounding uses in the area.
- 6.13 For the above reasons the proposal is considered to be acceptable in principle, subject to consideration of the associated criteria of the above policies and other main issues, and material considerations, all of which follow below.

#### Visual Amenity and Landscape Character

- 6.14 The proposal is located between existing storage and garage buildings and other storage buildings are located opposite the site. It is understood that the site was previously connected with No 77 Tower Street and the rear gardens of other dwellings run down to Lime Street either side of the development. The proposal would thereby be in keeping with the established pattern of development in the locality.
- 6.15 The design of the proposed storage building is very similar to an adjacent structure in terms of its massing, scale and detailing. As such, it would respond positively to local character. The summerhouse and water tanks are very minor structures and have not had a harmful effect. Although the plans are single-line drawings and somewhat lacking in detail, they are sufficient to describe the development proposed. Subject to the use of conditions to require the prior approval of precise details of external materials and finishes, the storage building would not harm the character and appearance of the area. Thus, the proposal would not conflict with the place shaping principles of adopted Section 1 Policy SP7. However, conditions should also be imposed to require prior approval of any boundary treatment to Lime Street, and permitted development rights for such future works should be removed, both in the interests of protecting the visual amenity of the area.
- 6.16 Saved Policies EN1 and EN3, and emerging Policy PPL3, together, seek to protect landscape character. Emerging Policy PPL2 a) seeks to protect the open character of the undeveloped coastline. The site is located within the 3B Brightlingsea Coastal Slopes Character Area, which is highly sensitive to change, as a result of its visibility and its importance as a setting for the Colne Estuary and its tributaries. However, the proposal is small in scale and it is not considered harmful to landscape character; for the above reasons the development is located within an area that is in use as garden ground containing similar developments. Accordingly, the proposal would not conflict with these policies in landscape terms.

#### Impact on Residential Amenity

- 6.17 Criterion iv) of saved Policy HG16, saved Policy EN3, and adopted Section 1 Policy SP7, together, require that proposals do not have a harmful effect on the living conditions of neighbours. Having regard to the relatively modest scale of the proposed building and good separation from neighbours on Tower Street, it is considered that the proposal would not be overbearing or result in any unacceptable loss of daylight or sunlight. The proposal is not for residential occupation and there would not therefore be any issues in relation to window to window separation distances. The rear elevations of dwellings on Tower Street are already seen in public views from the Public Right of Way along Lime Street. Because of this, there would be no undue loss of privacy. Furthermore, the proposal is for a private not business use unlike earlier proposals which were refused, and it would not therefore result in any unacceptable level of noise and disturbance having regard to existing land uses. For these reasons, officers consider that the proposal would not conflict with the above policies in terms of the effect of the development on neighbouring residential amenity. However, conditions are recommended to

require prior approval of any external lighting, and to limit the use to that applied for and for no B8 storage and distribution or any other commercial use.

#### Highway Safety/Parking

- 6.18 Access to the site involves crossing Public Rights of Way Brightlingsea Nos. 11 & 12. In view of this and in recognition of the concerns of objectors further information was requested by the Council. In response, the applicant has clarified that the storage use is likely to take place from December to April (1 combination road trailer and 2 laser dinghies), and from the autumn until April (1 classic car). The applicant further states that usage will be typically once or twice a day to gain access to gardening tools and for recreational use. Five days per week in the summer and two days per week, or less, in winter. Travel is stated as being made mostly by foot. Following this clarification, no objection has been raised by Essex County Council as Local Highway Authority.
- 6.19 The proposed use is relatively low key and overall in the context of existing development and surrounding uses the proposal would not result in a significant increase in traffic movements. Furthermore, the character and nature of the traffic would not be commercial. As such, the proposal would be unlikely to result in harm to highway or pedestrian safety. In this respect, the proposal would not therefore conflict with saved Policies TR1A or TR4, adopted Policy SP7, or emerging Section 2 Policy CP2.

#### Flood Risk

- 6.20 The Concerns of the Ward Member in relation to flood risk are understood. However, the site is located within Flood Zone 1 with the least probability of flooding. The proposal is for a storage use and the small scale of the site does not trigger the need for a Flood Risk Assessment. The proposal is not at risk of flooding and would not unduly increase the risk of flooding elsewhere; rainwater run-off is harvested and re-used.

#### Landscaping/Biodiversity

- 6.21 The Colne Estuary is designated as a Ramsar site, SAC, SPA, SSSI and NNR. At its closest the site is located 0.36km from the Ramsar, SAC, SPA and SSSI, but it is not located within them. It is considered that the proposal would not affect these sites and so it is not necessary to carry out a Habitat Regulations Assessment. The proposal is not for residential accommodation and thus the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy Supplementary Planning Document does not apply. The site has already been partly landscaped which is likely to have increased its biodiversity and value to pollinators. Nevertheless, any remaining hard/soft landscaping features ought to be included within a planning condition to ensure acceptability.

#### Other matters

- 6.22 The proposal would not affect any designated heritage asset, the site being outside of the Conservation Area and not affecting its setting, and not being located within the setting of any listed building.
- 6.23 As the development has already partly commenced no standard time limit condition is necessary.
- 6.24 Notwithstanding the concern of those who are in objection to the proposal, maintenance of the surface of the Public Right of Way and historic covenants are not material planning matters.

### **7. Conclusion**

7.1 For the above reasons, the proposal is considered to accord with the provisions of the development plan and material considerations do not indicate that planning permission should be forthcoming. Approval is, therefore recommended.

## **8. Recommendation**

8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives.

### **8.2 Conditions and Reasons**

1. The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan Dated 25.07.2020  
Site Plan Dated 22.06.2021, Dwg. No. TC 01.22  
Elevations and Layout, Dwg. No. TC 01.21  
Photographs of Summer House and Water tanks

Reason - For the avoidance of doubt and in the interests of proper planning.

2. The use of the storage building hereby permitted shall be limited to private use only, as set out in the application, and shall not be used for any B8 storage and distribution or any other commercial use.

Reason: In the interest of protecting the residential amenity of neighbours.

