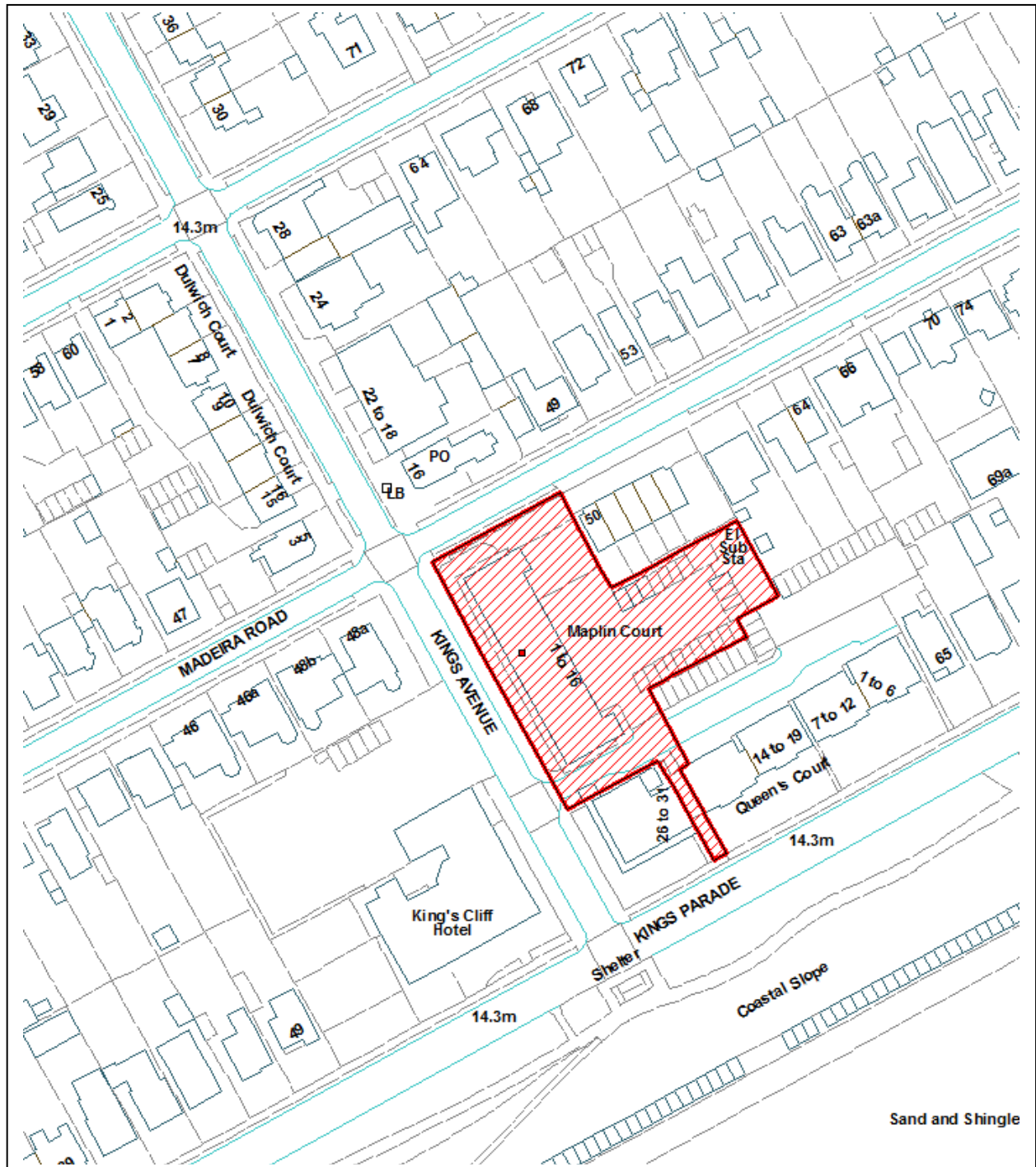


PLANNING COMMITTEE

30 July 2019

REPORT OF THE HEAD OF PLANNING

**A.3 PLANNING APPLICATION – 18/01434/FUL – MAPLIN COURT KINGS AVENUE
HOLLAND ON SEA CO15 5EY**



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Application: 18/01434/FUL

Town / Parish: Clacton Non Parished

Applicant: Long Term Reversions (Torquay) Ltd

Address: Maplin Court Kings Avenue Holland On Sea CO15 5EY

Development: Construction of new third floor (fourth storey) to include 4 no. 1 bed units.
New parking layout/additional parking spaces and cycle storage.

1. Executive Summary

- 1.1 This application has been referred to Planning Committee at the request of Councillor Winfield due to concerns relating to; the design and street scene impact, poor layout and density, highway safety and parking and the harmful impact on neighbouring amenities including exhaust fumes from additional traffic into open ground floor doors and windows.
- 1.2 The application site is situated on the corner of Kings Avenue and Madeira Road, within the Settlement Development Boundary of Holland on Sea as defined within both the adopted Tendring District Local Plan 2007 and the emerging Tendring District Local Plan 2013 – 2033 and Beyond Publication Draft 2017 where the principle of residential development is accepted subject to relevant detailed considerations under adopted Policy HG3 (Residential Development within Defined Settlements) and emerging Policy SPL2 (Settlement Development Boundaries).
- 1.3 This application follows a previous refusal under planning reference number 14/01350/FUL for a similar scheme seeking full planning permission for the addition of a third floor to create 6 no. flats (comprising 2 x 3 bed, 3 x 1 bed and 1 x 2 bed). This was refused on highways grounds due to insufficient parking.
- 1.4 This application has been amended and now seeks full planning permission for the addition of a third floor to create 4 no. 1 bed flats together with a new parking layout to allow for allocated garages and parking bays to serve the existing flats and additional spaces to serve the new flats.
