

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AL	31/08/2018
Planning Development Manager authorisation:	SCE	03.09.18
Admin checks / despatch completed	SB	03/09/18

Application: 18/01058/FUL

Town / Parish: Frinton & Walton Town Council AP

Applicant: Mr I Godfrey

Address: 33-37 Frinton Road Kirby Cross Frinton-on-Sea

Development: Change of Use from Restaurant (A3) back to Residential (C3). Convert food store back to Garage (C3).

1. Town / Parish Council

Frinton & Walton Town Council Approval.

2. Consultation Responses

Environmental Health No comments received.

Environmental Protection No comments received.

Building Control and Access Officer No comments at this stage.

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

Informative1: 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 or by post to:

SMO1 - Essex Highways
Colchester Highways Depot,
653 The Crescent,
Colchester
CO4 9YQ

3. Planning History

00/00195/FUL	Installation of extraction units to rear	Approved	20.04.2000
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93/00337/FUL	(Kirby Fisheries, 37 Frinton Road, Kirby Cross) Proposed variation of condition 4 of planning approval No. TEN/1239/90 to extend opening hours to 11.00pm Monday - Saturday and 10.30pm	Approved	12.05.1993
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on Sunday

93/00888/FUL	(Kirby Fisheries, 33-37 Frinton Road, Kirby Cross) Extension to form disabled w.c and lobby to serve futurerestaurant	Approved	26.10.1993
95/01273/FUL	(Kirby Fisheries, 33-37 Frinton Road, Kirby Cross) Change of use of ground floor residential rooms to fish restaurant (renewal of permission TEN/1239/90)	Approved	13.12.1995
96/00159/FUL	(Kirby Fisheries, 37 Frinton Road, Kirby Cross) Detached double garage, including change of use of existing garage to food store	Approved	29.03.1996
96/00795/FUL	(Kirby Fisheries, 33-37 Frinton Road, Kirby Cross) New kitchen extraction flue to east side of building	Approved	19.09.1996
96/00796/ADV	(Kirby Fisheries, 37 Frinton Road, Kirby Cross) Fascia sign and free standing sign	Approved	30.08.1996

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

ER3 Protection of Employment Land

HG1 Housing Provision

HG3 Residential Development Within Defined Settlements

HG7 Residential Densities

HG9 Private Amenity Space

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

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

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

LP1 Housing Supply

LP2 Housing Choice

LP4 Housing Layout

PP6 Employment Sites

CP1 Sustainable Transport and Accessibility

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 site relates to Kirby Fisheries, the adjoining restaurant, the flat above and associated parking and outbuildings to the rear at 33-37 Frinton Road, Kirby Cross. The application itself relates to the restaurant area to the eastern side of the building below the flat at number 37.

Description of Proposal

The application seeks full planning permission for the change of use of the former restaurant (A3) use associated with the existing fish and chip takeaway back to residential accommodation (C3) consisting of a dining, lounge and kitchen area (C3) to be used in association with the existing residential accommodation above known as number 37.

The application also seeks to convert a detached outbuilding to the rear of the site from a food store back to a garage to be used in association with the residential use at number 37.

This application therefore seeks to revert the dwelling back to its original state. The resultant dwelling will have 2 bedrooms.

Assessment

The main considerations are;

- Principle of Development and Loss of Employment;
- Residential Amenities and Compatibility of Uses;
- Parking Provision; and,
- Representations.

Principle of Development and Loss of Employment

The site lies within the settlement development boundary for the area as defined within both the adopted and emerging Tendring District Local Plans. The restaurant element of the business has not been successful and its closure will not have an adverse impact upon the viability or longevity of the associated takeaway which will continue to trade. The area is predominantly residential in character with a small parade of shops and commercial uses just to the west of the site. The mixed use is acceptable in this location and the loss of the restaurant will not result in any harmful impact upon employment as this is a predominantly family run business.

The application is therefore considered acceptable in principle subject to the detailed considerations below.

Residential Amenities and Compatibility of Uses

The proposal will not result in any additional residential units but simply increase the living accommodation associated with the existing flat at number 37 returning it to the single, 2 storey dwelling it once was. The existing noise, disturbance and smells associated with the existing takeaway will therefore have a neutral impact on the existing occupants of the property and surrounding properties. The dwelling is associated with the takeaway business and the parking, garden and outbuildings to the rear of site provide ample amenity space for the dwelling and ample space for the business use.

Parking Provision

The site frontage provides ample customer parking for the takeaway use. The side access, rear yard and parking areas are in excess of that required by the adopted parking standards for the resultant business and dwelling. The converted garage also provides additional parking.

The parking provision, turning and delivery areas are considered acceptable and the proposal does result in any additional impact or harm to highway or pedestrian safety.

Essex County Council Highway Authority raises no objection to the application.

Representations

Frinton and Walton Town Council recommend approval of the application.

No individual letters of representation or objection have been received.

Conclusion

In the absence of any material harm resulting from the development, the application is recommended for approval.

6. Recommendation

Approval - Full

7. Conditions

- 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: 1832-01.

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

8. 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.