3. External lighting shall only be install in accordance with scheme of external lighting which shall have first been submitted to and agreed in writing by the local planning authority.

Reason: In the interest of preventing unnecessary light pollution.

4. Any boundary treatment to Lime Street shall only be erected in accordance with details which shall have first been submitted to and approved in writing by the local planning authority.

Reason: In the interest of visual amenity.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no boundary treatment to Lime Street shall be erected other than as may have been expressly authorised by Condition 4 of this permission.

Reason: In order that such development can be controlled in the interests of visual amenity.

6. External materials and finishes, windows and doors of the storage building hereby approved, and any remaining hard/soft landscaping to be carried out, shall be in accordance with precise details which shall have first been submitted to and agreed in writing by the local planning authority.

Reason: In the interest of visual amenity.

### **8.3 Informatives**

1. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
2. The public's rights and ease of passage over Public Footpath Nos. 11 and 12 (Brightlingsea) shall be maintained free and unobstructed at all times.
3. All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.
4. The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to:

SMO1 – Development Management  
Essex Highways Ardleigh Depot,  
Harwich Road,  
Ardleigh,  
Colchester,  
Essex  
CO7 7LT

## **9. Additional Considerations**

### Public Sector Equality Duty (PSED)

- 9.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
  - 9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
  - 9.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
  - 9.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.
- 9.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.

- 9.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

#### Human Rights

- 9.8 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 9.9 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).
- 9.10 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

#### Finance Implications

- 9.11 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.

### **10. Background Papers**

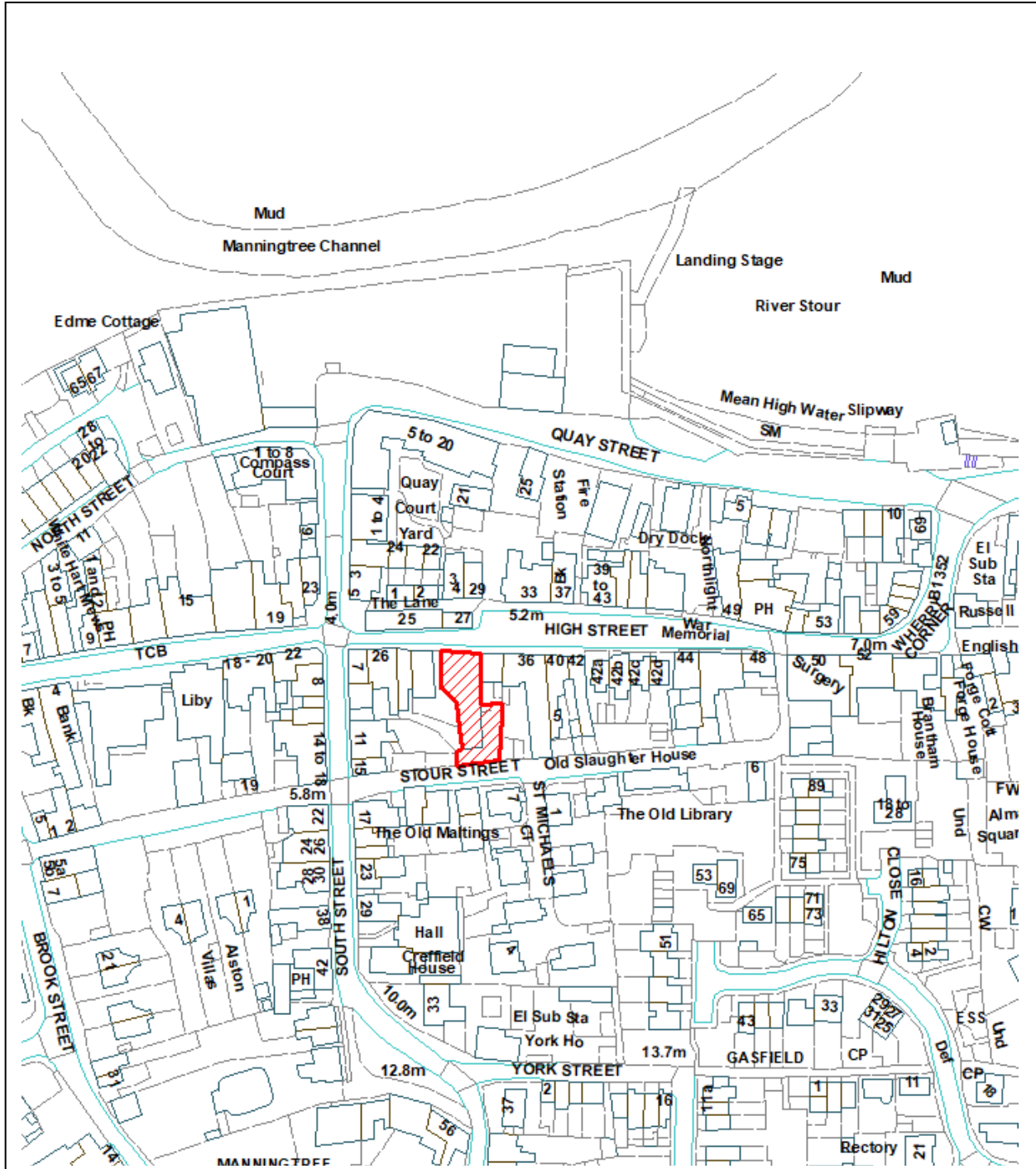
- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report) also form background papers. All such information is available to view on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.

## PLANNING COMMITTEE

18<sup>th</sup> JANUARY 2021

### REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

#### **A.4 PLANNING APPLICATION – 21/01270/FUL – TESCO EXPRESS 32 - 34 HIGH STREET MANNINGTREE CO11 1AJ**



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:** 21/01270/FUL

**Town / Parish:** Manningtree Town Council

**Applicant:** Mr Andy Horwood

**Address:** Tesco Express 32 - 34 High Street Manningtree CO11 1AJ

**Development:** Proposed installation of new 1x CO2 gas cooler.

## 1. Executive Summary

- 1.1 The application is referred to the Planning Committee by Councillor Giancarlo Guglielmi on grounds of the negative impact on the street scene and the Manningtree and Mistley Conservation Area with the incongruous gas cooler sited inappropriately imparting a constant noise by its humming which not only is impacting on neighbours' amenity, but also on their quality of life.
- 1.2 The application seeks retrospective planning permission for the CO2 gas cooler and as part of the application a timber enclosure is proposed.
- 1.3 It is regrettable that the CO2 gas cooler has already been installed prior to a grant a planning permission, however the application presents a development that is acceptable in terms of design, visual impact and heritage considerations and is recommended for approval subject to the necessary conditions set out below.

