

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	MP	17/07/19
Planning Development Manager authorisation:	AN	18/7/19
Admin checks / despatch completed	EL	18/7/19

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**Application:** 19/00528/FUL **Town / Parish:** Manningtree Town Council

**Applicant:** Mrs Clare Moore - Seven South Street

**Address:** 7 South Street Manningtree Essex

**Development:** Proposed change of use from A1 to A3 use.

### 1. Town / Parish Council

Manningtree Town Council

Whilst Manningtree Town Council admire the entrepreneurial intentions of the applicant, the Town Council feel unable to support this application due to the large number of eateries in the immediate vicinities.

### 2. Consultation Responses

ECC Highways Dept

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

The shop is located on the corner of the High Street and South Street, (a one way street) and has existing parking restrictions outside the front of the building these apply for the current business and will also apply for the change of use therefore:

The Highway Authority does not object to the proposals as submitted.

Informative 1: 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

93/00290/FUL	Change of use from retail Class A1 to A2 Insurance and Mortgage Brokers	Refused	21.04.1993
19/00285/COUNO T	Proposed nutritional based cafe.		25.02.2019

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

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

EN17 Conservation Areas

EN22 Extensions or Alterations to a Listed Building

ER32a Primary Shopping Area

ER33 Non-retail Uses Within Primary Shopping Frontages

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)

PP5 Town Centre Uses

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 (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.

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 north-eastern corner of South Street and High Street, within the parish of Manningtree. The building is an end of terrace 2.5 storey property, constructed of red brick. At the time of the site visit it was being occupied at ground floor level as an A3 Food and Drink use. 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 and is also Grade II Listed, with its listing being the following:

*"Row of houses, offices and a shop (No. 7). C18. Red brick. Red tiled roof, hipped to High Street and Stour Street. 9 flat headed dormers, 4 large red brick chimney stacks. Moulded eaves cornice. 2 storeys and attics and cellars. 15 first floor vertically sliding sash windows, mainly small paned, margins to 13th, 14th and 15th. Segmental heads. Ground floor. No. 7. C19 shop front. Right moulded pilaster, moulded capital and base, moulded pediment. Central doorway approached by steps. Reveal panels, capitals and bases to pilasters, segmental head, moulded suppressed pediment, panelled and part glazed door. 3 light windows to right and left. Fascia over, dentilled cornice. Left return to High Street, roof hipped with 4 light dormer window, moulded eaves cornice, 2 windows similar to main face. End pilaster and 6 light window with fascia and cornice as for main face. Nos. 9-15, ground floor left to right 1:3:4:1 windows with doors between. Segmental heads to first 4 windows, gauged brick arches to next 3, all small paned vertically sliding sashes. The 8th and 9th are former shop windows with capitals and bases to pilasters, friezes and cornices. No. 9 left doorway, bases and capitals to fluted pilasters, triglyphs and metopes to frieze, moulded and dentilled cornice and pediment, 4 panel, 4 light door, reveal panels, right carriageway with double doors. No. 11, 6 panel door, capitals and bases to pilasters, moulded frieze and cornice, reveal panels. No. 15, C20 part glazed door, simple surround. Single window range to Stour Street return."*

### **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. During the course of the application the applicant has confirmed that the site is to serve a mixture of hot and cold foods including soup of the day, platter of hummus and crudites, house salad, roast chicken with hazelnuts and saffron, harissa roasted aubergine, fish pie, cakes and snacks.

The proposal will result in no external changes, with 2 x full time and 2 x part time being employed.

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

Mondays - Saturdays 8.30am - 11pm

Sundays and Bank Holidays: 9.30am - 11pm

## Assessment

### 1. Principle of Development

The lawful and current use of 7 South Street is A1 retail. The site lies within the Primary Shopping Frontage of Manningtree Town Centre 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.

Saved Policy ER33 of the adopted Tendring District Local Plan 2007 is of particular relevance in this instance dealing with non-retail uses within Primary Shopping Frontages. Saved Policy ER33 states that within the Primary Shopping Frontage non-retail uses will not be permitted at ground floor level.

However, it is noted that this policy is now dated and less reflective of the more flexible approach set out within the National Planning Policy Framework 2019 (NPPF), Paragraph 85 which states that planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. Specifically, Paragraph 85 (a) states planning policies should define a network and hierarchy of town centres and promote their long-term vitality and viability - by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses and reflects their distinctive characters. Paragraph 85 (d) goes on to say that planning policies should allocate a range of suitable sites in town centres to meet the scale and type of development likely to be needed, looking at least ten years ahead. Meeting anticipated needs for retail, leisure, office and other main town centre uses over this period should not be compromised by limited site availability, so town centre boundaries should be kept under review where necessary.

