

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	MP	12/03/19
Planning Development Manager authorisation:		
Admin checks / despatch completed		

**Application:** 18/01216/FUL **Town / Parish:** Manningtree Town Council

**Applicant:** Mrs Heidi Jones

**Address:** 2 Stour Street Manningtree Essex

**Development:** Change of use from A1 to A3 including upgrade of the existing extractor fan.

### **1. Town / Parish Council**

Manningtree Town Council                      No comment.

### **2. Consultation Responses**

Waste Management                      No comments.

Environmental Protection  
(Dated 9 August 2018)                      The proposal is for a change if use from A1 to A3 (hot food) use; the applicant must submit a scheme for dealing with odour extraction and abatement as well as dealing with noise from such systems, in accordance with BS:4142 (2014). This scheme should be submitted in writing for approval by the Local Authority. Any extracts should terminate above ridge height of this building.

The purpose of this request is protection to the local amenity.

Environmental Protection  
(Dated 20 February 2019  
following submission of  
noise and odour  
assessments)                      In response to the submitted noise reports for the above application, I would like some clarification ;

The report has stated that to minimise the impact of the noise from the extraction system, a 600mm in-line attenuator must be fitted; this involves the relocation of the fan from the existing position to enable the attenuator to be fitted – are you able to confirm whether this has yet been undertaken?

Insurance as to the noise levels emitted from the new system would need to be confirmed; we would request that the following condition be imposed on any approvals that may be given –

*The rating sound level of the kitchen extract system installed shall not exceed 45 dB LAeq1hr at the rear of 1 Stour Street, Manningtree, this being the nearest noise sensitive receptor*

With reference to the odour control systems we note the recommendations from the report and would request confirmation as to whether this has been yet been undertaken –

Grease filtration system - Baffle filers, cartridge filters or a water wash system;

Fine dust filter - Bag or High-Efficiency Particulate Arrestance (HEPA) filter; and,

Gaseous phase - An activated carbon filter or an oxidation system such as UV light or ozone.

Should these controls not yet be implemented, we would request the above be conditioned in relation to any approvals.

I hope this clarifies our position in relation to this application.

Should you require any additional information, please do not hesitate to contact me.

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](mailto:development.management@essexhighways.org) or by post to:

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

Building Control and  
Access Officer

No comments

Licensing Section

No comment.

### 3. **Planning History**

14/01800/TCA	Weeping Birch overhanging Royal Mail site - cut back to boundary.	Approved	30.12.2014
18/00989/LBC	Installation of a replacement extractor fan.	Approved	06.03.2019

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

NPPF National Planning Policy Framework July 2018

National Planning Practice Guidance

Tendring District Local Plan 2007

COM20 Air Pollution/ Air Quality

COM22 Noise Pollution

EN17 Conservation Areas

EN22 Extensions or Alterations to a Listed Building

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

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

PPL8 Conservation Areas

PPL9 Listed Buildings

SPL3 Sustainable Design

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.

## **5. Officer Appraisal**

### **Site Description**

The application site is located on the south-western corner of Stour Street within the parish of Manningtree. The building is an end of terrace two storey property, constructed of red brick. It is currently occupied at ground floor level by 'Scoffers', a bakery and sandwich bar operating under an A1 shop use. The first floor is used for residential purposes. The site lies within the centre of the Manningtree Settlement Development Boundary and is surrounded by significant forms of urban development; a mixture of residential and commercial.