### **Recommendation:**

That the Head of Planning be authorised to grant planning permission for the development subject to:-

- a) Subject to the conditions stated in section 8.2

## 2. Planning Policy

- 2.1 The following Local and National Planning Policies are relevant to this planning application.

*NPPF National Planning Policy Framework July 2021*

*National Planning Practice Guidance*

*Adopted Tendring District Local Plan 2007 (part superseded)*

QL11 Environmental Impacts and Compatibility of Uses (part superseded)

EN5A Area Proposed as an Extension to the Suffolk Coasts and Heaths AONB

EN17 Conservation Areas

EN23 Development Within the Proximity of a Listed Building

EN30 Historic Towns



ER31 Town Centre Hierarchy and Uses

*Tendring District Local Plan - Section 1 adopted on 26th January 2021*

SP7 Place Shaping Principles

*Tendring District Local Plan – Section 2 2013 – 2033 and beyond (December 2021)*

SPL3 Sustainable Design

PPL3 The Rural Landscape

PPL8 Conservation Areas

PPL9 Listed Buildings

PP5 Town Centre Uses

### **Status of the Local Plan**

- 2.2 Planning law requires that decisions on planning applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework 2021 (the Framework).
- 2.3 The ‘development plan’ for Tendring comprises, in part, the ‘saved’ policies of the 2007 Local Plan. Paragraph 219 of the Framework allows local planning authorities to give due weight to policies adopted prior to its publication according to their degree of consistency with the policies in the Framework. On the 26<sup>th</sup> January 2021 Section 1 of the 2013-2033 Local Plan was adopted and now also forms part of the ‘development plan’ for Tendring, superseding some of the more strategic policies in the 2007 Local Plan. Notably, the housing and employment targets were found sound and have been fixed, including the housing requirement of 550 dwellings per annum.
- 2.4 Paragraph 48 of the Framework allows weight to be given to policies in emerging plans, according to their stage of preparation, the extent to which there are unresolved objections to relevant policies, and the degree of consistency with the policies of the Framework. On 24<sup>th</sup> November 2021, the Council received the Planning Inspectors’ final report on the legal compliance and soundness of Section 2 of the emerging Local Plan. The report has confirmed, that with the inclusion of a number of ‘Main Modifications’ (which have already been the subject of formal public consultation), the Plan is legally compliant and sound and can now proceed to adoption. The report is due to be considered by the Planning Policy and Local Plan Committee on 11<sup>th</sup> January 2022 which is likely to recommend adoption of the Section 2 Local Plan to Full Council on 25<sup>th</sup> January 2022. On adoption, the new Section 2 Local Plan will join the new Section 1 Local Plan to form the ‘development plan’ for Tendring and the old 2007 Local Plan will be superseded in full.
- 2.5 Now that the Inspectors’ final report is received, the Section 2 Local Plan has virtually reached the final stage of preparation, all objections have been resolved and the Inspector has confirmed that the Plan is sound and therefore in conformity with the Framework. For these reasons, Officers now advise that the emerging Plan should now carry ‘almost full weight’ in decision making.
- 2.6 Until the new Local Plan is adopted in January 2022, the 2007 adopted Local Plan, legally, will still form part of the ‘development plan’ and there will still be a requirement to refer to the 2007

Local Plan in decision making. However, the level of weight to be afforded to the policies in the 2007 Plan is reduced to very limited weight given that a more up to date Plan has progressed to such an advanced stage of the plan making process.

### 3. Relevant Planning History

00/01785/ADV	Shop sign and projecting sign	Refused	05.01.2001
01/01387/ADV	Shop Sign	Refused	15.11.2001
04/01740/ADV	3 No. illuminated fascia signs and 2 No. illuminated projecting signs	Approved	08.11.2004
04/01741/FUL	Conversion of a One Stop Store to a Tesco Express including the installation of an ATM.	Refused	01.11.2004
04/01773/FUL	To install a plant frogbox, located behind a licensed convenience store	Refused	04.11.2004
04/02405/FUL	To install a plant frogbox located behind a licensed convenience store	Refused	15.02.2005
05/00501/FUL	To install a plant condenser unit	Approved	13.05.2005
19/00863/FUL	Installation of perimeter steel balustrading around existing roof for health and safety (retrospective).	Approved	30.08.2019
19/00864/LBC	Installation of perimeter steel balustrading around existing roof for health and safety (retrospective).	Approved	
21/01270/FUL	Proposed installation of new 1x CO2 gas cooler.	Current	

### 4. Consultations

Essex County Council Heritage  
05.08.2021

ECC Heritage unopposed to this application in principle.

Were the applicant to propose reinstating a timber fence to screen the cooler from view they would be supportive of this application. Reinstatement of the fence would also provide an opportunity to store bins and other movable objects at the rear of this building which currently make a negative contribution to the appearance of the Conservation Area.

Were this application to be approved without screening fencing being included in revised proposals, ECC Heritage recommend that a condition is attached to any decision noticed issued securing this screening fencing.

Essex County Council Heritage  
08.12.2021

This response follows the first response provided in August 2021. The application site falls within Manningtree and Mistley Conservation Area and is in close proximity to several listed buildings.

It was previously recommended that screening fencing be included to improve the appearance of the service yard. This has now been proposed and is welcomed. There are no objections to the proposed development and it is considered to be in line with Chapter 16 of the NPPF.

TDC Building Control and Access  
Officer  
29.07.2021

No adverse comments at this time.