Therefore, the NPPF recognises that healthy town centres include a mix of uses including office and leisure industries. Furthermore, Paragraph 91(a) of the NPPF states that planning policies and decisions should aim to achieve healthy, inclusive and safe places which promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other - for example through mixed-use developments and strong neighbourhood centres.

The aims of the NPPF are better reflected within the equivalent emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 Policy PP5 'Town Centre Uses'. The criteria of PP5 can be set out and addressed below.

Within the Primary Shopping Area, proposals for development will be permitted where they meet the following criteria (only relevant criterion included):

- a. are for main town centre uses, as defined in the NPPF; or

*The proposed A3 Cafe/Restaurant use is identified within the NPPF (2019) as a main town centre use.*

- b. will promote the vitality and viability of the centre, including proposals for residential development; or

*The proposed A3 use will add to the mix of uses on offer contributing positively to the vitality and viability of the town centre.*

- c. will involve the conversion or re-use of upper floors; and/or

*This criterion is not applicable to the proposal.*

- d. deliver high quality active ground floor frontages; and

*The submitted plans demonstrate that the ground floor frontage is to remain as existing, with a large glazed area to both the northern and western elevations. This helps to retain the character of the town centre, and will ensure it is easily accessible to the public, thereby contributing to the vitality of the High Street.*

e. within the Primary Shopping Frontages A1 uses (shops) comprise at least 70% of the shopping frontages;

*A report detailing the use of the shops within the Manningtree Primary Shopping Frontage was undertaken in May 2019. Within this it demonstrates there are 38 shops within the primary shopping frontage, of which 27 (71%) currently remain in an A1 use. In this instance the proposed application would result in the loss of a retail unit with the introduction of a non-A1 use, which would result in the primary shopping frontage comprising 68.5% of A1 uses.*

*However it is also important to consider previous local planning history. Under planning reference 18/00062/FUL for a change of use from A1 to A3/A4 for 17 High Street, it was stated that as the proposal was on the cusp of meeting the policy, the economic benefits of the proposal meant that the harm identified was not significant enough to warrant a reason for refusal.*

*Further to this, as stated previously the NPPF (2019) encourages a positive approach to a town centres growth, management and adaptation, and says they should be allowed to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries with a suitable mix of uses. Given this national stance and that the A3 use will still encourage people to visit the town centre, on balance the loss of this A1 retail unit is not considered to be so significant that it would be reasonable to recommend refusal in light of the remaining high percentage of A1 use.*

## 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).

While the application site is located within a highly prominent location, no external changes are being proposed. 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. However, as previously stated, there are to be no external changes as a result of the application. The works will therefore have a neutral impact to both the Manningtree Conservation Area and the character of the Grade II Listed Building in the street scene. Any internal alterations affecting the historic fabric/character would require Listed Building Consent and an informative has been added to this effect.

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).

The application site is located in a prominent location on a corner plot. The surrounding properties are largely in commercial use, with an A1 wholefood store to the east, a funeral parlour to the west and a café to the north. However adjacent to the south is a residential property. Accordingly it is important to assess the impacts of the proposed change of use to their existing amenities.

While the opening hours, which will include evening hours up until a maximum of 11pm, in itself represents potential harm to amenities through increased noise disturbances, it is accepted that the site is located within the main Manningtree Town Centre where such uses are more typically expected. In addition, given the type of foods being prepared there will be no extraction unit. This ensures no potential harm to amenities in respect of noise and odour extracts.

Therefore there is not considered to be significant harm to existing amenities to warrant a reason for refusal.

#### 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 objected to the application as there are a large number of eateries in the immediate vicinity.

In answer to this, this is not a material planning consideration and can therefore not be given any weight in the determination of the application.

There have been no other letters of representation received.

#### 6. Recommendation

Approval.

#### 7. Conditions

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans, the untitled Site Location Plan, the untitled Floor Layout Plan and the untitled Heritage Statement.

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 - Saturdays 8.30am - 11pm

Sundays and Bank Holidays: 9.30am - 11pm

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

- 3 Prior to the installation of any extraction equipment, full details shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details and equipment shall be adequately maintained.

Reason - In the interests of protecting neighbouring amenities.

## **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.

Listed Building Consent:

Separate Listed Building Consent will be required for any internal alterations that affect the historic fabric and/or character of the Grade II Listed Building.