- 1.5 Maplin Court occupies a prominent position and appears prominent due to its height and massing. The addition of a third floor (fourth storey) will therefore be visually prominent simply due to the character of the existing building and site. However, the proposed first floor is set in from the existing elevations of Maplin Court and is of a design that is sympathetic to the character and appearance of the existing building. Furthermore, there are existing four storey properties immediately adjacent fronting Kings Parade.
- 1.6 The addition of a third floor (fourth storey) will create additional windows with the potential to overlook adjacent dwellings. However, any overlooking would be distant views only. In the context of the existing windows at Maplin Court, any overlooking could not be considered materially harmful.
- 1.7 The proposal involves the reworking and formalising of the existing parking arrangements by allocating and marking out bays to each existing and proposed flat. Currently there are 21 garages and 24 unallocated parking spaces (45 in total). The proposed plan results in 32 parking bays (including 4 visitor spaces) and 21 garages (as existing) being 53 spaces in total and a net gain of 8 spaces. The Essex County Council Adopted Parking Standards require a total of 5 spaces to serve the new flats (1 per flat and 1 visitor space). The

proposed layout provides sufficient parking for the development of 4 no. additional 1 bed flats.

- 1.8 In conclusion, the proposed development would not result in any harmful impact upon visual amenity or neighbouring amenities and provides a formalised parking layout and sufficient additional parking spaces to serve the proposed units.
- 1.9 A legal agreement has is currently being prepared to account for a contribution towards the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS).

Recommendation:

That the Head of Planning be authorised to grant planning permission for the development subject to:-

Within 6 (six) months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters (where relevant):

- **Financial Contribution towards RAMS**

Subject to the conditions stated in section 8.2.