TDC Environmental Protection  
06.08.2021

The EP Team have the following comments to make -

Noise: it is noted from the submitted documents, with particular reference to the Noise Impact Assessment dated June 2021, that the emission of noise from the unit should not have a detrimental impact on nearby residential properties. Section 2.4 of the NIA confirms the use of Acoustic Wall Lining to assist in minimising the sound, of which is shown in Drawing 02-5096-02D.

Providing the wall lining is implemented as highlighted in these two documents, EP have no reason to object to the proposal.

REASON: to protect the amenity of nearby residential properties.

TDC Environmental Protection  
25.08.2021

Acoustic wall lining comes in many shapes and forms but is essentially an absorptive material placed on the wall to dampen the reflective noise from the unit. This is often placed at the time of installation. The best way to ensure that this has been complied with is for the applicant to provide details of the material and a picture of it installed.

The EP Team have looked at the Noise Report and the location of the background noise was chosen to represent that of the noise sensitive property as is often the case when the area in question is not accessible or is subject to the noise of the plant itself. This is recognised and allowed for in BS4142 which is the standard that is used for this type of Noise Impact Assessment. The sound levels used are the levels that are listed by the manufacturer and by using distance attenuation (the way in which a sound level reduces as a listener moves away from a sound source) the acoustician is able to work out the predicted level at the receptor. This is also recognised in BS4142. As such, the EP Team can confirm that they accept the findings of the report and have no further comments to make.

## **5. Representations**

- 5.1 Manningtree Town Council object to the application and make the following comments:
- 5.2 The Town Council fully object to this retrospective planning application for the already installed air conditioner units. The fact that these have already been installed, when the previous units (before the renovation were also refused to be placed in the same exact location) means that the applicant knows that these units both require planning permission to be placed there and also that they do not comply with the regulations needed for them to be placed in a residential area.
- 5.3 This area is within the designated Conservation Area of Mistley and Manningtree from 1969 which TDC later adopted in 2006 and Manningtree and Mistley in 2010. The location of this site is surrounded by listed residential buildings on all sides.
- 5.4 The addition of the air conditioning units is not conducive to the aesthetic of the Listed Buildings within the Conservation Area.
- 5.5 It must also be noted that the residents have reported the noise disturbance from the units, when they kick in at all times of the night waking them up, is another disturbance that they have to endure. It has also meant that those nearest are unable to use their gardens in the finer weather due to the constant noise.
- 5.6 The Manningtree Town Council are unanimous in their objection to this planning application.
- 5.7 18 representations of objection have been received. The concerns raised are summarised below.
- Noise
    - Impact on nearby residents
    - Impact on wider community use venues – Tidal Arts and The Grand Theatre of Lemmings
    - Impact on garden use
    - Impact on health and well being
  - Design, appearance and heritage impacts
  - Impact on Area of Outstanding Natural Beauty and local wildlife
  - Impact on climate change

## **6. Assessment**

### Site Context

- 6.1 The application site is located on the southern side of the High Street within the town centre and recognised Historic Town of Manningtree and associated Manningtree and Mistley Conservation Area. The building to which this application relates is part of a terrace of shops facing the High Street and currently accommodates a Tesco Express store. The façade of the building is of Georgian styling with casement windows at first floor and a parapet roof. The shop front at ground floor is of aluminium construction. The building has been extended to the rear to accommodate storage associated with the retail use and for which access is gained from Stour Street. The extension to the store is of red brick construction for functional use only with no particular features of architectural interest. 32-34 High Street is not listed although many of the

surrounding buildings are and the application site also lies just outside of the recently extended designation of the Suffolk Coasts and Heaths Area of Outstanding Natural Beauty.

#### Planning History

- 6.2 Application refs. 04/01773/FUL and 04/02405/FUL for plant located in a similar position to this application under consideration were refused. The submitted acoustic report on both occasions failed to provide details of where the background noise levels were taken from and therefore the report could not demonstrate that the development could be undertaken without causing noise and nuisance to surrounding properties.
- 6.3 Further to these applications, an application (reference 05/00501/FUL) for a plant condenser unit, located on the flat roof of the Tesco Store, 5 metres from the front elevation was approved. The submitted acoustic report confirmed that the sound level attenuation was an acceptable level subject to a condition securing a suitable enclosure surrounding the plant.

#### Proposal

- 6.4 This application seeks retrospective planning permission for a CO<sub>2</sub> gas cooler and as part of the application a timber enclosure is proposed.

#### Design, Appearance and Heritage

- 6.5 Saved Policy QL11 of the adopted Tendring District Local Plan (2007) seeks to ensure that all new development should be compatible with surrounding land uses and minimise any adverse environmental impacts in terms of scale, amenity of nearby occupiers and historic environment. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan – Section 2 2013 – 2033 and beyond (December 2021).
- 6.6 Policy EN17 of the adopted Tendring District Local Plan (2007) seeks to ensure that developments within a Conservation Area preserve and enhance the Conservation Area setting. Policy PPL8 of the Tendring District Local Plan – Section 2 2013 – 2033 and beyond (December 2021) seeks to ensure that any new development within a designated Conservation Area, or which affects its setting, will only be permitted where it has regard to the desirability of preserving or enhancing the special character and appearance of the area, especially in terms of: any important views into, out of, or within the Conservation Area.
- 6.7 Policy EN23 of the adopted Tendring District Local Plan (2007) concerns development within the proximity of a Listed Building and confirms that proposals for development that would adversely affect the setting of a Listed Building, including group value and long distance views, will not be permitted. These sentiments are carried through into Policy PPL9 of the emerging Tendring District Local Plan – Section 2 2013 – 2033 and beyond (December 2021).
- 6.8 The CO<sub>2</sub> gas cooler has already been installed to the rear of the Tesco application site; being completed in June 2021. The CO<sub>2</sub> gas cooler is positioned 0.70 metres from the eastern elevation at ground level and measures 2.22 metres in height, 2.6 metres in width and 0.83 metres in depth. The CO<sub>2</sub> gas cooler itself is of a beige metal construction, consistent with the appearance of retail plant. The acoustic wall lining, grey in colour is also in place, fixed to the eastern elevation behind the CO<sub>2</sub> gas cooler. The appearance of the CO<sub>2</sub> gas cooler in its current form is noticeable from Stour Street although it is also viewed alongside the bright blue metal concertina doors of Tesco and the galvanised cable channelling which also stand out in this location on the already nondescript building. The applicant however, has proposed to screen the CO<sub>2</sub> gas cooler with a 2.5 metre high timber enclosure which will assimilate the structure better in the street scene and appear more sympathetic to the surroundings which comprise mainly the rear of the buildings and garden boundaries of those buildings facing the High Street.

