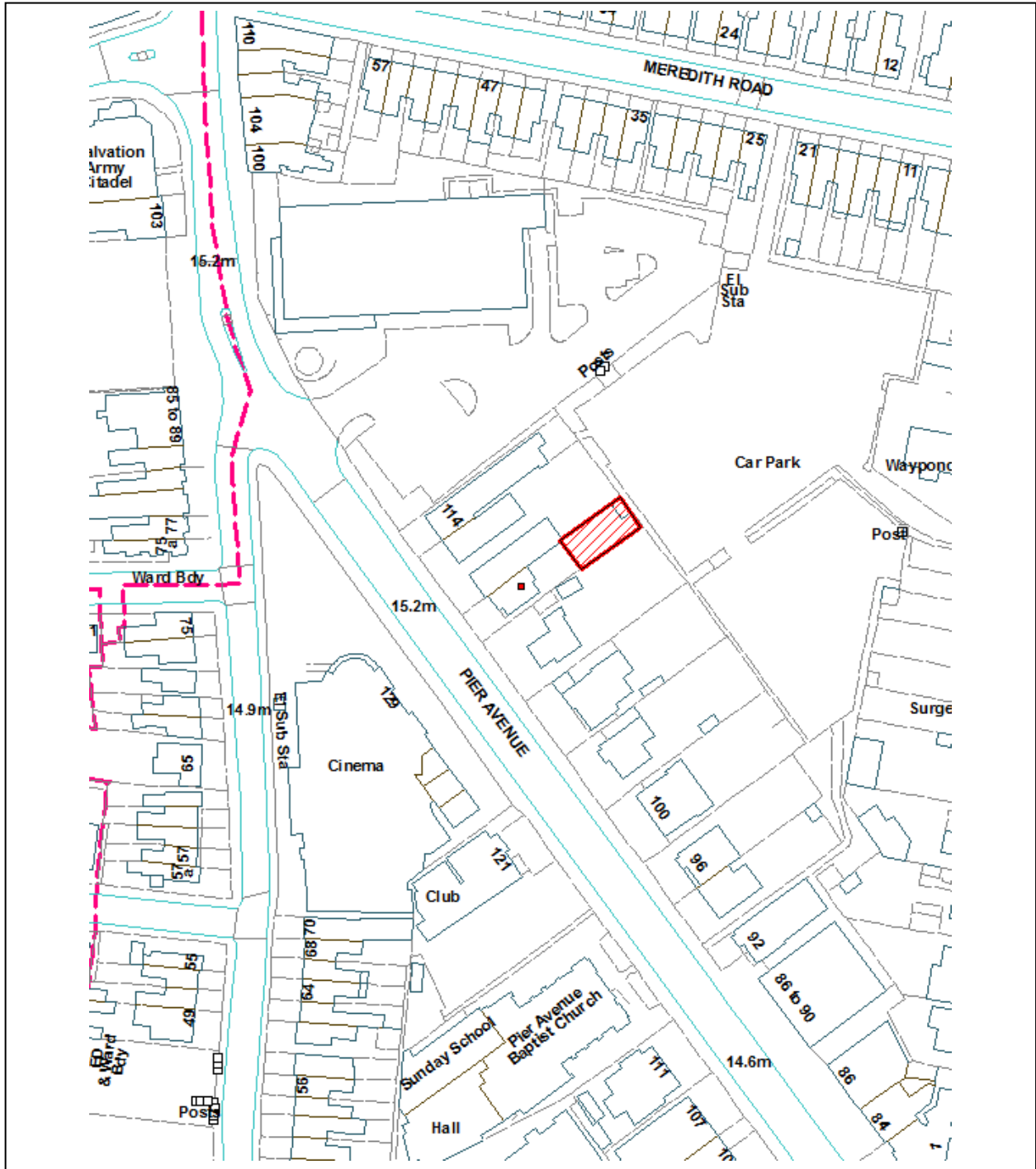


PLANNING COMMITTEE

24 SEPTEMBER 2019

REPORT OF THE HEAD OF PLANNING

**A.7 PLANNING APPLICATION – 19/01044/FUL – 108A PIER AVENUE CLACTON ON SEA CO15 1NJ**



DO NOT SCALE

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.

