

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	MP	19/12/18
Planning Development Manager authorisation:	AN	20/12/18
Admin checks / despatch completed	EK	20/12/18

Application: 18/01844/FUL **Town / Parish:** Brightlingsea Town Council

Applicant: Ms Lisa Brown

Address: Batemans Tower Cafe Promenade Way Brightlingsea

Development: Amendments to agreed proposal 17/00310/FUL - addition of fire escape stair with door from first floor level, addition of fire escape door at ground floor level, change of rear window fenestration & change of position of cafe kitchen extractor flue.

1. Town / Parish Council

Brightlingsea Town Council Supports application.

2. Consultation Responses

Environmental Health I have reviewed the application and we have no adverse comments to make.

Building Control and Access Officer No comments at this time.

Environment Agency Thank you for your consultation received on 7 November 2018. We have inspected the application, as submitted, and we are raising a holding objection due to a lack of information relating to the proposals proximity to the sea defences.

Embankment

The Batemans Tower Café backs onto an embankment which we maintain. We would need to ensure that the full structure, including the fire escape, is a sufficient distance from the toe of the embankment to allow plant and equipment to access the embankment for maintenance purposes, and if we were to raise the embankment in the future. We are currently unable to assess the proposal fully as the application documents do not include accurate distances within the plans. Due to this we are raising a holding objection so that we can fully review the information on the application.

Overcoming our objection

Provide us with updated diagrams that show accurate distances from the toe of the embankment to the structure including the fire escape so that we can make a full assessment of the proposal. We would require a 1m distance between the structure and the embankment to ensure access for maintenance is achievable.

We ask to be re-consulted once this information has been submitted. The submission of this documents will not automatically remove our objection. We will provide our bespoke comments within 21 days of being formally re-consulted.

ECC Highways Dept The information that was submitted in association with the application

has been fully considered by the Highway Authority. The proposals including the fire escape stairs are located clear of the adjacent Public Right of Way, therefore:

From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority as it is not contrary to the following Development Management policies:

- A) Safety: Policy DM 1 of the Highway Authority's Development Management Policies February 2011
- B) Accessibility: Policy DM 9 of the Highway Authority's Development Management Policies February 2011
- C) Efficiency/Capacity: Policy DM 1 of the Highway Authority's Development Management Policies February 2011
- D) Road Hierarchy: Policy DM 2-4 of the Highway Authority's Development Management Policies February 2011
- E) Parking Standards: Policy DM 8 of the Highway Authority's Development Management Policies February

pp Director for Highways & Transportation
Enquiries to Caroline Tracey
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3. Planning History

01/00245/FUL	Demolition of existing building and erection of replacement cafe	Approved	09.08.2001
17/00310/FUL	Demolition of existing dilapidated shed/cafe and re-orient on existing site with construction of two storey building as three separated timber clad modules to facilitate new larger cafe, ice-cream parlour and shop with update modern kitchen, servery, cold stores, wc and disabled wc/baby change faciities on ground floor and restaurant, bar/flexible use space on first floor with disability lift, disability wc, wc and staff shower. Improved alfresco dining facilities around exterior of building with bike stores, side service shed and bin stores. Improved disability access throughout.	Approved	30.10.2017

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework July 2018

National Planning Practice Guidance

Tendring District Local Plan 2007

EN23 Development Within the Proximity of a Listed Building

QL3 Minimising and Managing Flood Risk

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

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

PPL1 Development and Flood Risk

PPL9 Listed Buildings

SPL3 Sustainable Design

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 Batemans Tower Café, Promenade Way, Brightlingsea, which is a south-east facing, detached single storey building currently serving as a cafe. The character of the surrounding area is relatively rural, with large grassed areas further out to the east and to the north in particular. Directly to the east is a car park, which provides a slight urban edge to the areas character. The site does not fall within a recognised Settlement Development Boundary, as agreed in both the Adopted Tendring Local Plan 2007 and the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft. The site falls within Flood Zones 2 and 3 and is also within a Tidal Flood Risk area. To the north of the site, there is a Public Right of Way running east to west.

History

Under planning reference 17/00310/FUL, planning permission was granted for the erection of a two storey building to serve as a new café, following the demolition of the existing structure.

Proposal

This application seeks full planning permission for amendments to previous planning permission 17/00310/FUL. The changes are as follows:

- a fire escape stair with door from the first floor;
- a first escape door at ground floor level;
- removal of one first floor and one ground floor rear elevation window, to be replaced by one larger first floor window; and
- a differing design and position of the extractor flue to the rear elevation.

Assessment

1. Principle of Development

The principle of a larger replacement café has previously been accepted within planning permission 17/00310/FUL. This application is purely assessing the detailed amendments to the building, which will be considered below.

2. Design, Layout and Appearance

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 application involves several alterations to the previously approved design. The amendments to the window fenestration and inclusion of ground and first floor fire escapes are located to the rear elevation and will therefore largely not be visible when viewing the building. These will therefore result in a neutral impact.

The amended extractor flue is also located to the rear elevation; however will be sited approximately 1.5 metres higher than that previously approved. Given the pitched roof design, despite being located to the rear elevation it will be visible from all elevations. Whilst the design is not particularly attractive, the majority is clad to match the remainder of the building and it is overall of a design that would be in-keeping with the design approach of the building. Further, it will not be particularly prominent from the front and side elevations, and therefore on balance it is visually acceptable.

3. Setting of Listed Building

Paragraph 132 of the National Planning Policy Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.

Policy EN23 of the Saved Tendring 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. Policy PPL9 of the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft carry forward these sentiments and state that proposals for new development affecting a listed building or its setting will only be permitted where they will protect its special architectural or historic interest, character and appearance.

Approximately 85 metres to the south-west lies Bateman's Tower, a Grade II Listed Building, and therefore the impact on its setting is a key consideration of this application. However, given the significant separation distance and relatively minor alterations to the building previously approved, the proposal will therefore preserve the setting of this Listed Building.

4. Highways

Essex County Highways Authority have been consulted as part of the applications process, and have stated the proposal is acceptable.

5. Flood Risk

The Environment Agency (EA) initially raised a holding objection to the proposed amendments as they needed to ensure the full structure, including the fire escape, was a sufficient distance from the toe of the embankment. This was to allow plant and equipment to access the embankment for maintenance purposes and if they were to raise the embankment in the future.

The agent for the application accordingly supplied additional information to overcome this objection and the EA have since confirmed they remove their previous objection.

Other Considerations

Brightlingsea Town Council supports the application.

There has been no other letters of representation received.

Conclusion

In the absence of any material harm as a result of the proposed development, this 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 0/A000/LP/001, 0/A100/PR/002 Rev C, 0/A100/PR/003 Rev A, 0/A200/PR/001 Rev A, 0/A200/PR/002 Rev B, 0/A200/PR/003 Rev A, 0/A200/PR/004, 0/A200/PR/005 Rev A, 0/A200/PR/006 Rev A and the submitted Flood Risk Assessment.

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

- 3 The development hereby permitted shall be in accordance with the submitted Flood Risk Assessment, and any measures as highlighted within Section 7 shall be completed prior to first occupation.

Reason - The site is at risk from flooding and an evacuation plan is essential to safeguard future occupiers of the development.

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.