- 6.9 ECC Heritage were consulted on the application and they provided an initial comment which confirmed from a heritage perspective they were unopposed in principle to the proposal but they noted that if a timber fence screen could be erected they would support the proposal. Bringing to attention the other comments of ECC Heritage which asserts that reinstatement of a fence would also provide an opportunity to store bins and other movable objects at the rear of this building shall not be taken into account as although the intention to bring together all of the retail paraphernalia would be welcomed it does not form part of the proposal being considered.
- 6.10 Following the submission of revised drawings including a timber fence enclosure ECC Heritage have confirmed that *“There are no objections to the proposed development and it is considered to be in line with Chapter 16 of the National Planning Policy Framework”*.
- 6.11 The CO2 gas cooler with a timber enclosure in this location is considered acceptable and will not significantly harm the character or appearance of the Conservation Area or have a significant impact on the setting of the listed buildings taking into account its scale, design and positioning in the service area at the rear of the Tesco store.
- 6.12 Should the application be recommended for approval a condition securing the erection of the proposed timber enclosure within three months of the date of the decision will be imposed.

#### Noise and Environmental Impacts

- 6.13 Policy SPL3 of the Tendring District Local Plan – Section 2 2013 – 2033 and beyond (December 2021) seeks to ensure that new development should be compatible with surrounding uses and minimise any adverse environmental impacts in terms of the amenities of occupiers of nearby properties, minimising the production of greenhouse gases and impact on climate change and unacceptable levels of pollution.
- 6.14 The use of the application site remains as retail, with other retail uses, residential properties and spaces for use by the wider community surrounding the application site there is the potential for existing amenities to be harmed.
- 6.15 As part of this planning application the applicant has commissioned a Plant Noise Impact Assessment. Paragraph 3.1 of the report clearly and correctly identifies the nearest properties and windows with the potential to be impacted by the proposal stating that the closest residential dwelling is approximately 5 metres from the proposal with an intervening boundary wall and two further unobstructed residential windows at distances of 8 and 9 metres away respectively.
- 6.16 The Plant Noise Impact Assessment has been carried out in accordance with BS4142:2014 ‘Methods for Rating and Assessing Industrial and Commercial Sound’. Table 5 on page 8 of the Plant Noise Impact Assessment concludes that the noise levels associated with the proposed plant and equipment would be below the background noise level at existing properties. Following consultation with the Council’s Environmental Health team they confirm that they do not object to the proposals and accept the findings of the report providing the wall lining is implemented. Evidence of the acoustic wall lining in situ has been provided by the applicant and was evident on the Officer’s site visit. On this basis, there are no concerns with the potential impact on amenity of the area.
- 6.17 The applicant has confirmed that the new refrigeration plant uses CO2 as a refrigerant which has a global warming potential (GWP) of 1 per kg of refrigerant. The previous refrigeration plant used a hydrofluorocarbon (HFC) refrigerant known as R404a which had a GWP of 3922 per kg of refrigerant therefore the proposal significantly reduces the global warming impact of the store. In addition, the chilled cabinets (internal within the store) use the latest technology such as EC (electronically commutated) fans and electronic expansion devices which improve efficiency and

reduces the kW duty of the cabinets. The chilled cabinets all have doors on the cabinets reducing 6.18 the overall refrigeration load by around 30% of the previous installation. The CO2 gas cooler also uses inverter technology on the compressors improving the control of the system reducing the overall energy usage at the retail store.

- 6.19 The need for new development must be carefully balanced against the requirement to conserve and enhance the Natural Beauty of the Suffolk Coast and Heaths Area of Outstanding Natural Beauty. In this case, it is considered that there is no significant impact on local wildlife and the extension to the Suffolk Coast and Heaths Area of Outstanding Natural Beauty due to the location of the minor development proposal contained within the busy town centre for an existing retail use surrounded by a mix of uses and town centre activity.

#### Other Considerations

- 6.20 The Council's Building Control Officer has no adverse comments at this time.

### **7 Conclusion**

- 7.1 The proposal will not result in any adverse impact on the character and appearance of the Conservation Area, the settings of the surrounding listed buildings or the Suffolk Coast and Heaths Area of Outstanding Natural Beauty. In addition, the proposal will avoid adverse impacts upon the environment in terms of noise and climate change and therefore in the absence of any material harm resulting from the development, the application is recommended for approval.

### **8 Recommendation**

- 8.20 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives.

#### 8.21 Conditions and Reasons

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans:

DRAWING NO.'s  
02\_5096\_02D\_R2  
02\_5096\_02E\_R2  
03\_5096\_03B\_R2  
03\_5096\_03C\_R2

Reason - For the avoidance of doubt and in the interests of proper planning.

- 2 The development hereby permitted shall be implemented and thereafter operated in accordance with the Plant Noise Impact Assessment Report dated 2nd June 2021 and submitted on 15th July 2021.

Reason - To protect the character and amenities of neighbouring areas by ensuring that measures are implemented to avoid any noise nuisance.

- 3 The timber fence enclosure hereby approved and shown on DRAWING NO.'s 02\_5096\_02D\_R2, 02\_5096\_02E\_R2, 03\_5096\_03B\_R2 and 03\_5096\_03C\_R2 must be erected within 3 months of the date of this decision, maintained and retained in perpetuity.

Reason - In order to maintain the character of the conservation area in the interest of visual amenity.

## 8.22 Informatives

None

## **9 Additional Considerations**

### Public Sector Equality Duty (PSED)

- 9.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
- 9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- 9.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
- 9.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.
- 9.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 9.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

### Human Rights

- 9.8 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 9.9 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).
- 9.10 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

### Finance Implications

- 9.11 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.