The site falls within the Manningtree Conservation Area; however is not referenced within the Manningtree and Mistley Conservation Area Review. The building is also Grade II Listed, with its listing being the following:

*"Corner block of 3 cottages. Early C19 with later alterations and additions. Red and gault brick. grey slate roof hipped to angle. L plan corner site with curved corner to junction. 2 red brick chimney stacks with gault. ornamentation.*

*2 storeys. Central band. Gault ornamentation to first floor of Stour Street face. paired eaves brackets. plinth. To the right of Stour Street face is a 2 bay stable extension of similar materials. Brook Street face, 2 window range of small paned vertically sliding sashes, gauged brick arches. C20 door to left in original surround, pilasters, frieze and flat canopy. Stour Street face, 3 similar windows to first floor, 2 similar ground floor left windows with original doorway between. Original shop window and door to left with fascia over, fluted door and windows pilasters with capitals and bases, 2 mullions to window. The right stable extension with loft door and light, ground floor vertically sliding sash window, vertically boarded door and carriage door."*

### Description of Proposal

This application seeks full retrospective planning permission for the change of use from A1 Shop use to A3 food and drink use. The use has been operating from August 2017. While there were initial queries that the proposal actually represented a change of use to an A5 hot food and takeaway use, the applicant has supplied additional information that shows there will be indoor and outdoor seating areas, and the Council is therefore satisfied the proposal represents an A3 food and drink use.

The proposal will result in few external changes; however does include a replacement extractor fan (this is retrospective).

The opening hours are also proposed to be extended to the following:

Mondays, Tuesdays, Thursdays and Fridays: 7am - 3pm and 5.30pm - 10.30pm

Wednesdays: 7am - 2pm

Saturdays: 8am - 3pm and 5.30pm - 10.30pm;

Sundays and Bank Holidays: 9am - 3pm and 5.30pm - 10pm

The proposal is in conjunction with planning reference 18/00989/LBC, which will purely assess the impacts of the extraction fan to the Grade II Listed Building.

### Assessment

#### 1. Principle of Development

The site is not safeguarded for retail use in either the Tendring District Local Plan (2007) or the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017). As such the site is not safeguarded for retail use and an A3 food and drink use is therefore acceptable subject to other considerations detailed 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 few changes to the external appearance of the building; however does include a replacement extraction fan to the western side elevation. It is located directly above the ground floor window and is visible from views along Brook Street to the west. However, while this

markedly differs to the previous fan that was attached in this location it is still of a minor nature and will not be particularly prominent. Therefore there will not be significant visual harm to the character of the surrounding area to justify a reason for refusal.

### 3. Heritage Impact

Paragraph 196 of the National Planning Policy Framework (2018) states less than substantial harm to a designated heritage asset should be weighed against the public benefits of the proposal.

Policy EN17 of the Adopted Local Plan states that development should look to either preserve or enhance the character and appearance of a conservation Area. The sentiments of this are carried forward within Policy PPL8 in the Emerging Local Plan.

Policy EN22 of the Adopted Plan states that alterations to a Listed Building will only be permitted where it would not result in the damage or loss of features of special architectural or historic interest. The sentiments of this policy are carried forward within policy PPL9 of the Emerging Plan.

The application site is located on the western edge of the Manningtree Conservation Area, and also forms part of a row of Grade II Listed buildings. Accordingly a Heritage Statement has been supplied to justify how the proposal will either preserve or enhance both the character and appearance of the Manningtree Conservation Area and the character and appearance of the Grade II Listed Building.

While the extraction fan is larger and extends further out than that previously in situ, as previously stated the retrospective works involved are only a minor addition to the property and will preserve the character and appearance of the Manningtree Conservation Area. Further, while the works are not a pleasant addition to the Grade II Listed Building they are entirely reversible and do not impact main views of the building along Stour Street.

Therefore, while there may only be slight public benefits as a result, the harm to the designated heritage assets is not considered to be so significant that a refusal reason is warranted.

### 4. 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 two residential properties; Number 1 Stour Street and Number 5 Brook Street. Accordingly it is important to assess the impacts of the proposed change of use and additional opening hours to their existing amenities.

While the increased hours, which will include evening hours up until a maximum of 10.30pm, in itself represents potential harm to amenities through increased noise disturbances, it is accepted that the site is located on the edge of the main Manningtree Town Centre where such uses are more typically expected. Further, the external seating will only be used during daytime hours (and a condition will be attached to reflect this), thereby removing the concern of late night noise disturbances to neighbouring properties, while there are no significant external alterations that will harm amenities.

