

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	SCE	11.10.18
Planning Development Manager authorisation:	AN	15/10/18
Admin checks / despatch completed	An	16/10/18

GR

**Application:** 18/01415/NMA **Town / Parish:** Clacton Non Parished

**Applicant:** Kevin James Britton

**Address:** Land South West of Roundabout at Brook Retail Park Little Clacton Bypass  
Clacton On Sea

**Development:** Non-material amendment to approved planning application 17/02038/OUT - to slightly reword Condition 10 to allow for the provision and or completion of some of these works at a slightly later phase in the developments implementation.

### 1. Town / Parish Council

N/A

### 2. Consultation Responses

ECC Highways Dept                      The Highway Authority would not wish to raise an objection to the application.

### 3. Planning History

16/01250/OUT	Hybrid planning application comprising: - Detailed application for foodstore (A1), hotel (C1), family public house (A3/A4), restaurants (A1/A3/A5), retail warehouse units (A1), picker's ditch major open space and associated access, landscaping, car parking and associated works. - Outline application for residential (C3) and employment development (B1 (a), (b), (c)) and associated access, landscaping, car parking and associated works (all matters reserved except access).	Approved	08.06.2017
17/00722/ADV	Proposed totem sign at entrance to Brook Park West.	Approved	23.06.2017
17/01187/DISCON	Discharge of conditions 2 (Phasing Plan), 3 (Programme of Archaeological Evaluation Work), 4 (Surface Water Drainage Scheme),	Approved	14.05.2018

	5 (Minimise the Risk of Offsite Flooding Scheme), 6 (Maintenance Plan), 8 (Foul Water Strategy), 11 (Details of bus stop/s and bus turn around facilities) and 19 (Local Recruitment Strategy) of approved planning application 16/01250/OUT.		
17/01223/ADV	Installation of freestanding 8 metre totem sign.	Approved	31.08.2017
17/01225/ADV	Installation of 6no. fascia signs.	Approved	31.08.2017
17/01226/ADV	Installation of site signage to include, 1no. gateway, 9no. freestanding, 1no. side by side directional, 1no. banner unit, and 16no. dot signs.	Approved	31.08.2017
17/01241/OUT	Variation of condition 21 of planning permission 16/01250/OUT - To amend the store design.	Approved	26.10.2017
17/01411/DISCON	Discharge of condition 09 (Construction Method Statement) and 13 (Ecological Management Plan) of planning permission 16/01250/OUT.	Approved	26.10.2017
17/01589/DISCON	Discharge of Condition 15 (Hard and Soft Landscaping) of Planning Permission 16/01250/OUT.	Approved	23.10.2017
17/01612/DISCON	Discharge of condition 3 (Programme of Archaeological Evaluation Work) of approved planning application 16/01250/OUT.	Approved	26.10.2017
17/01879/ADV	Proposed advertisements are:- 1 no. wall mounted fascia sign, 3 no. building mounted hoardings, 2 no. free standing totem signs, 1 no. poster display unit, 1 no. free standing arrow sign, 4 no. free standing hoardings and 1 no. goalpost fascia sign.	Approved	04.01.2018
17/02037/DISCON	Discharge of conditions 9 (Construction Method Statement Revision A), 14 (Landscape Management Plan), 15 (Landscaping), 18 (Crime Prevention) of planning permission 17/01241/OUT.	Approved	28.02.2018
17/02038/OUT	Variation of conditions 15, 21 and 29 of Planning permission	Approved	02.07.2018



17/01241/OUT to  
 i) Substitute the landscape and planting scheme;  
 ii) Modify the floor area and external elevations of the pub/restaurant; and  
 iii) Change the internal arrangement and external elevations of the hotel/lodge.

18/00174/DISCON Discharge of conditions 14 (Landscape Management Plan), 15 (Landscaping) and 18 (Various Details) of approved application 17/01241/OUT for Phases 1, 1a, and 5. Approved 27.06.2018

18/00250/DISCON Discharge of conditions 18 (Various Details) of Phase 3 of approved application 17/01241/OUT. Approved 20.04.2018

18/00921/DISCON Discharge of condition 14 (Landscape Management Plan) for Phase 3 only of 17/01241/OUT. Approved 15.06.2018

18/01250/DISCON Discharge of conditions 4 (Surface Water) & 6 (Maintenance Plan) to Approved Planning Application 17/02038/OUT in relation to Phase 2b only. Current

18/01308/DISCON Discharge of condition 10(a) of 17/02038/OUT to provide a fourth arm of the A133/Britton Way roundabout for site access. Current

18/01368/DISCON Discharge of condition 17) Underpass, to approved planning application 17/02038/OUT. Current

18/01568/ADV Relocation of the freestanding 8m totem sign, approved under 17/01223/ADV. Current

18/01616/OUT Variation of condition 1 (Approved Plans) and 15 (Approved Landscaping) of 17/02038/OUT. Current

18/01645/DISCON Discharge of condition 9 (Construction Management Plan) to approved Planning Application 17/02038/OUT Current

**4. Relevant Policies / Government Guidance**

N/A



## **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)**

From 1<sup>st</sup> October 2009 a provision under Section 96A of the Town and Country Planning Act came into force allowing a Local Planning Authority, on application, to make a change to any planning permission if it is satisfied that the amendment proposed is non-material.