2. Planning Policy

- 2.1 The following Local and National Planning Policies are relevant to this planning application:

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

HG1 Housing Provision

HG3 Residential Development Within Defined Settlements

HG6 Dwelling Size and Type

HG9 Private Amenity Space

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

COM6 Provision of Recreational Open Space for New Residential Development

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

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

LP1 Housing Supply

LP2 Housing Choice

LP4 Housing Layout

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

HP5 Open Space, Sports & Recreation Facilities

PPL4 Biodiversity and Geodiversity

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

- 2.2 The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) 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.
- 2.3 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.
- 2.4 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.
- 2.5 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.

3. Relevant Planning History

CLA/378/71/1	Ground floor offices and 8 flats on first floor and 8 flats on second floor	Approved	11.07.1972
TEN/1246/76	Change of use of ground floor premises from offices to eight self-contained flats, including alterations to elevations	Approved	25.01.1977
99/00229/FUL	Concrete sectional garage on owners allocated garage space (No 4)	Approved	19.04.1999
14/01350/FUL	Proposed erection of third floor to form 6 no. additional flats with associated parking and cycle storage, including upgrading the whole building facade and landscaping.	Refused	21.01.2015

4. Consultations

ECC Highways Dept
ORIGINAL COMMENTS

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

1. No development shall take place, including any ground works or works of demolition, until a Construction Method Statement (CMS) 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 under body washing facilities

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety and Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

Informative1: The Highway Authority observes that the proposed new parking spaces in front of the garages and substation are unlikely to be used due to the restricted access space and lack of efficient and convenient turning facilities. It is also observed that the existing garages are of insufficient width and length to contain a modern motor vehicle and their use limited to domestic storage bicycles or powered two wheelers only and should be discounted from the total car parking facility.

Informative2: 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

ECC Highways Dept
AMENDED COMMENTS

The information that was submitted in association with the application has been fully considered by the Highway Authority.

Access will be via the existing vehicle access and the proposal provides 1 parking space for each of the new flats following modifications to the current parking layout. Information has been supplied to show that the applicant is introducing a parking and visitor permit scheme for all residents therefore:

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

1. Prior to occupation of the development a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority shall be constructed, surfaced and maintained free from obstruction within the

site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety in accordance with policy DM1.

2. Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8.

3. Each vehicular parking space which is bounded by walls or other construction shall have minimum dimensions of 3.4 metres x 5.5 metres.

Reason: To encourage the use of off-street parking and to ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8.

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 and Policy DM 1.

5. 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.

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: 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 2: As an observation the existing parking spaces located off Madeira Road appear to be full and well used consideration may need to be given to install some form of collapsible bollard for these private parking spaces to keep these spaces free for the permit holders. The bollards would need to be located off the publicly maintainable highway and set half a metre back from the back of the footway.

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 or by post to:

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

The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

5. Representations

5.1 The site lies within the non-parished area of Clacton-on-Sea.

5.2 43 letters of objection and representation have been received to the original and amended schemes (including objection from Holland Residents Association and Essex County Council Councillor Sargeant. The concerns raised can be summarised as follows;

- Exacerbate existing parking problems.
- Noise and fumes from increased traffic.
- Noise, disturbance, obstruction and fumes from construction traffic.
- Access too narrow for existing and additional traffic.
- Likely to impact on neighbouring Queens Court from exacerbated parking problems.
- Access for emergency and refuse vehicles will be worsened.
- No disabled parking bays.
- Detrimental to residential amenities.
- Overdevelopment of the site.
- Building cannot support a further floor.

- Drains/Sewage would not cope with the demands of further flats.
- Insufficient parking for new flats.
- Blocks access to substation.
- Existing garages too small.
- Leaseholders not notified of proposed development.
- Overlooking and harm to privacy.
- Too high and out of character.
- No change since previous refusal.
- Inadequate refuse areas.
- Loss of light.
- Unsafe access – a lift should be provided.
- No access via Queens Court.
- Access to new spaces blocked by existing garages and parked vehicles.
- Result in additional costs to residents.
- Proposed parking restricts access to ground floor flats.
- Loss of property values.

