

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AL	05/09/2019
Planning Development Manager authorisation:	AN	5/9/19
Admin checks / despatch completed	EX	5/9/19
Technician Final Checks/ Scanned / LC Notified / UU Emails:	XLE	05/09/19

**Application:** 19/00984/FUL **Town / Parish:** Clacton Non Parished

**Applicant:** Mrs Kim Carl

**Address:** Seashells 22 Penfold Road Clacton On Sea

**Development:** Proposed change of use from bed and breakfast to single residential dwelling.

### 1. Town / Parish Council

Clacton – non parished area.

### 2. Consultation Responses

Building Control and Access Officer      No comments at this stage. Await building regulation application.

ECC Highways Dept      As this is an existing dwelling with a driveway the use of the vehicular access is established and currently has spaces for three vehicles. There are existing waiting restrictions and limited waiting spaces within Penfold Road.

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

1. No unbound materials shall be used in the surface treatment of the existing vehicular access within 6 metres of the highway boundary.

Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety and in accordance with Policy DM1.

2. The vehicular access shall be retained at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be less than 3 metres and shall retain an appropriate dropped kerb vehicular crossing of the footway.

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

3. There shall be no discharge of surface water onto the Highway. Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety to ensure accordance with policy DM1

3. Cycle parking shall be provided in accordance with the EPOA Parking Standards The approved facility shall be secure, convenient,

covered and provided prior to occupation of the proposed dwelling hereby permitted site and shall be maintained free from obstruction at all times for that sole purpose in perpetuity.

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

4. Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the highway.

Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety in accordance with policy DM1

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:

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.

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.

UU Open Spaces

Public Realm have no comments to make on this application.

### 3. Planning History

15/30113/PREAPP	Change of use from bed & breakfast to a residential home.	Approved	
19/00608/FUL	Proposed change of use from bed and breakfast to single residential dwelling.	Refused	13.06.2019

### 4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

ER3 Protection of Employment Land

ER24 Protection of Hotels and Guest Houses

HG3 Residential Development Within Defined Settlements

HG6 Dwelling Size and Type

HG9 Private Amenity Space

QL6 Urban Regeneration Areas

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)

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

CP1 Sustainable Transport and Accessibility

LP3 Housing Density and Standards

HP5 Open Space, Sports & Recreation Facilities

PP6 Employment Sites

PP14 Priority Areas for Regeneration

PP9 Hotels and Guesthouses

PPL4 Biodiversity and Geodiversity

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.

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 (including Site Description and Proposal)**

### **Site Description**

The application relates to Seashells B&B 22 Penfold Road, Clacton on Sea. The premises comprises a 3 storey, semi-detached property on the eastern side of Penfold Road within the Town Centre Boundary, Settlement Development Boundary and Urban Regeneration Area of Clacton on Sea. The site also lies within the Protected Hotels and Guesthouses designation 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.

### **Description of Proposal**

The application seeks a change of use from the existing bed and breakfast use to a single residential dwelling.

### **Assessment**

The main considerations in this instance are;

- Planning History;
- Principle of Development - Loss of Guesthouse;
- Residential Amenity and Parking;
- Financial Contribution - RAMS;
- Financial Contribution - Open Space/Play Space; and,

- Representations.

#### Planning History

This application follows a previous refusal for the same proposal under application 19/00984/FUL.

Prior to validation of this current application, the officer met with the applicant at reception at which time withdrawing the application was discussed as the details provided were not sufficient to address the previous reasons for refusal. However, no correspondence confirming the withdrawal of the application was received and the application has been processed accordingly.

Following validation of the application, on the 8<sup>th</sup> August 2019 the officer sent an email to the applicant detailing the information required in order to address the policy requirements and previous reasons for refusal. Shortly after the officer received a phone call from the applicant but the applicant failed to make it clear how the officer should proceed with the application and no further information in response to the email and call has been received.

In the absence of receipt of any additional information or a letter confirming the withdrawal, officers are required to proceed with the determination of the application.

#### Principle of Development - Loss of Guesthouse

The government states in the National Planning Policy Framework that it is committed to securing economic growth in order to create jobs and prosperity and is committed to ensuring that the planning system does everything it can to support sustainable growth.

