

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	MP	09/07/19
Planning Development Manager authorisation:	AN	11/7/19
Admin checks / despatch completed	SB	12/07/2019

**Application:** 19/00696/FUL **Town / Parish:** Clacton Non Parished

**Applicant:** David Berkovits

**Address:** 69 Rosemary Road Clacton On Sea Essex

**Development:** Proposed addition of 3 floors above existing ground unit to create 2no. 2 bed flats & 1no. 1 bed flat.

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

Clacton – Non Parished.

### **2. Consultation Responses**

ECC Highways Dept

The site is in a town centre location where there is reasonably good transport links; the Highway Authority would not deem the application of current Parking Standards necessary in this instance.

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions:

1. The Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to first occupation and retained at all times.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy DM8.

2. Prior to occupation of the proposed dwelling, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator free of charge.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10.

3. No development shall take place, including any ground works or demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the

development  
iv. wheel and underbody washing facilities

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and Policy DM 1.

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative 1: In main urban areas with frequent and extensive public transport, cycling and walking links, the EPOA Parking Standards recommend that a reduced parking standard provision may be applied to residential developments. A reduced parking standard provision level can be applied to this proposal as it is located very close to regular public transport services and public car parking facilities.

Informative 2: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

Informative 3: 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

### **3. Planning History**

N/A

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

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

EN6a Protected Species

EN11A Protection of International Sites: European Sites and Ramsar Sites

ER31 Town Centre Hierarchy and Uses

ER32a Primary Shopping Area

ER33 Non-retail Uses Within Primary Shopping Frontages

HG1 Housing Provision

HG3 Residential Development Within Defined Settlements

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

HG14 Side Isolation

QL1 Spatial Strategy

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)

CP1 Sustainable Transport and Accessibility

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

PP1 New Retail Development

PP2 Retail Hierarchy

PP5 Town Centre Uses

PPL4 Biodiversity and Geodiversity

SP1 Presumption in Favour of Sustainable Development

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

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.

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 supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF. In addition, the actual need for housing was found to be much less than the figure produced by the standard method when tested at the recent Examination In Public of the Local plan. Therefore, the justification for reducing the weight attributed to Local Plan policies is reduced as is the weight to be given to the delivery of new housing to help with the deficit.

## **5. Officer Appraisal**

### **Site Description**

The application site is 69 Rosemary Road, which is an existing single storey property located within the parish of Clacton-on-Sea. The site is currently occupied at ground floor level by William Hill and falls within the Primary Shopping Frontage for Clacton-on-Sea. The site is located within the town centre and as such is surrounding by development to all sides. The development largely

consists of commercial units at ground floor and residential above. There is a varied mix of types and styles of buildings, with examples of single storey, two storey and three storey properties.

The site falls within the Settlement Development Boundary for Holland-on-Sea, as agreed in both the Adopted Tendring Local Plan 2007 and the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

### Description of Proposal

This application seeks full planning permission for the erection of a three storey extension on top of the existing single storey building. The proposed extension will accommodate 2 x 2 bedroom flats to the first and second floors, and 1 x 1 bedroom flat to the third floor.

### Site History

Under planning reference 16/01829/FUL, planning permission was granted for the erection of a four storey building following the demolition of the existing two storey site adjacent to the east. This proposal consisted of an A1/A3-Class retail unit on the ground floor and three, 2-bedroom flats, five 1-bedroom flats, and a studio-flat at first, second and mansard-roof levels.

At the time of the site visit, the previous two storey building had been demolished but construction works for the new four storey property had not started.

### Assessment

#### 1. Principle of Development

Policy ER33 of the Adopted Local Plan 2007 states that within the Primary Shopping Frontages non-retail uses will not be permitted at ground floor level.

The site is located within the Settlement Development Boundary (SDB) for Clacton-on-Sea, as established in the saved and draft local plans. Further, the existing ground floor use, while classed as Sui Generis, is unchanged as a result of the works and therefore will bear no impacts to the vitality of the town centre. Given this, the principle for residential development is acceptable subject to the detailed considerations below.

#### 2. Design 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 proposed development will see the existing single storey property converted into a four storey property. As highlighted earlier, the surrounding area includes a mixture of building types ranging from single to three storeys. However, under planning reference 16/01829/FUL, the site adjacent to the east has an extant planning permission for a four storey property. The principle of a four storey property in this location is therefore considered to be of an acceptable nature.

It is also acknowledged that there is no guarantee that the adjacent permission will be built, and therefore consideration should also be given to the four storey design being built in isolation. However the overall height of the building is 11 metres, relatively modest for a four storey property, and will exceed the height of the adjacent property by approximately 3 metres. The third floor will also be set back approximately 1 metre. Given this, that the material use is in-keeping, and that the overall modern design is considered to be of good visual merit that will provide a small enhancement to the character of the area, the overall impact is not considered to be significantly harmful.

The proposal does also include a small change to the ground floor level, with an additional front door to serve the three flats. However, this is considered to be a minor and acceptable alteration that will result in a neutral impact to the character of the area.

### 3. Private Amenity

Policy HG9 of the Saved Tendring Local Plan 2007 states that private amenity space for a flat should either be a minimum of 25 square metres per flat provided communally or a minimum of 50 square metres for a ground floor flat and a minimum balcony area of 5 square metres for units above.