6. Assessment

The main considerations in this instance are;

- Site Context;
- Proposal;
- Planning History;
- Principle of Residential Development;
- Design and Appearance;
- Impact on Neighbouring Amenities;
- Highway Safety and Parking Provision;
- Waste Management and Refuse Storage;
- Financial Contribution – Open Space / Play Space;
- Financial Contribution – Recreational Impact; and,
- Other Issues.

Site Context

- 6.1 The application site is situated on the corner of Kings Avenue and Madeira Road, within the Settlement Development Boundary of Holland on Sea as defined within both the adopted Tendring District Local Plan 2007 and the emerging Tendring District Local Plan 2013 – 2033 and Beyond Publication Draft 2017.
- 6.2 The site comprises a three storey, flat roof building accommodating 24 residential apartments. The existing building is predominately brick with some cladded elements. There are balconies at the first and second floors facing Kings Avenue and external walkways on the rear elevation. The ground floor flats have small gardens along the Kings Avenue frontage.
- 6.3 Parking is predominately to the rear of the site; the access point is to the south of the existing building off Kings Avenue. Within the parking area there are existing garage blocks, however, no spaces are marked out. There is a small amount of parking which occurs to the side of the building, accessed directly from Madeira Road but again these spaces are not marked out.
- 6.4 The site is in a mixed-use area, but predominantly residential in character. Adjacent to the access is a café/restaurant; on the opposite side of Kings Avenue to the south is the Kings

Cliff Hotel and to the north of the site on the opposite side of Madeira Road is a post office and shop.

- 6.5 The properties to the south of the site are a mixture of 3 and 4 storey buildings which front onto Kings Parade. To the south of the site are two storey and single storey properties, to the east of the site is a three-storey building and to the west are single storey bungalows.

Proposal

- 6.6 The proposal would provide an additional 4 no. 1 bed units by adding a third floor (fourth storey) to the existing building. The proposed additional floor is a flat roof structure which is set in from the outer elevations of the existing building. It will result in an increase in height by approximately 2.8 metres. The addition will be finished in white render with a single ply membrane for the roof. The proposed windows and doors are double glazed UPVC to match the existing building.
- 6.7 Pedestrian access will be gained to the proposed flats by a continuation of the external staircase of the rear elevation.
- 6.8 Each flat will have an individual front door on the eastern, rear elevation. The two central flats are served by a balcony to the western elevation fronting Kings Avenue with each end flat being served by a large terrace area the full depth of the building. Beyond will be a 'green roof' to the edge of the building.
- 6.9 As part of the proposal it is proposed to rearrange the car park to create 2 no. disabled bays, 2 no. additional car parking spaces and a cycle store for 13 no. cycles. An additional bin store is also provided.

Planning History

- 6.10 The building was originally approved under CLA/378/71/1 with offices on the ground floor and 16 flats above.
- 6.11 Application TEN/1246/76 was then approved for the change of use of ground floor premises from offices to eight self-contained flats, including alterations to elevations. Details within the application documents state that existing flats no.'s 1 to 16 had allocated garages together with no.'s 17 to 24 (new flats) with spaces 25 to 48 being casual parking based on 1 space per flat but not specifically allocated.
- 6.12 This application follows a previous refusal under planning reference number 14/01350/FUL for a similar scheme seeking full planning permission for the addition of a third floor (fourth storey) to create 6 no. flats (comprising 2 x 3 bed, 3 x 1 bed and 1 x 2 bed). This was refused due to insufficient parking only.

Principle of Residential Development

- 6.13 The site is situated within the Settlement Development Boundary for Holland on Sea as defined by both the Saved and Draft Plan. Policy HG3 of the Saved Plan states that 'within the defined development boundaries of a towns and villages, residential development will be permitted provided it satisfies amenity, design, density, environmental, highway, local housing needs and sustainability criteria, as appropriate and can take place without material harm to the character of the local area'.
- 6.14 It is therefore considered that there is no principle objection to the proposal, subject to the proposal meeting all the relevant policy criteria as discussed below.