The key test as to the acceptability of an application for a non-material change is whether the change is material to any development plan policy. If the answer is 'no', three further tests should be applied:

1. Is the proposed significant in terms of its scale (magnitude, degree etc.), in relation to the original approval?
2. Would the proposed change result in a detrimental impact either visually or in terms of amenity?
3. Would the interests of any third party or body who participated in or were informed of the original decision be disadvantaged in any way?



## Proposal

This non-material amendment application seeks to reword Condition No. 10 of application 17/02038/OUT, which grants full planning permission for a foodstore (A1), hotel (C1), family public house (A3/A4), restaurants (A1/A3/A5), retail warehouse units (A1), picker's ditch major open space and associated access, landscaping, car parking and associated works and outline permission for residential (C3) and employment development (B1 (a), (b), (c)) and associated access, landscaping, car parking and associated works (all matters reserved except access).

Condition No. 10 currently reads as follows:

*No development shall be occupied or shall come into use until the following have been provided or completed:*

- a) *a fourth arm off the A133/Britton Way Roundabout to provide access to the proposal site, the details of which will have first been agreed with the Local Planning Authority;*
- b) *the upgrading of the pelican crossing in St. John's Road (in the vicinity of the link to Pathfields Road) to a toucan crossing and upgrading of the pedestrian link located immediately west of the pelican crossing to enable its use by cyclists between St. John's Road and Crome Road, the details of which will have first been agreed with the Local Planning Authority;*
- c) *a minimum 2no. electric car charging points/parking spaces and infrastructure that would not prejudice the installation of further charging points in the future.*

This application seeks to amend the wording of Condition No. 10 as follows:

*The following works shall be completed prior to the respective phase identified below (according to Drawing No. BES/BPW/01C) being occupied or coming into use:*

- a) *Prior to the occupation or coming into use a fourth arm off the A133/ Britton Way Roundabout is to be completed in order to access the proposal site, the details of which will have first been agreed with the Local Planning Authority;*
- b) *Prior to the occupation of phase 4 or the coming into use of any part thereof, the upgrading of the pelican crossing in St. John's Road (in the vicinity of the link to Pathfields Road) to a toucan crossing; or other improvement to that crossing together with the; upgrading of the pedestrian link located immediately west of the pelican crossing to enable its use by cyclists between St. John's Road and Crome Road are to be completed, the details of which will have first been agreed with the Local Planning Authority;*
- c) *Prior to the occupation of each of Phases' 2b and Phase 4 or any part thereof a minimum 1no. electric car charging points/parking spaces shall be provided in each phase with infrastructure that would not prejudice the installation of further charging points in the future.*

The changes allow for the provision and or completion of the works required by part b) and c) of the condition to be at a later stage.

## Assessment

The proposal does not change the works that are proposed it is just the timing of these works. The works required relate to Highway matters and Essex County Council Highways have confirmed no objection and therefore it is considered that the later provision is acceptable.

The scale and magnitude of the proposal has not changes and the change would not be detrimental in terms of visual or amenity as it related solely to when the works will be carried out.



No third parties to the application would be disadvantaged as a result of the proposed changes.

Taking all the relevant issues into account it is considered that the proposed alterations do not result in any material amendment to that permission or have any significant detrimental impact on visual or residential amenity or highway safety and thus complies with national and local planning policies.

### **Conclusion**

In this instance it is considered the amendments being sought are minor and are therefore acceptable as a non-material amendment.

### **6. Recommendation**

Approval Non Material Amendment

### **7. Conditions / Reasons for Refusal**

1. Amendment to Condition No. 10 of 17/02038/OUT - The following works shall be completed prior to the respective phase identified below (according to Drawing No. BES/BPW/01C) being occupied or coming into use:

a) Prior to the occupation or coming into use of any phase a fourth arm off the A133/ Britton Way Roundabout is to be completed in order to access the proposal site, the details of which will have first been agreed with the Local Planning Authority;

b) Prior to the occupation of phase 4 or the coming into use of any part thereof, the upgrading of the pelican crossing in St. John's Road (in the vicinity of the link to Pathfields Road) to a toucan crossing; or other improvement to that crossing together with the; upgrading of the pedestrian link located immediately west of the pelican crossing to enable its use by cyclists between St. John's Road and Crome Road are to be completed, the details of which will have first been agreed with the Local Planning Authority;

c) Prior to the occupation of each of Phases' 2b and Phase 4 or any part thereof a minimum 1no. electric car charging points/parking spaces shall be provided in each phase with infrastructure that would not prejudice the installation of further charging points in the future.

Reason - To protect highway efficiency of movement and safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking.

### **8. Informatives**

N/A

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