## **10 Background Papers**

- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report) also form background papers. All such information is available to view on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.

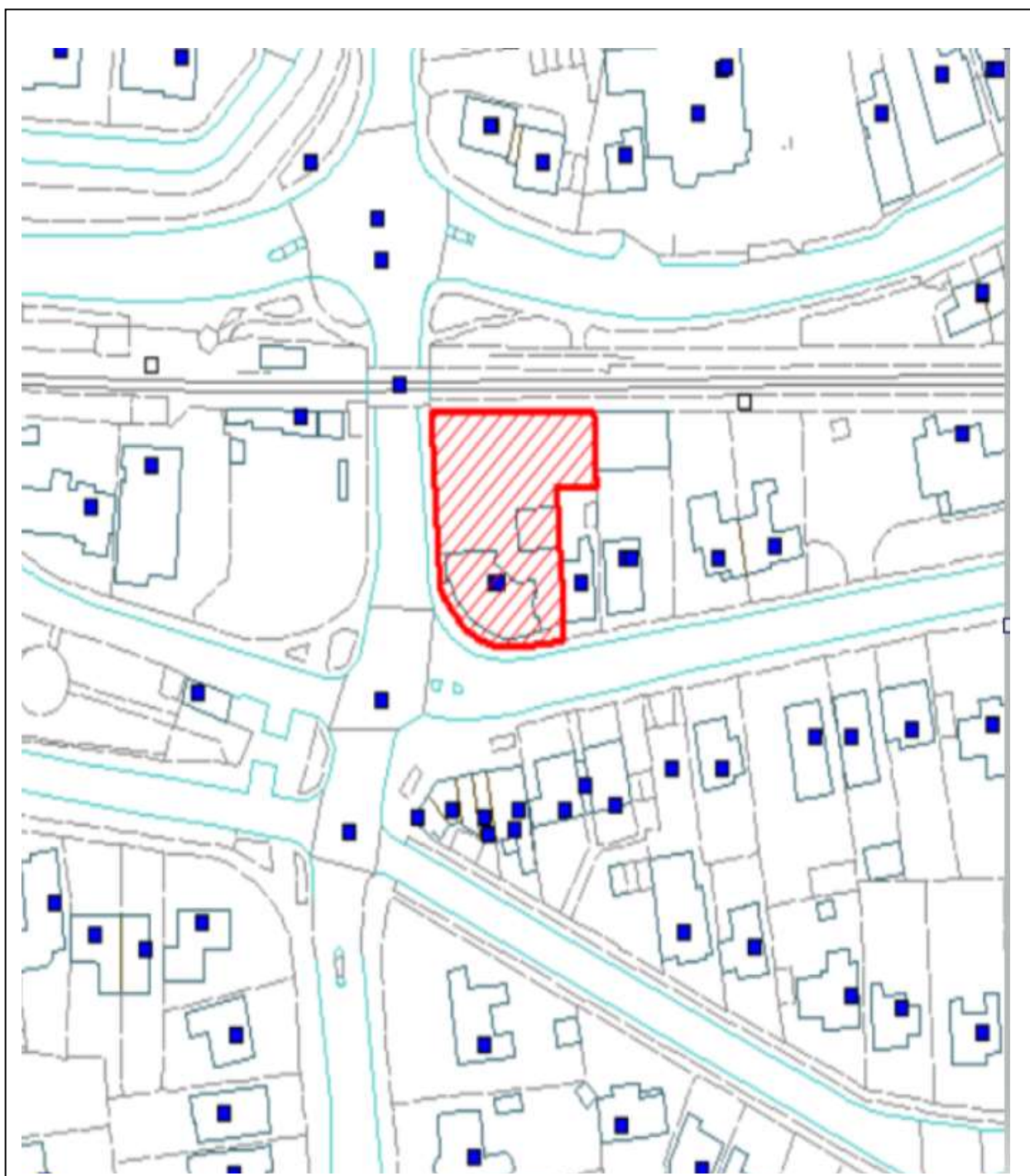
This page is intentionally left blank

## PLANNING COMMITTEE

18<sup>TH</sup> JANUARY 2022

### REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

#### **A.5 PLANNING APPLICATION – 21/01527/FUL – 152 CONNAUGHT AVENUE FRINTON ON SEA CO13 9AD**



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:** 21/01527/FUL

**Town / Parish:** Frinton & Walton Town Council

**Applicant:** M+M Pharmacy

**Address:** 152 Connaught Avenue Frinton On Sea CO13 9AD

**Development:** Proposed disabled access.

## 1. **Executive Summary**

- 1.1 Councillor Nick Turner has called in the application, in relation to the impact of the proposal on the Conservation Area.
- 1.2 The proposal is for a disabled access ramp to be located at the front entrance to the pharmacy. The site is located within the defined Settlement Development Boundary of Frinton-on-Sea and also sits within the Frinton and Walton Conservation Area.
- 1.3 The proposal is considered to be of a size, scale and design in keeping with the overall site and surrounding area. There are no concerns raised regarding the impact on the neighbouring residential properties and subject to conditions is considered acceptable.

### **Recommendation:**

That the Head of Planning be authorised to grant planning permission for the development subject to:-

- a) Subject to the conditions stated in section 8.2

## 2. **Planning Policy**

- 2.1 The following Local and National Planning Policies are relevant to this planning application.