Saved Policy ER24 of the adopted Tendring District Local Plan 2007 states proposals for the change of use of existing hotels and guest houses in the centres of coastal resorts will not be permitted unless it can be proven that the current land use is no longer viable. The pre-amble refers to the steady decline in serviced tourist accommodation and recognises the need to retain and upgrade the existing stock of hotels and guest houses particularly within the core resort areas of the main resorts. The sentiments of this are carried forward within Emerging Policy PP9, where it states that within defined centres and along the seafront within the district's coastal towns, the Council will refuse proposals for the change of use or redevelopment of existing hotels and guesthouses to alternative uses, either in part or in whole.

Saved policy ER3 states that change of use for non-employment purposes will only be permitted if the applicant or owner can demonstrate that it is no longer viable or suitable for any form of employment use either through evidence of a sustained but ultimately unsuccessful marketing exercise or by showing that the premises is inherently unsuitable and/or not viable for any form of employment use.

The supporting information states that the change of use is sought primarily due to ill health and personal circumstances which do not constitute a material planning consideration. A summary of the decline in business since 2011 has also been provided (in addition to the information submitted with the previously refused application 19/00608/FUL). This sets out influencing factors such as anti-social behaviour at neighbouring properties and business competition from recent hotel developments in the town. The information provided states that during 2017 and 2018 lodgers were taken in to generate the income necessary to offset the losses resulting from very unfortunate personal circumstances. Market forces are not a material planning consideration.

Whilst the Council are sympathetic to the personal circumstances of the applicant and family members, this does form a material planning consideration.

Limited information has been provided in an attempt to demonstrate that the premises is no longer viable for the existing guest house use. However, no evidence of a sustained but ultimately unsuccessful marketing exercise for its current use or any form of employment use has been provided failing to meet the requirements of the aforementioned policies.

The development would result in the loss of a hotel in the centre of the district's main coastal resort of Clacton on Sea. This proposal is therefore contrary to saved policies ER24 and ER3 of the

Tendring District Local Plan 2007 to the detriment of the tourist economy and undermining the tourism function of the resort.

#### Residential Amenity and Parking

Saved Policy QL10 is of relevance as it states that all new development should meet functional needs including adequate daylight, outlook and privacy for occupiers and the provision of private amenity space, waste storage, separation and recycling facilities and vehicle/cycle parking.

The impact upon local residents in respect of noise/disturbance would likely reduce with no guests coming and going. There are 3 parking spaces to the front of the property adequately serving a single dwelling. Furthermore, the site is located in a highly sustainable location within easy walking distance of a variety of amenities and public transport links. There is an appropriate private rear amenity area in accordance with saved policy HG9.

#### Financial Contribution - RAMS

The development proposal would not bring about an increase in recreational disturbance to any European Designated Sites. The change of use to a single dwelling does not create any additional residential units given that the existing use for a bed & breakfast already incorporates a dwelling use. Consequently, this application to revert the property back to solely a residential unit without any commercial use is likely to bring about a reduced impact in terms of disturbance to European Designated Sites.

Having made this appropriate assessment of the implications of the plan or project for the site(s) in view of that (those) site(s)'s conservation objectives and fully considered any representation received (where necessary), the authority may now agree to the plan or project under regulation 63 of the Conservation of Habitats and Species Regulations 2017.

#### Financial Contribution - Open Space/Play Space

Although there is a deficit of play space in Clacton/Holland, it is not felt that this development would impact the current deficit. Therefore no contribution is being requested on this occasion.

#### Representations

Clacton-on-Sea is a non-parished area.

Councillor Griffiths originally raised concerns with the potential for the property to be converted in an HMO under the previous application 19/00608/FUL. The application is seeking change of use from a guest house to single family home only and not an HMO.

#### Conclusion

The application fails to demonstrate that the property is no longer viable. The loss of the facility would be contrary to the aims of the aforementioned national and local plan policies. The application is therefore recommended for a refusal.

### **6. Recommendation**

Refusal - Full

### **7. Reasons for Refusal**

- 1 The government states in the National Planning Policy Framework that it is committed to securing economic growth in order to create jobs and prosperity and is committed to ensuring that the planning system does everything it can to support sustainable growth.

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The development would result in the loss of a hotel in the centre of the district's main coastal resort of Clacton on Sea. This proposal is therefore contrary to saved policies ER24 and ER3 of the Tendring District Local Plan 2007 to the detriment of the tourist economy with no evidence to satisfactorily demonstrate that the proposal would not undermine the tourism function of the resort.

## **8. Informatives**

### **Positive and Proactive Statement**

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.