

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	NH	10/09/2019
Planning Development Manager authorisation:	TF	13/09/2019
Admin checks / despatch completed	TF	13/09/19
Technician Final Checks/ Scanned / LC Notified / UU Emails:	en	13/9/19

**Application:** 19/00970/FUL **Town / Parish:** Frinton & Walton Town Council

**Applicant:** Mrs M Rossi

**Address:** 16 The Street Kirby Le Soken Frinton On Sea

**Development:** Conversion of existing shop into two bed, single storey residential accommodation.

### 1. Town / Parish Council

Frinton and Walton Town Council

Recommend the application for approval.

### 2. Consultation Responses

Essex County Council  
Heritage

The application is for conversion of existing shop into two bed, single storey residential accommodation.  
The building is located in the Kirby-le-Soken Conservation Area and as such any new development should preserve or enhance the character and appearance of the conservation area.  
Having reviewed the latest revisions, no objection to this application which retains the aesthetic of the front elevation.  
Should this application be approved, I recommend conditions are attached requiring details (for approval) of all new windows in the front elevation and side gable.

### 3. Planning History

19/00970/FUL	Conversion of existing shop into two bed, single storey residential accommodation.	Current
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### 4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice 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  
 HG1 Housing Provision  
 HG3 Residential Development Within Defined Settlements  
 HG6 Dwelling Size and Type  
 HG9 Private Amenity Space  
 TR1A Development Affecting Highways  
 TR7 Vehicle Parking at New Development  
 EN17 Conservation Areas  
 EN6 Biodiversity  
 EN11A Protection of International Sites European Sites and RAMSAR Sites  
 EN17 Conservation Areas  
 ER3 Protection of Employment Land  
 EN23 Development Within the Proximity of a Listed Building  
 COM6 Provision of Recreational Open Space for New Residential Development  
 Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)  
 LP1 Housing Supply  
 LP2 Housing Choice  
 LP4 Housing Layout  
 SPL2 Settlement Development Boundaries  
 SPL3 Sustainable Design  
 HP5 Open Space, Sports & Recreation Facilities  
 PP3 Village and Neighbourhood Centres  
 PPL4 Biodiversity and Geodiversity  
 PPL8 Conservation Areas

### **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 site refers to 16 The Street, Kirby Le Soken, a single storey property serving a shop located within the development boundary of Kirby Le Soken. The application site is accessed off of The Street behind a green verge and it is located within the Kirby Le Soken Conservation Area.

### **Proposal**

The application seeks planning permission for the conversion of the existing shop into two bed, single storey residential accommodation.

### **Assessment**

The main considerations for this application are:

- Principle of development



- Design and appearance
- Residential Amenities
- Highways Considerations and Parking Provision
- Heritage Impact
- Legal Obligation
- Habitat Regulations Assessment

### Principle of Development

The application site is situated within the defined settlement limits of Kirby Le Soken, as defined by both the adopted Tendring District Local Plan (2007) and Emerging Publication Draft (2017). Further, the site falls outside of a protected shopping area, where a site is restricted to a commercial use. Therefore, the principle of the loss of an A1 use in this location is considered to be acceptable, subject to the detailed consideration below.

### Design and Appearance

The adopted Tendring District Local Plan (2007) "Saved" Policies QL9, QL10 and QL11 seek to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to their setting and are of a suitable scale, mass and form. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

The application will retain the original shop front façade whilst converting the existing shop into a ground floor flat comprising of a lounge, two bedrooms, kitchen/dining room and bathroom. In terms of impact upon the street scene, the application does not propose any changes to the shop front and therefore it is considered that there will not be any impact upon the 'The Street'.

The plans demonstrate that there will be some fenestration changes to the side and rear of the proposed dwelling. To the north easterly elevation the existing door will be replaced and the introduction of a roof light to the single storey element. The side elevation will see the introduction of a casement window. It is considered that the proposal will not cause any impact upon the street scene and is acceptable in terms of design and appearance.

### Residential 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'.

The development introduces living accommodation at ground floor level, which will have little impact on the neighbours. The proposed change of use is unlikely to create any greater disturbance than the former shop and raises no amenity issues.