The proposed development will include a small terraced area for the 1 bedroom flat to the third floor, measuring approximately 7 square metres. There is no private amenity provision to either of the two bedroom flats to the first and second floors. While the proposal does not accord with the above policy, it is acknowledged that the site is within a highly sustainable location, in close proximity to areas of amenity including the beach. Given this, and that private amenity area for a proposal in a location such as this would not necessarily be expected, it is considered that on balance this is not harmful enough to warrant a reason for refusal.

### 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).

The development proposals are located within a town centre location comprising of predominantly retail uses with flats located above. In terms of the adjacent neighbour to the west, 5 Central Parade, given the two buildings are attached there is naturally a degree of harm to existing amenities. The plans do however show a 45 degree angle from the existing first floor window to the proposed extension, therefore meeting guidelines demonstrated within the Essex Design Guide and ensuring the level of light lost is acceptable. Further, the north-facing nature of the properties ensures a minimal impact in regard to loss of sunlight, as the sun rises in the east and sets in the west.

In respect of overlooking, the site is within a heavily populated town centre location with small and narrow plots. Given this there is a sense of enclosure and any existing private amenity areas are already overlooked. The proposed extension will therefore not significantly increase the existing overlooking potential.

The development to the east, which is yet to be constructed, is to be four storeys and of the same height. Against this background, the proposed development will not appear imposing, while that scheme has no side elevation windows that would result in any loss of light. While there are amenity areas on terraces to the rear of the adjacent development, the extension being proposed will not extend far enough to be harmful to these areas. Further, the proposed extensions are also set forward approximately 5 metres, and any views from the rear elevation windows will avoid directly overlooking onto these terraces.

Should the adjacent development not be constructed, the nearest property to the east would be 65 Rosemary Road. However, given there would be a significant separation distance of 20 metres there would be no harm in respect of loss of light, the development appearing imposing or through direct overlooking.

### 5. Highway Safety

Essex Highways Authority have stated they have no objections to the scheme subject to conditions relating to cycle parking provision and the submission of a Construction Method Statement. A further condition was requested for a Residential Travel Information pack; however given the minor nature of the development it would not be reasonable to include this.

With respect to parking provision, Adopted Car Parking Standards state for a one bedroom property there should be minimum provision of one space measuring 5.5m x 2.9m, and for a property with two or more bedrooms, minimum provision of two spaces measuring 5.5m x 2.9m.

While the proposal does not include any parking provision, given the sites highly sustainable location within the town centre, and in close proximity to a number of amenities, it is considered that it would not be reasonable to object on these grounds.

## 6. Legal Obligations

Policy COM6 of the adopted Tendring District Local Plan 2007 states "For residential development below 1.5 hectares in size, developers shall contribute financially to meet the open space requirements of the development in proportion to the number and size of dwellings built".

There is currently a deficit of 41.08 hectares of equipped play in Holland/Clacton. However, although there is a deficit of play and open space it is not felt that this development will have a significant impact on the current deficit, and therefore no contribution is required on this occasion.

## 7. Habitats Regulation Assessment

Following Natural England's recent advice and the introduction of Zones of Influences around all European Designated Sites (i.e. Ramsar, Special Protection Areas and Special Area of Conservation). Within Zones of Influences (which the site falls within) Natural England are requesting financial contributions to mitigate against any recreational impact from new dwellings.

Legal advice has been sought in relation to the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) which supports the view that Tendring District Council can seek financial contributions in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). A Habitat Regulations Assessment has therefore been undertaken to confirm that the mitigation will be the RAMS level contribution as recommended by Natural England. It is therefore considered that this contribution is sufficient to mitigate against any adverse impact the proposal may have on European Designated Sites. The contribution is secured by unilateral undertaking. There is therefore certainty that the development would not adversely affect the integrity of European Designated Sites in accordance with policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

### Other Considerations

Clacton is non-parished so no comments are required.

There have been no other letters of representation received.

### Conclusion

The site is within the settlement boundary for Clacton-on-Sea within both the saved and emerging local plans, and will ensure the commercial use is retained at ground floor level. The principle of development in this location is therefore acceptable. Following an earlier permission adjacent to the site for a similarly sized scheme, the four storey design will be acceptable and be an enhancement to the existing street scene. While there will be a lack of private amenity area and parking provision, on balance due to the highly sustainable location this is not considered to be significantly harmful. Therefore 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 P100, P101, P102, P103, P104 and the untitled Site Location Plan.

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

- 3 The Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to first occupation and retained at all times.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety.

- 4 No development shall take place, including any ground works or demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and underbody washing facilities

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety.

## **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.

### Highways

In main urban areas with frequent and extensive public transport, cycling and walking links, the EPOA Parking Standards recommend that a reduced parking standard provision may be applied to residential developments. A reduced parking standard provision level can be applied to this proposal as it is located very close to regular public transport services and public car parking facilities.

On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

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.



## Legal Agreement Informative - Recreational Impact Mitigation

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: mitigation against any recreational impact from residential developments in accordance with Regulation 63 of the Conservation of Habitat and Species Regulations 2017.