

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	ML	26/07/2018
Planning Development Manager authorisation:	AN	30/7/18
Admin checks / despatch completed	SB	02/08/18

*ER*

**Application:** 18/00531/OUT **Town / Parish:** Clacton Non Parished

**Applicant:** Nash & Sharpe

**Address:** 2 Edith Road Clacton On Sea Essex

**Development:** Outline planning application for the conversion to provide 15 bedsits/flats including the 4 bedsits/flats already established.

### 1. Town / Parish Council

Clacton – No Town Council

### 2. Consultation Responses

Building Control and Access Officer      Insufficient information to comment on.

Environmental Protection      In order to minimise potential nuisance to nearby existing residents caused by construction works, Environmental protection ask that the following below is conditioned;

- ' No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Mondays to Saturdays (finishing at 13:00 on Saturdays) with no working of any kind permitted on Sundays or any Public/Bank Holidays
- ' The use of barriers to mitigate the impact of noisy operations will be used where possible.
- ' No materials produced as a result of the site development or clearance shall be burned on site.
- ' All reasonable steps shall be taken to minimise dust and litter emissions from the site whilst works of construction works are in progress.

The design range should be complied with under BS8233:2014.

Waste Management      No comments at this stage.

Tree & Landscape Officer      To the rear of the property there are a few shrubs and small trees comprising Flowering Cherry, Lilac Pear and Cotoneaster.

None of the trees or other significant vegetation are visible from a public place and consequently make little contribution to the appearance of the public realm.

They need not necessarily be affected by the development proposal and steps are not required to ensure their retention.

ECC Highways Dept

This Authority has assessed the highway and transportation impact of the proposal and does not wish to raise an objection subject to the following:

Whilst it is noted that the six parking spaces shown on the submitted drawings do not accord with the current parking standards, it is also recognised that the property could already generate a certain level of traffic due to the B&B guests and servicing vehicles. The site is also in close proximity to town centre services and different modes of sustainable transport.

' No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

' 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 to ensure accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

' Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres.

' Prior to the commencement of the development the details of the amount, location and design of bicycle parking facilities shall be submitted to and approved in writing by the Local Planning Authority. The approved facility shall be secure and shall be provided prior to occupation of the development and retained for that purpose at all times.

UU - Open Space  
Consultation

No contribution sought

### 3. Planning History

04/00044/FUL	Convert garage and outbuilding to bedroom and new flat roof (for the use of the owners only)	Approved	04.03.2004
10/00671/FUL	For the replacement of rotten wooden windows (single glazed) with high efficiency UPVC windows (double glazed K glass).	Approved	16.08.2010
17/01600/OUT	Conversion to provide 15 bedsits/flats, including 4 bedsits/flats already established.	Refused	21.12.2017
18/00531/OUT	Outline planning application for the conversion to provide 15 bedsits/flats including the 4 bedsits/flats already established.	Current	

#### **4. Relevant Policies / Government Guidance**

NPPF National Planning Policy Framework July 2018

National Planning Practice Guidance

Tendring District Local Plan 2007

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

HG3 Residential Development Within Defined Settlements

HG6 Dwelling Size and Type

HG9 Private Amenity Space

HG10 Conversion to Flats and Bedsits

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

EN17 Conservation Areas

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)

SPL3 Sustainable Design

LP3 Housing Density and Standards

LP11 HMO and Bedsits

CP1 Sustainable Transport and Accessibility

PPL8 Conservation Areas

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

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

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2018) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also 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 national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to

address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.

With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

In relation to housing supply:

The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not. At the time of this decision, the Council is able to demonstrate a robust five year supply of deliverable housing sites (as confirmed in recent appeal decisions) and housing delivered over the previous three years has been comfortably above 75% of the requirement. There is consequently no need for the Council to consider an exceptional departure from the Local Plan on housing supply grounds and applications for housing development are to be determined in line with the plan-led approach.

## **5. Officer Appraisal (including Site Description and Proposal)**

### Site Description

The application relates to premises which are a former private house/guest house, with accommodation on 3 storeys, in a street of similar properties near the seafront in Clacton-on-Sea. It is semi-detached and attached to No. 4. It has been extended into the roof space, to the side and at the rear. It was previously known as the Marine View Guest House. The present owners acquired the property in 2013 and have been operating it as an House in Multiple Occupation (HMO) since that time. An enforcement notice was served in May 2016 relating to the 'unauthorised material change of the property to a mixed use of a house in multiple occupation (Class C4 of the Town And Country Planning (Use Classes) Order 1987 as amended) together with associated rooms and units used as self-contained flats.' The enforcement was subsequently upheld (subject to slight variations to the wording) on appeal in March 2017.

The inspector concluded within her decision that four self-contained flats in units 13, 16, 17 and 18 were present by 2008 at the latest and are now separate planning units that are immune from enforcement action. These are all located on the ground floor.

The site sits directly to the north of the Clacton-on-Sea Conservation Area.

### Proposal

This application proposes the conversion of the building into 15 bedsits/flats incorporating the existing lawful bedsit/flats already in situ. The application is in outline form with layout and access being assessed.

