

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	MP	31/10/18
Planning Development Manager authorisation:	AN	1/11/18
Admin checks / despatch completed	SB	02/11/18

Application: 18/01333/FUL **Town / Parish:** Clacton Non Parished

Applicant: Papa John's (GB) Ltd

Address: Unit 3 Jackson House 45 Jackson Road

Development: Proposed change of use from Use Class A3 (Cafe) to Use Class A5 (Hot Food Takeaway) with internal and external alterations.

1. Town / Parish Council

Clacton – Non Parished.

2. Consultation Responses

Environmental Protection
(Dated 28 September
2018)

Environmental Protection will not recommend approval until further information is provided regarding the extractor unit. A noise report shall be submitted to and approved in writing by, the Local Planning Authority. The report shall include details of the following:-

The total noise level from any fixed extractor unit/plants (external or internal) shall not cause adverse or significant adverse impact onto the nearest residential premises at any time. Therefore the rating noise level (specific sound corrected for any acoustic features) of the plant shall not exceed 5dB above the representative background noise level (L90) at 1 meter from the nearest noise sensitive receptor. The method of assessment shall be carried out in accordance with BS4142:2014 'Method for Rating Industrial Noise Affecting Mixed Residential and Industrial Areas'.

After all mechanical plants and equipment have been fully installed in place, a test shall be carried out to show above criterion shall be met and the results submitted to the Local Planning Authority for approval.
Reason: To protect the amenities of the nearby residential occupiers and the surroundings.

Odour Management Plan:

No development shall take place or use commences until there has been submitted to and approved in writing, by the Local Planning Authority, an Odour Management Plan, setting out cleaning, maintenance and filter replacement policies according to the proposed system. The plan should include a written recording system to record and demonstrate when all such work is carried out. The approved odour management plan shall be complied with throughout the duration of the use.

Reason: To ensure that occupiers of the nearby residential premises do not suffer a loss of amenity by reason of odour/smoke nuisance from the kitchen extract system.

Anti-vibration mounts for the Flue:

The plant shall not operate unless it is supported on adequate proprietary anti-vibration mounts to prevent the structural transmission of vibration and regenerated noise within adjacent or adjoining premises, and these shall be so maintained thereafter.

Reason: To ensure that occupiers of the nearby residential premises do not suffer a loss of amenity by reason of noise nuisance and vibration from use of the commercial premises.

Environmental Protection
(Dated 27 October 2018
following submission of a
Noise Assessment)

I have reviewed the submitted Noise assessment report by Cole Jarman dated 26th October 2018, and I have no adverse comments to make.

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

Food Health and Safety

Supports application. This business will require to register with TDC as a food business (this is a legal requirement)

3. Planning History

N/A

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework July 2018

National Planning Practice Guidance

Tendring District Local Plan 2007

ER32a Primary Shopping Area

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

TR1A Development Affecting Highways

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

PP5 Town Centre Uses

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.

5. Officer Appraisal

Site Description

The application site is Unit 3 Jackson House, 45 Jackson Road, Clacton-on-Sea. The property is terraced with the ground floor in question previously comprising of an A3 use coffee shop; however the site is currently unoccupied. The character of the surrounding area is urban, with large areas of built form to all sides. This side of Jackson road comprises of a mixture of commercial uses to the ground floor and residential to the first and second floor, whilst to the south-east of the site is a public car park.

The site lies within the Settlement Development Boundary of Clacton-on-Sea, the Town Centre boundary for Clacton-on-Sea, but is adjacent to the primary shopping area for Clacton-on-Sea, which runs along both Pier Avenue to north-east and West Avenue to the south-east.

Description of Proposal

This application proposes the change of use of the A3 unit into an A5 hot food takeaway unit to facilitate a Papa Johns, a takeaway and pizza delivery operator, with opening hours of 11am - 11pm Sunday to Thursdays (and Bank Holidays), and 11am - 1am Fridays and Saturdays. The application also proposes an extraction flue to the rear elevation of the building.

Assessment

1. Principle of Use

The application site falls adjacent to, but outside of, the Primary Shopping Area for Clacton Town Centre and therefore the site is not safeguarded for retail use. This point is emphasised by the fact the site is currently operated as an A3 coffee shop use, whilst there are a variety of uses along Jackson Road, including an A5 use Dominoes to the south. Therefore an A5 hot food takeaway use is acceptable in this location, subject to the detailed consideration below.

2. Visual Impact

The adopted Tendring District Local Plan (2007) "Saved" Policies QL9, QL10 and QL11 seek to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to their setting and are of a suitable scale, mass and form. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

The proposal results in some minor external changes, with the inclusion of an extraction outlet to the rear elevation of the building. However, due to its siting to the rear of the property it is not overly visible and will not create a significant visual harm. The works will also see the removal of the existing hoarding to the front elevation to allow for a new shopfront that would be expected from such a use. These changes will be visible but will result in a visual enhancement to the existing site and is therefore supported.

3. Impact to Neighbouring Amenities

Policy QL11 of the Saved Plan states that amongst other 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 in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

Due to the location of the proposal, it falls within close proximity to a number of commercial properties. However, following planning decision 16/01361/COUNOT, a number of the first and second floor units to the south of the site are now residential properties. There is potential for noise and disturbance associated with an A5 use, particularly given the late opening hours. However the properties in question are approximately 30 metres apart, whilst the town centre location with a busy thoroughfare and similar existing uses in closer proximity, in particular Dominoes at Number 37, ensures that the proposed development would not result in significant harm to existing amenities.

With regards to the proposed extraction outlet, following the submission of a Noise Assessment, the Council's Environmental Protection Team have confirmed they have no adverse comments to make.

4. Highway Safety

Essex County Highways Authority has been consulted as part of the process of this application and have raised no objections to the plans.

Other Considerations

Clacton is non-parished so no comments are required.

There have been no other letters of representation received.

Conclusion

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

6. **Recommendation**

Approval.

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 numbers 00950-101 Revision C, 00950-10 Revision A, 00950-11 and the document titled 'Plant Noise Assessment'.

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

- 3 Prior to the commencement of the use hereby approved, the mitigation measures as set out within Paragraph 6.3 of the document titled 'Plant Noise Assessment' shall be provided and retained in this form.

Reason - In order to protect the amenities of nearby residents.

- 4 Use of the premises as hereby permitted shall be confined to the hours between 11am and 11pm Sunday to Thursday including Bank Holidays, and 11am to 1am Fridays and Saturdays.

Reason - To avoid disturbance in the interest of residential amenity.

8. Informatives

Positive and Proactive Statement

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.