Design and Appearance

- 6.15 Paragraphs 127 and 170 of the NPPF state that developments should add to the overall quality of the area, be visually attractive as a result of good architecture and be sympathetic to local character, including the surrounding built environment.
- 6.16 Saved Policies QL9, QL10 and QL11 of the adopted Tendring District Local Plan (2007) 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 within Policy SPL3 of the emerging Local Plan.
- 6.17 The surrounding area is characterised by a mixture of design and styles of development. To the southwest and east of the site are buildings of a similar style and appearance to Maplin Court, with some buildings fronting onto Kings Parade being four storeys in height. The other properties surrounding the site and in the vicinity are two-storey and single storey residential properties.
- 6.18 Maplin Court appears prominent due to its positioning, height and massing. The addition of a third floor (fourth storey) will therefore be visually prominent simply due to the character of the existing building and site. However, the proposed third floor is set in from the existing outer elevations of Maplin Court and is of a design that is sympathetic to the character and appearance of the existing building. Furthermore, there are existing four storey properties immediately adjacent fronting Kings Parade.
- 6.19 For the above reasons, it is considered that the proposal would not result in any material harm to the character and appearance of the surrounding area.

Impact on Neighbouring Amenities

- 6.20 The NPPF, in paragraph 127 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, Policy QL11 of the Tendring District Local Plan (2007) 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 (2017).
- 6.21 The addition of a further storey will result in the potential for overlooking to surrounding properties in Madeira Road, both to the east and west of the application site. However, these properties are currently overlooked from a distance by the existing windows and balconies serving the upper floor flats within Maplin Court. Due to the current overlooking that occurs and the distance of separation between the proposed new flats and neighbouring dwellings, it is considered that any increase in overlooking would not be so significant as to warrant a reason for refusal.
- 6.22 With regard to the amenities of existing residents of Maplin Court, the proposed development will not have a harmful impact upon the outlook, light or privacy due to its siting above existing properties.
- 6.23 The development has the potential to result in some noise and disturbance from additional residents accessing their flats via the extended staircase and some noise to the living areas above the existing top floor residents. However, as the proposal is for 4 no. 1 bed flats only, this will result in minimal movements of which would be via 2 separate stair cases. Compliance with building regulations will mitigate any potential noise from within the units and to neighbouring dwellings.

- 6.24 The construction phase would cause some disturbance to existing residents, however, this would only be for a temporary period and working hours could be controlled by condition. Construction works are an inevitable part of the building process and cannot form a reason for refusal. The submission and approval of a Construction Method Statement can mitigate any potential impact to neighbouring amenities. Noise of a statutory nuisance would be controlled by environmental health legislation.
- 6.25 For the above reasons, it is considered that the proposal would not result in any material harm to the neighbouring amenities.