*NPPF National Planning Policy Framework July 2021*

*National Planning Practice Guidance*

*Adopted Tendring District Local Plan 2007 (part superseded)*

QL11 Environmental Impacts and Compatibility of Uses (part superseded)

EN17 Conservation Areas

COM1 Access for All

*Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) (Section 1 adopted on 26th January 2021)*

Relevant Section 1 Policies (adopted)

SP7 Place Shaping Principles

Relevant Section 2 Policies (emerging)

SPL3 Sustainable Design

PPL3 The Rural Landscape

PPL8 Conservation Areas

### **Status of the Local Plan**

- 2.2 Planning law requires that decisions on planning applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework 2021 (the Framework).
- 2.3 The 'development plan' for Tendring comprises, in part, the 'saved' policies of the 2007 Local Plan. Paragraph 219 of the Framework allows local planning authorities to give due weight to policies adopted prior to its publication according to their degree of consistency with the policies in the Framework. On the 26<sup>th</sup> January 2021 Section 1 of the 2013-2033 Local Plan was adopted and now also forms part of the 'development plan' for Tendring, superseding some of the more strategic policies in the 2007 Local Plan. Notably, the housing and employment targets were found sound and have been fixed, including the housing requirement of 550 dwellings per annum.
- 2.4 Paragraph 48 of the Framework allows weight to be given to policies in emerging plans, according to their stage of preparation, the extent to which there are unresolved objections to relevant policies, and the degree of consistency with the policies of the Framework. On 24<sup>th</sup> November 2021, the Council received the Planning Inspectors' final report on the legal compliance and soundness of Section 2 of the emerging Local Plan. The report has confirmed, that with the inclusion of a number of 'Main Modifications' (which have already been the subject of formal public consultation), the Plan is legally compliant and sound and can now proceed to adoption. The report is due to be considered by the Planning Policy and Local Plan Committee on 11<sup>th</sup> January 2022 which is likely to recommend adoption of the Section 2 Local Plan to Full Council on 25<sup>th</sup> January 2022. On adoption, the new Section 2 Local Plan will join the new Section 1 Local Plan to form the 'development plan' for Tendring and the old 2007 Local Plan will be superseded in full.
- 2.5 Now that the Inspectors' final report is received, the Section 2 Local Plan has virtually reached the final stage of preparation, all objections have been resolved and the Inspector has confirmed that the Plan is sound and therefore in conformity with the Framework. For these reasons, Officers now advise that the emerging Plan should now carry 'almost full weight' in decision making.
- 2.6 Until the new Local Plan is adopted in January 2022, the 2007 adopted Local Plan, legally, will still form part of the 'development plan' and there will still be a requirement to refer to the 2007 Local Plan in decision making. However, the level of weight to be afforded to the policies in the 2007 Plan is reduced to very limited weight given that a more up to date Plan has progressed to such an advanced stage of the plan making process.

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

91/00976/FUL	Change of use first floor flat to offices.	Approved	16.10.1991
--------------	--	----------	------------

92/00337/FUL	(152 Pole Barn Lane, Frinton-on-Sea) Change of use to Wine Bar and Restaurant with single storey rear extension to provide kitchen and toilets	Refused	12.05.1992
92/00921/FUL	(152 Pole Barn Lane, Frinton on Sea) Change of use, wine bar and restaurant with extension for kitchen and toilets	Refused	27.10.1992
94/00994/FUL	Proposed neighbourhood resource centre - to convert existing shop for office use and upgrade staff kitchen and toilet facilities to adapt for disabled access/ facility	Approved	04.10.1994
08/00230/FUL	Change of use from Business Use (B1) to Retail Use (A1).	Refused	06.05.2008
08/01270/FUL	Change of use from B1(a) to A1 (Aquatic shop / pet shop).	Approved	31.10.2008
10/00968/FUL	Variation of Condition 2 of 08/01270/FUL, to vary the use from A1 Aquatic/Pet Shop to A1 Housewares and Gifts.	Withdrawn	12.10.2010
11/01359/FUL	Variation of condition 02 of planning permission 08/01270/FUL to allow use as a beauty parlour.	Withdrawn	15.12.2011
11/01477/FUL	Change of use from A1 to beauty salon.	Approved	07.02.2012
20/30236/PREAPP	Formation of disabled access ramp.		05.01.2021
21/01527/FUL	Proposed disabled access.	Current	

#### 4. Consultations

Essex County Council Heritage  
01.10.2021

The development site is located within Walton and Frinton Conservation Area, at the primary entrance into the Conservation Area from the north. The early-nineteenth century building is a prominent feature of the streetscape occupying a corner location the junction of several roads. Built in a hybrid art-deco neo-georgian in style, the building is noted in the Conservation Area Character Appraisal for its bronze glazing and excellent detailing. It is apparently a former County Council building and is a positive contributor to the Conservation Area and the streetscape. The building could be

considered a non-designated heritage asset for its historic communal interest as a focus of local government, and also for its architectural and artistic interest, given the aforementioned excellent architectural detailing of the shopfront and wider street-facing elevation.

ECC Heritage are unopposed to the provision of access to the shop, however the currently proposed ramp fails through its form and detailing to be sympathetic to the architectural articulation, materials, and detailing of the existing shopfront. The proposed railings and ramp would detract from the symmetrical architectural appearance of the building. The ramp would partly obscure and cover over the base of the architrave, steps, plinth and bronze framing and vents to the windows. This unbalancing of the shop's elevation and the loss of detailing would be detrimental to the architectural appearance of the non-designated heritage asset. In covering over the above outlined materials, these materials are likely to be damaged and would deteriorate. The proposals would result in a detrimental impact to the significance of the shop, making paragraph 203 of the NPPF relevant here.

In unbalancing the symmetrical façade of the shop, and partly obscuring parts of the façade, the proposals would fail to preserve or enhance the character and appearance of the Conservation Area. The proposals would be detrimental to the architectural appearance of the positively contributing building, resulting in low-level less than substantial harm to the significance of the Conservation Area. Paragraph 202 of the NPPF is therefore relevant here. Paragraph 206 of the NPPF is also relevant here regarding the poor-quality design.

ECC Heritage recommend the applicant engages in the pre-application process with the Local Planning Authority to discuss their ambitions for providing ramped access to the shop. There may be potential for level access to be achieved through another area of the building, or through a more sympathetically designed scheme.

Essex County Council Heritage  
03.12.2021

This letter should be read in addendum to previous advice.

The scheme has been revised. The principle of harm (as outlined in previous consultation) has not been overcome given the ramp will not compliment the host building nor the prominent corner plot in the Conservation Area.

However, if it is deemed a ramp on this corner is acceptable (ie benefits outweigh harm) then I would have no objection to this form of ramp and would recommend conditions attached for samples of all materials to be agreed.