As such an additional 11 self-contained bedsits/flats are proposed. The floors will be divided up as follows;

Ground Floor - 6 units (2 within the extended rear elements and 4 within the original part of the building)

First Floor - 5 units all with separate wc/shower rooms

Second Floor - 4 units with separate wc/shower rooms. Unit 2B would be served by a bedroom and wc/shower in the loft space.

The submitted block plan shows that the properties would be served by 6 no. parking spaces on the front courtyard area. A communal amenity area is located to the rear of the original part of the property and to the front of the converted element at the rear of the site.

This application differs to the previously refused application, which was subsequently dismissed on appeal, by way of the removal of the staircase located within the rear communal area and the construction of a three-storey high stairwell to the south-east elevation of the building.

### Planning History

As stated above, an enforcement notice was served in May 2016 for the unauthorised use of the building as a HMO/Self-Contained flats. The notice was appealed and upheld subject to variations. The inspector concluded the following;

'In summary, I consider that the appellants' evidence, as challenged by the Council, is not precise and unambiguous enough to allow me to conclude that No. 2 Edith Road has been an HMO with associated self-contained flats for long enough to be immune from enforcement action.

I conclude that parts of No 2. Edith Road were in a mixed use as an HMO and a C1 guest house on the relevant date in 2006 when the Council was still referring residents to the guest house. Nevertheless, even if the self-contained flats in units 13, 16, 17 and 18 had not been created by 2006, they were present by 2008 at the latest and are now separate planning units that are immune from enforcement action. However, as noted above, the material change from a guest house/HMO to an HMO is not immune and neither is unit 2. Consequently, the enforcement notice will be varied to reflect my findings and the appeal on ground (d) succeeds only in respect of the units noted above'.

Planning permission for the conversion to provide 15 bedsits/flats including the 4 bedsits/flats already established was then refused under planning reference 17/01600/OUT due to the lack of a fit for purpose communal amenity space and functional facilities. This decision was then dismissed at appeal by the planning inspectorate who concluded;

'Although the principle of a conversion to flats is not in dispute the 15 units proposed would comprise an over-intensification of the residential use of the building which would fail to provide acceptable living conditions for future and existing occupiers due to the insufficient amount and quality of communal outside space. The proposal would thus conflict with the aims of LP policies QL10, HG9 and HG10. These are consistent with the principles contained in the National Planning Policy Framework that planning decisions always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings'.

This application is very similar to that previously refused and dismissed on appeal aside from the removal of external fire escape staircase to the rear and the construction of a stairwell.

### Appraisal

#### Loss of Guest House

The previous use of the building was that of a guest house. Saved Policy ER24 states proposals for the change of use of existing hotels and guest houses in the centres of the coastal resorts will not be permitted unless it can be proven that the current land use is no longer viable. The preamble to the policy refers to the steady decline in serviced tourist accommodation particularly to institutional uses including care, nursing homes and hostels.

However, in this instance it is concluded that any remaining guest house use has been significantly impacted by the lawful status of the 4 self-contained flats on the ground floor. It is considered that any guest house use going forward would be not be viable given that the entire ground floor of premises has been lost to private residential accommodation. As such it is concluded that any refusal for the loss of the guest house use would not be sustainable at appeal.

Within the appeal decision the planning inspector agreed with this view stating that, due to the above, there would be no objection to the loss of the bed and breakfast in this location.

#### Conversion to Bedsits/Flats

Saved policy HG10 relates to conversions of buildings to flats and bedsits. This is a criteria based policy that aims to ensure that proposals for bedsits/flats do not adversely impact upon the character of the locality, are of sufficient standard to meet basic functional needs and are served by adequate parking, amenity and refuse facilities. Saved policy QL10 is also of relevance as it states that all new development should meet functional needs including adequate daylight, outlook and privacy for occupiers and the provision of private amenity space, waste storage, separation and recycling facilities and vehicle/cycle parking.

Saved policy HG9 concerns private amenity space and states that each unit should have a minimum of 25 sqm per unit provided communally or a 50 sqm private garden area for a ground floor unit and minimum balcony areas of 5 sqm for units above.

At paragraph 127 (f) the NPPF (2018) confirms that development should create 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.

The development proposes the conversion of the building into 15 separate residential units, the majority of which will be small 1 person bedsits. The 4 self-contained flats on the ground floor are to be divided to form 6 smaller units. Therefore overall an additional 11 units are proposed within the building.

Policy QL10 of the saved Tendring District Local Plan (2007) requires that the design of new development meets functional needs, including provision of private amenity space, waste storage/recycling facilities and cycle parking. Saved policy HG9 sets a standard of a minimum of 25m<sup>2</sup> of private amenity space per flat to be provided communally, which for this development would require an area of at least 375m<sup>2</sup>.

Given that a further area would need to be found for the storage of residents' bicycles and for waste and recycling bins, to comply with saved policy QL10, the amount of communal outside space available would fall substantially below that sought by saved policy HG9. The rear courtyard area providing the communal open space for the proposed flats would be dominated and over-shadowed by the main three-storey building. It would also be partly required for access to, and be overlooked by, the adjacent ground floor units.