Highway Safety and Parking Provision

- 6.26 Paragraph 108 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. Saved Policy QL10 of the adopted Tendring District Local Plan 2007 states that planning permission will only be granted, if amongst other things, access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate. These objectives are supported by emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.
- 6.27 The Council's current Adopted Parking Standards require that for dwellings with 1 bedroom a minimum of 1 parking space is provided per unit. The preferred bay size for cars is 5.5 metres by 2.9 metres and the minimum bay size is 5 metres by 2.5 metres. Furthermore, 0.25 visitor parking spaces per dwelling should also be provided.
- 6.28 The application is accompanied by an 'approved plan' showing the layout of the site as approved under planning application TEN/1246/76 and an 'existing plan' showing how the parking layout is currently configured on-site. These differ due to 5 of the originally approved garages not being built but later added under 99/00229/FUL. Overall the existing 24 flats are served by 24 garages and 21 parking spaces. The building and subsequent approvals were granted prior to the current adopted parking standards. The parking and garage dimensions meet the minimum standards but not the preferred sizes.
- 6.29 It would be unreasonable to apply the current adopted parking standards to the existing flats as these were approved in 1972 and 1977. The proposal includes improvements to the existing parking layout and the introduction of allocated spaces which will improve parking arrangements for the existing residents. Information has also been provided explaining how parking permits are to be allocated to the residents and visitors of Maplin Court again helping to deter any illegitimate parking.
- 6.30 The proposal involves the reworking and formalising of the existing parking arrangements by allocating and marking out bays to each existing and proposed flat. Currently there are 21 garages and 24 unallocated parking spaces (45 in total). The proposed plan results in 32 parking bays (including 4 visitor spaces) and 21 garages (as existing) being 53 spaces in total and a net gain of 8 spaces on the existing layout and a net gain of 5 from the originally planned 48. The Essex County Council Adopted Parking Standards require a total of 5 spaces to serve the new flats (1 per flat and 1 visitor space). The proposed layout provides sufficient parking for the development of 4 no. additional 1 bed flats.
- 6.31 Concerns have been raised regarding the parking layout block access to the ground floor flats. However, spaces 1 to 12 as shown on the approved and existing plans (now demised to individual flats on the proposed plans) are located in the originally approved positions. Any deviation from this approved parking layout is informal.

- 6.32 Unrestricted off-street parking is available on parts of Kings Avenue and Madeira Road and time limited parking available on Kings Parade. Double yellow and single yellow lines are present on the junctions and corners of neighbouring roads. Any illegal parking is a matter for Essex County Council and are not a consideration under this application.
- 6.33 In addition, the site is located within a sustainable location with access to amenities and leisure activities within a reasonable walking distance from the site. These include Holland on Sea centre approximately 500 metres to the north-west, Holland on Sea beach approximately 50 metres to the south and Eastcliff Recreational Ground approximately 600 metres to the south-west. Furthermore, there is a bus stop approximately 120 metres from the site with a regular bus service to Clacton Town Centre.
- 6.34 The development will also be served by cycle storage for 10 bikes.
- 6.35 Any traffic movements or fumes generated from an additional 4 no. 1 bedroom flats would not result in any material environmental harm that would warrant refusal of planning permission on this ground.
- 6.36 Essex County Council Highway Authority raise no objection subject to a condition relating to the submission and approval of a Construction Method Statement. Officers' note that The Highway Authority expresses concerns over the usability of the new spaces in front of the garages and substation and the substandard size of the existing garages in relation to current parking standards. There are no allocated spaces in front of the garages adjacent to the substation and this area should therefore be free from obstruction. Access rights are not a material planning consideration and the onus is on the applicant to ensure the correct permissions are sought and secured from relevant third parties. For the reasons set out above and as the determining authority, the Council do not consider that a refusal on highway safety and parking is justified in this instance.
- 6.37 Concerns have been raised over the lack of disabled parking bay provision. There are no existing disabled bays. The Adopted Parking Standards do not insist on disabled bay provision where there are visitor spaces available. Essex County Council Highway Authority have not raised any concerns on this basis.
- 6.38 Officers are satisfied that the parking layout provides sufficient parking and cycle parking for the development of 4 no. additional 1 bed flats, in a highly sustainable location where residents would not be solely dependant on their cars.

Waste Management and Refuse Storage

- 6.39 The collection arrangements for Maplin Court are unchanged (black sacks) and there are no current plans to provide the flats with wheelie bins.
- 6.40 The proposed bin storage areas are considered sufficient to accommodate the additional 4 no. 1 bed flats.

Financial Contribution – Open Space / Play Space

- 6.41 There is currently a deficit of 41.08 hectares of play space/open space in the Clacton/Holland area. Although there is a deficit of play space in Clacton/Holland, it is not felt that this development would impact the current deficit to an extent that would warrant a financial contribution.
- 6.42 Therefore, no financial contribution toward play space or open space is being sought in this instance.