## **5. Representations**

- 5.1 One letter of representation has been received following a public consultation, which included a site notice posted at the site and neighbouring consultation letters sent out to the adjacent properties. This was from Frinton & Walton Town Council, who deem the proposal not sympathetic to the existing building.
- 5.2 All material planning considerations raised will be taken into account within the following assessment of the proposal.

## **6. Assessment**

### Site Context

- 6.1 The site serves a large detached two-storey building located on the corner of Connaught Avenue and Pole Barn Lane, adjacent to the level crossing. The site lies within the Frinton and Walton Conservation Area; however, the building is not listed. The building is an irregular curved shape, finished in mostly exposed brickwork, with the ground floor entrance section being painted white render, with large windows and associated signage. The surrounding streetscene is formed of mostly residential buildings of differing scale and design, with exposed brickwork being a common design choice.

### Proposal

- 6.2 The application seeks full planning permission to construct a disabled access ramp to the front entrance of the pharmacy, to ensure the building is more accessible for elderly or disabled customers.

### Principle of Development

- 6.3 The development plan for Tendring Council comprises of the adopted Tendring District Local Plan 2007 (part superseded) and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 (Section 1 Adopted). The site lies within the Frinton-on-Sea Settlement Development Boundary as established within both the adopted and emerging local plans.
- 6.4 Policy COM1 (Access for All) of the adopted Local Plan and Policy SPL3 (Sustainable Design) of the emerging Local Plan (Part 2) seek to ensure that developments provide safe and convenient access for people of all abilities and as such the 'principle' of this application will support that requirement by improving access to the pharmacy for elderly and disabled customers.

### Appearance

- 6.5 One of the core planning principles of The National Planning Policy Framework (NPPF) as stated at paragraph 130 is to always seek to secure high quality design. Saved Policy QL11 (Part superseded) aims to ensure that all new development makes a positive contribution to the quality of the local environment, relates well to its site and surroundings particularly in relation to its form and design and does not have a materially damaging impact on the amenities of occupiers of nearby properties. Emerging Policy SP1 reflects these considerations.
- 6.6 The proposed access ramp would measure 1.6 metres wide, with the sloped section being 5 metres long, leading to a flat-plateaued section measuring 2.4 by 1.5 metres. The structure



would reach an overall height of 0.5 metres. It is noted that this would lead customers to a height consistent with the existing access steps to the front of the building. The proposal would be limited in scale, and feature a low profile design which would reduce the impact of the slope on the visual amenity of the building.

- 6.7 The site can accommodate a proposal of this size and scale whilst retaining ample private amenity space and the limited width would ensure that there would be negligible impact on the adjacent pathway. The design is also consistent and sympathetic to the existing host dwelling materials.
- 6.8 The proposal will be located to the front of the property so would be visible from the streetscene, however the limited profile and sympathetic design are not deemed to have a negative impact on visual amenity.

#### Highway Safety/Parking

- 6.9 The proposal neither generates additional nor reduces the parking provision at the site and would have no impact on highway safety.

#### Impact on Conservation Area

- 6.10 As the site is located within the Frinton and Walton Conservation Area, ECC Heritage have been consulted. They provided feedback on the original plans, which were critical of the impact of the ramp on the visual amenity of this host building. The amended plans are deemed to overcome these issues, by removing the handrail, reducing the scale of the structure and incorporating a stone external finish and Chelsea Setts, which is more sympathetic to the existing building. The updated heritage comment, states that whilst the proposal would not compliment the host building, if the need for a ramp outweighs these considerations they would have no objection to a ramp of this type, subject to material finishing details.
- 6.11 All alternative access locations have been explored by the applicant and this proposal is deemed to be the most suitable location to access the front of the shop. There is a clear need for the provision of this ramp to enable the accessibility of this community facility by elderly and disabled customers, which is very much in-line with Policy COM1 (Access for All) of the adopted Local Plan and Policy SLP3 (Sustainable Design) of the emerging Local Plan (Part 2). For example, Policy COM1 states at clause (a) that development shall provide: *'entrances which can be easily and safely accessed by all users, including those with mobility and sensory impairments'*. Similarly, Policy SPL3 states that *'...the design and layout of the development maintains and/or provides safe and convenient access for people with mobility impairments'*. As such, it is considered 'on balance' the need to achieve improved access for those less able (which also helps fulfil statutory requirements such as 'Part M' (Access for Disabled People) of the Buildings Regulations) outweighs the impact on visual amenity and on the setting within the Conservation Area.

#### Impact on Residential Amenity

- 6.12 Paragraph 17 of the NPPF, states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy QL11 of the saved plan states that amongst criteria 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'. These sentiments are carried forward by Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).
- 6.13 By virtue to the significant separation distance between the host site and the neighbouring dwellings, it is deemed that the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

## **7. Conclusion**

- 7.1 The proposed development is considered to accord with the National and Local Plan Policies identified above. In the absence of material harm resulting from the proposal (albeit low-level less than substantial harm to the significance of the Conservation Area has been identified), on balance it is considered that the clear benefits of the proposal in terms of supporting improved access for those with mobility impairments supports the recommendation for approval.

## **8. Recommendation**

- 8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives.

### **8.2 Conditions and Reasons**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans; Drawing No.

- 152/CAF/6 (Received 2<sup>nd</sup> December 2021)

Reason - For the avoidance of doubt and in the interests of proper planning.

3. No above ground works shall commence until details of the ramp surface and stone facing materials have been submitted to and agreed, in writing, by the Local Planning Authority. Such details as may be agreed shall be those used in the development and permanently maintained as such.

Reason - To ensure materials are of a very high quality to respect the building and its setting.

### **8.3 Informatives**

#### Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

## **9. Additional Considerations**

### **Public Sector Equality Duty (PSED)**

- 9.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:

- 9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- 9.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
- 9.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.
- 9.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 9.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

#### Human Rights

- 9.8 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 9.9 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).
- 9.10 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

#### Finance Implications

- 9.11 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.

### **10. Background Papers**

- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report) also form background papers. All such information is available to view on the planning file using the application reference number via the

Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.