Concerns have also been raised within objection letters with regards to a loss of privacy; however while the external seating area is adjacent to a shared walkway with Number 1 Stour Street, the current arrangement offers no form of privacy. Further the external seating area will not be open during evening hours. Therefore there is not considered to be a significant loss of privacy as a result.

In addition, the Council's Environmental Protection Team have been consulted as part of the process of this application and within their initial comments requested that the applicant must submit a scheme for dealing with odour extraction and abatement as well as dealing with noise

from such systems. Following this, the applicant submitted Noise Impact Assessments and an Odour Impact Assessment. Following re-consultation Environmental Protection stated they have no objections subject to two conditions ensuring the fitting of a 600mm in-line attenuator and details of odour control systems. Accordingly these will be added as conditions to this decision.

Therefore, while it is acknowledged there will be some harm to existing neighbouring amenities, on balance this harm is not considered sufficient to warrant a reason for refusal in this location.

## 5. Highway/Parking Impacts

Essex Highways Authority has been consulted and state they have no objections.

There are no parking spaces serving the property. However, the site is located in a sustainable location within close proximity to the town centre and other parking facilities. Further, it is noted that the site in its existing lawful A1 use also has no parking facilities and while Adopted Parking Standards require additional parking provision for an A3 use compared to an A1 use (1 space per 5sqm instead of 1 space per 20sqm), this lack of parking is not considered harmful enough to warrant a reason for refusal.

## Other Considerations

Manningtree Town Council has not commented on the application.

There have been two letters of observation received, with the following concerns:

1. Impact to neighbours through later opening hours;
2. No need for another A3 use in this location;
3. May need additional fire protective measures;
4. Loss of privacy; and
5. Smell, noise and disturbance to neighbouring properties;

In answer to this, points 1, 4 and 5 have been addressed within the main body of the report above. Points 2 and 3 are not material planning considerations and can therefore not be considered within the determination of this application.

## 6. **Recommendation**

Approval.

## 7. **Conditions**

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans, documents titled 'Odour Impact Assessment' and 'Environmental Noise Report', the untitled Site Location Plan, the untitled proposed floor layout, the submitted photographs of the site, the untitled Design and Access Statement and Heritage Statement, the untitled additional information dated 14 February 2019 and the untitled document showing the external seating layout dated 12 March 2019.

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

- 2 Use of the premises as hereby permitted shall be confined to the following hours:

Mondays, Tuesdays, Thursdays and Fridays: 7am - 3pm and 5.30pm - 10.30pm

Wednesdays: 7am - 2pm

Saturdays: 8am - 3pm and 5.30pm - 10.30pm;

Sundays and Bank Holidays: 9am - 3pm and 5.30pm - 10pm

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

- 3 Use of the ancillary external seating area, as shown on the untitled external layout drawing dated 12 March 2019, can only be used in conjunction with the use hereby permitted and shall only be operated between the following hours:

Mondays, Tuesdays, Thursdays and Fridays: 8am - 3pm  
Wednesdays: 8am - 2pm  
Saturdays: 8am - 3pm  
Sundays and Bank Holidays: 9am - 3pm

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

- 4 Within two months of the date of this decision, details of the installation of a 600mm in-line attenuator must be submitted to the Local Planning Authority for approval. The rating level of the sound emitted from the kitchen extract system shall not exceed 45 dBL at the rear of 1 Stour Street, Manningtree. Development shall be carried out in full accordance with the approved details within two months of approval.

Reason - In the interest of residential amenity.

- 5 Within two months of the date of this decision, details of odour controls as highlighted within paragraph 4.2.1 of the document titled 'Odour Impact Assessment', shall be submitted to the Local Planning Authority for approval. Development shall be carried out in accordance with the approved details within two months of the approval.

Reason - 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.