**Application:** 19/01044/FUL

**Town / Parish:** Clacton Non Parished

**Applicant:** Mr A Davis

**Address:** 108A Pier Avenue Clacton On Sea Essex CO15 1NJ

**Development:** Proposed outbuilding.

## 1. **Executive Summary**

- 1.1 The application is referred to the Planning Committee by Councillor Griffiths due to the proposed outbuilding having a negative impact on urban design/street scene, poor layout and traffic issues, overdevelopment in a densely populated area and loss of amenity.
- 1.2 The application seeks planning permission for the erection of an outbuilding used for storage purposes only.
- 1.3 The proposal is located to the rear of 108A Pier Avenue with restricted views from Pier Avenue and partial views from Wellesey Road Car Park. However, the proposal is seen in conjunction with neighbouring outbuildings to the North West and South East.
- 1.4 It is noted that flats do not have permitted development rights and therefore the outbuilding requires planning permission in this instance. The proposed outbuilding as shown on drawing no. 1 A demonstrates that the proposal will be used for storage purposes only and it will be used ancillary to the flat.
- 1.5 The proposal is visually acceptable and it will not cause any impact upon neighbouring properties.

### **Recommendation:**

That the Head of Planning be authorised to grant planning permission for the development.

## 2. **Planning Policy**

The following Local and National Planning Policies are relevant to this planning application.

NPPF        National Planning Policy Framework  
National Planning Policy Guidance

Tendring District Local Plan 2007

QL9         Design of New Development  
QL10        Designing New Development to Meet Functional Needs  
QL11        Environmental Impacts and Compatibility of Uses  
HG9         Private Amenity Space

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

SPL3        Sustainable Design

### **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.

### **3. Relevant Planning History**

19/01044/FUL	Proposed outbuilding.	Current
--------------	-----------------------	---------

### **4. Consultations**

Not Applicable

### **5. Representations**

- 5.1 Clacton is non parished.
- 5.2 No letters of representation have been received.

### **6. Assessment**

#### Site Context

- 6.1 The application site relates 108A Pier Avenue, Clacton on Sea which is a residential flat located within a residential and commercial area.
- 6.2 The site falls within the Settlement Development Boundary for Clacton on Sea within both the Saved Tendring Local Plan 2007 and the Emerging 2013-2033 Tendring Local Publication Draft.

### Proposal

- 6.3 This application seeks retrospective planning permission for an outbuilding which will be used for storage purposes only. The outbuilding will measure 7 metres in width, 5 metres in depth with an overall height of 2.9 metres. The outbuilding is constructed from render, red plastic coated steel roofing and UPVC windows and doors.

### Visual Impact

- 6.4 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).
- 6.5 The outbuilding is located to the rear of the application site; therefore views from the street scene of Pier Avenue are largely restricted. However, as the application site backs onto Wellesey Road car park, there are partial views of the outbuilding from the car park seen in conjunction with neighbouring outbuildings to the North West and South East.
- 6.6 The outbuilding is single storey with a flat roof. The outbuilding is constructed from render, red plastic coated steel roofing and UPVC windows and doors which are considered to be acceptable materials.
- 6.7 Policy HG9 of the Tendring District Local Plan 2007 states that private amenity space shall be provided for flats with the following standards; a minimum of 25 square metres per flat communally or a minimum of 50 square metres private garden area for a ground floor flat or maisonette and a minimum balcony area of 5 square metres of units above. This is achieved comfortably.
- 6.8 It is noted that flats do not have permitted development rights and therefore an outbuilding requires planning permission in this instance. The proposed outbuilding as shown on drawing no. 1 A demonstrates that the proposal will be used for storage purposes only and used ancillary to the flat.

### Impact on Residential Amenities

- 6.9 The NPPF, in paragraph 17 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'.
- 6.10 Due to the single storey nature of the proposal and the distance of the proposals from neighbouring properties with existing vegetation along the neighbouring boundaries, it is considered that the outbuilding does not cause any adverse impact on the daylight, privacy or other amenities currently enjoyed by the neighbouring properties and is considered acceptable in this regard.

## **7. Conclusion**

- 7.1 Overall, the outbuilding in this location is acceptable, and represents no visual harm or detrimental impacts to neighbouring amenities. The proposed use of the outbuilding is ancillary to the host dwelling and is for storage purposes only.

## **8. Recommendation**

8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives.

### **8.2 Conditions and Reasons**

1 The development hereby permitted shall be carried out in accordance with the following approved plans and documents; Drawing No. 1A and Amended site plan dated 6<sup>th</sup> August.

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

2 The outbuilding comprising of a storage area hereby approved shall not be occupied at any time other than for purposes ancillary to the residential use of the flat known as 108A Pier Avenue, Clacton on Sea, CO15 1NJ.

Reason – To ensure that the outbuilding is used for storage purposes only.

### **8.3 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.

## **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