The plans show the windows to the lounge and bedroom of unit 13, the existing dwelling at the rear of the site, triangulated to face away from the amenity space with obscure gazing to the other sides, to provide more privacy to and from the rear outside courtyard. However, this would be insufficient to provide a communal outside area of sufficient size and quality, in respect of privacy, sunlight and outlook, for the 15 flats.

Saved policy HG10 permits conversions to flats where this would not harm the living conditions of residents and the provision of amenity space meets the requirements of saved policy HG9. It is considered that the proposed 15 units would comprise an over-intense use of the property lacking an adequate amount and quality of communal outside space for the number of units proposed. Therefore the scheme would not provide acceptable living conditions for existing and future occupiers in conflict with the aims of local and national planning policy.

The removal of the external staircase to the rear does not alter the previous conclusions that the amenity space provided is insufficient to serve 15 flats.

### Highways/Parking

The submitted plans show 6 no. parking spaces to the forecourt. ECC - Highways have provided the following comments;

Whilst it is noted that the six parking spaces shown on the submitted drawings do not accord with the current parking standards, it is also recognised that the property could already generate a certain level of traffic due to the B&B guests and servicing vehicles. The site is also in close proximity to town centre services and different modes of sustainable transport.

In view of these comments the parking provision provided is deemed to be acceptable.

### Character/Appearance

The three storey stairwell proposed to the side is of limited width and set back from the front of the building thereby reducing its prominence within the street scene. The concreted forecourt is already in situ and no other changes to the building are proposed. Consequently, the use would not cause harm to the character and appearance of the locality or views in and out of the adjacent conservation area.

### Other Considerations

The Council's Public Open Space Team have confirmed that due to the nature and size of the units proposed a public open space contribution will not be required in this instance.

The Council's Regeneration Team have no comments to make. ECC - Suds Team have confirmed that a drainage scheme is not required. The Council's Building Control Team have stated there is insufficient information to comment upon.

6 letters of objection have been received concerning the following points;

- loss of guesthouse/tourist accommodation
- insufficient parking
- adverse impact on vitality and viability of the town
- anti-social behaviour issues
- eyesore for visitors
- large concentration of HMOs in local area
- poor management of HMO use

## **6. Recommendation**

Refusal

## **7. Reasons for Refusal**

- 1 Saved policy HG10 of the Tendring District Local Plan (2007) relates to conversions of buildings to flats and bedsits. This is a criterion based policy that aims to ensure that proposals for bedsits/flats do not adversely impact upon the character of the locality, are of sufficient standard to meet basic functional needs and are served by adequate parking, amenity and refuse facilities. Saved policy QL10 of the Tendring District Local Plan (2007) is also of relevance as it states that all new development should meet functional needs including adequate daylight, outlook and privacy for occupiers and the provision of private amenity space, waste storage, separation and recycling facilities and vehicle/cycle parking.

Saved policy HG9 concerns private amenity space and states that each unit should have a minimum of 25 sqm per unit provided communally or a 50 sqm private garden area for a ground floor unit and minimum balcony areas of 5 sqm for units above.

At paragraph 127 (f) the NPPF (2018) confirms that development should create 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.

The development proposes the conversion of the building into 15 separate residential units, the majority of which will be small 1 person bedsits. The 4 self-contained flats on the ground floor are to be divided to form 6 smaller units. Therefore overall an additional 11 units are proposed within the building.

Policy QL10 of the saved Tendring District Local Plan (2007) requires that the design of new development meets functional needs, including provision of private amenity space, waste storage/recycling facilities and cycle parking. Saved policy HG9 sets a standard of a minimum of 25m<sup>2</sup> of private amenity space per flat to be provided communally, which for this development would require an area of at least 375m<sup>2</sup>.

Given that a further area would need to be found for the storage of residents' bicycles and for waste and recycling bins, to comply with saved policy QL10, the amount of communal outside space available would fall substantially below that sought by saved policy HG9. The rear courtyard area providing the communal open space for the proposed flats would be dominated and over-shadowed by the main three-storey building. It would also be partly required for access to, and be overlooked by, the adjacent ground floor units.

The plans show the windows to the lounge and bedroom of unit 13, the existing dwelling at the rear of the site, triangulated to face away from the amenity space with obscure glazing to the other sides, to provide more privacy to and from the rear outside courtyard. However, this would be insufficient to provide a communal outside area of sufficient size and quality, in respect of privacy, sunlight and outlook, for the 15 flats.

Saved policy HG10 permits conversions to flats where this would not harm the living conditions of residents and the provision of amenity space meets the requirements of saved policy HG9. It is considered that the proposed 15 units would comprise an over-intense use of the property lacking an adequate amount and quality of communal outside space for the number of units proposed. Therefore the scheme would not provide acceptable living conditions for existing and future occupiers in conflict with the aims of local and national planning policies.

## 8. Informatives

### Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason for the refusal, approval has not been possible.

<b>Are there any letters to be sent to applicant / agent with the decision? If so please specify:</b>	YES	<input checked="" type="radio"/> NO
<b>Are there any third parties to be informed of the decision? If so, please specify:</b>	YES	<input checked="" type="radio"/> NO