The dwelling would not have any useable amenity area as required by Policy HG9. However, as the site is located within a sustainable location and would result in heritage benefits the application is bringing the building back into use within the Conservation Area and the setting of a listed building. It is considered that the benefits outweigh the harm, the lack of amenity space is not considered to be significant enough to warrant a reason for refusal. It is therefore considered that the proposal will not cause any significant impact upon neighbouring amenities.

### Highway Considerations and Parking Provision

Essex County Highways Authority have been consulted on this application and have stated that they observe that there are no off street parking facilities, for any of the dwellings within the terrace to which this proposal is attached, the spur road fronting these dwellings has historically provided space to park the occupiers' cars. The Highway Authority considers that the proposed conversion of a retail unit to a modest dwelling is unlikely to increase any hazards or risk to other highway



users. Although not in accord with current Parking Standards, the Highway Authority does not object to the proposals as submitted.

The application site does not currently have any parking facilities to accommodate the existing shop or dwelling. However, due to the sustainable location it is considered that the proposal will not cause any significant impact upon highway safety.

#### Heritage Impact

Policy EN17 of the Tendring District Local Plan 2007 and Policy PPL8 of the Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document (July 2016) state that development within a Conservation Area must preserve or enhance the special character or appearance of the Conservation Area.

Policy EN23 of the Adopted Plan states that development within the proximity of a Listed Building that would adversely affect the setting of a Listed Building, including group value and long distance views, will not be permitted. The sentiments of this policy are carried forward within policy PPL9 of the Emerging Plan.

The application site is located within Kirby Le Soken Conservation Area and lies adjacent to a Grade II Listed Building.

The Council's Historic Environment consultant has been consulted on this application and has stated the following: 'The building is located in the Kirby-le-Soken Conservation Area and as such any new development should preserve or enhance the character and appearance of the conservation area. Having reviewed the latest revisions, I have no objection to this application which retains the aesthetic of the front elevation. A condition will be imposed to ensure that details of windows to the front elevation and the side gable are submitted to and approved by the Local Planning Authority.

Therefore, there is not considered to any significant harm identified to the Conservation Area or the setting of the Listed Building and the proposal is therefore acceptable against this criteria.

#### Legal Obligation

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

There is currently a deficit of 14.12 hectares of equipped play in Frinton, Walton & Kirby. Due to the size and location of the proposed development it is not thought that there will be a significant impact on the existing facilities. Therefore no contribution is being requested on this occasion.

#### Habitat Regulations Assessment

Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation. This residential development lies within the Zone of Influence of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The residents of new housing are therefore considered likely to regularly visit relevant designated sites for recreation. In order to avoid a likely significant effect in terms of increased recreational disturbance to coastal European designated sites (Habitats sites) in particular the Hamford Water RAMSAR and SPA, mitigation measures will need to be in place prior to occupation.

A Habitat Regulations Assessment has therefore been undertaken to confirm that the mitigation will be the RAMS level contribution as recommended by Natural England. It is therefore considered



that this contribution is sufficient to mitigate against any adverse impact the proposal may have on European Designated Sites. The contribution is secured by unilateral undertaking.

There is therefore certainty that the development would not adversely affect the integrity of European Designated Sites in accordance with policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

#### Other Considerations

Frinton and Walton Town Council recommend the application for approval.

No letters of representation have been received

### 6. Recommendation

Approval - Full

### 7. Conditions / Reasons for Refusal

- 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 plan: Drg No.002A

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

- 3 Before any work is commenced drawings to a scale of not less than 1: 20 fully detailing the windows to the front elevation and side gable and their surrounds to be used and indicating; materials, cross sections for glazing bars, sills, heads etc at a scale of 1:20, method of opening and method of glazing shall be submitted to and approved in writing by the Local Planning Authority.

Reason - To protect the special character and architectural interests of the Conservation Area.

### 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.

Are there any letters to be sent to applicant / agent with the decision? If so please specify:	YES	NO



<b>Are there any third parties to be informed of the decision?</b> <b>If so, please specify:</b>	<b>YES</b>	<b>NO</b>