Financial Contribution – Recreational Impact

- 6.43 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.
- 6.44 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 a proportionate financial 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.
- 6.45 A unilateral undertaking is currently being prepared to secure this legal obligation and to ensure 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 Issues

- 6.46 The requirement for a lift and if the footings, existing structure and drainage are capable of coping with an additional storey are a matter for building regulations.
- 6.47 It was the role of the applicant/agent to notify the existing leaseholders of the application. This was not done when the application was originally submitted. The Council has notified all flats of the application and subsequent amendments.
- 6.48 The effect of the proposal on prices of properties is not a material planning consideration.
- 6.49 Access rights and land ownership is not a material planning consideration. The development would be subject to an approved plans condition. If the approved layout cannot be implemented then the development could not go ahead. A fresh planning permission would be required for full consideration of a revised development.

7. Conclusion

- 7.1 In conclusion, the proposed development would not result in any harmful impact upon visual amenity or neighbouring amenities and provides a formalised parking layout and sufficient additional parking spaces to serve the proposed units.

8. Recommendation

- 8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives and the prior completion of a section106 legal agreement with the agreed Heads of Terms, as set out in the table below:

CATEGORY	TERMS
Financial contribution towards RAMS	£122.30 per dwelling

8.2 Conditions and Reasons

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 NO. 01, Drawing Number: 19-MCHOS-04 Rev. C, DRAWING NO. 8, DRAWING NO. 9 and DRAWING NO. 10.

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

3. No development shall take place, including any ground works or works of demolition, until a Construction Method Statement (CMS) 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 under body washing facilities

Reason - To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety.

4. The development shall not be occupied until such time as the approved parking layout shown on Drawing Number: 19-MCHOS-04 Rev. C has been constructed and laid out for parking in allocated bays. The parking and garaging areas shall be retained in this approved form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development unless otherwise agreed in writing by the Local Planning Authority.

Reason - To minimise on-street parking of vehicles in the adjoining streets, in the interests of highway safety.

5. In respect of the car parking works, provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the site.

Reason - In the interests of sustainable development and to ensure that run-off water is avoided to minimise the risk of surface water flooding.

6. No unbound material shall be used in the surface treatment of the parking area within 6 metres of the highway boundary.

Reason - To avoid displacement of loose material onto the highway in the interests of highway safety.

7. Prior to the occupation of the development hereby approved, details of the design and appearance of the cycle storage for 10 bikes shown on approved Drawing Number: 19-MCHOS-04 Rev. C shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and retained in this approved form for cycle parking related to the use of the development unless otherwise agreed in writing by the Local Planning Authority.

Reason – To promote alternative, sustainable modes of transport.

8.3 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.

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.

Highways Informatives

Informative 1: 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 2: As an observation the existing parking spaces located off Madeira Road appear to be full and well used consideration may need to be given to install some form of collapsible bollard for these private parking spaces to keep these spaces free for the permit holders. The bollards would need to be located off the publicly maintainable highway and set half a metre back from the back of the footway.

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 or by post to:

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

The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

Building Regulations Informative

The designer should ensure that the means of escape meet BS5588-1:1990.

9. Additional Considerations

Public Sector Equality Duty (PSED)

- 9.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
- 9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- 9.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
- 9.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.
- 9.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 9.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

Human Rights

- 9.8 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 9.9 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).
- 9.10 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Finance Implications

- 9.11 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.
- 9.12 The New Homes Bonus (NHB) is one local finance consideration capable of being a material consideration to which the weight given shall be determined by the decision maker. The NHB is a payment to local authorities to match the Council Tax of net new dwellings

built, paid by Central Government over six consecutive years. In this instance, it is not considered to have any significant weight attached to it that would outweigh the other considerations.

10. Background Papers

None.