

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AC	9 th Oct 2019
Planning Development Manager authorisation:	TF	14/10/19
Admin checks / despatch completed	CC	14/10/2019
Technician Final Checks/ Scanned / LC Notified / UU Emails:	AP	14/10/19

Application: 19/01250/FUL **Town / Parish:** St Osyth Parish Council

Applicant: Mrs S Stenning

Address: The Cafe 70 Tower Estate St Osyth

Development: To rebuild new cafe after extensive fire damage.

1. Town / Parish Council

Mr Parish Clerk St Osyth Parish Council Whilst the Parish Council has no objection to the application itself, an observation was made as to the choice of material. Councillors would prefer to see a more robust material rather than wood.

2. Consultation Responses

Building Control and Access Officer No comments at this time.

Environmental Protection I have reviewed the application and have no adverse comment to make.

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

3. Planning History

00/01708/FUL	Erection of fence	Refused	08.02.2001
01/01068/FUL	Retention of metal railings 1.4m high	Approved	19.10.2001
02/02187/FUL	Replacement restaurant with store and office over	Refused	16.01.2003
03/00684/FUL	Replacement restaurant	Approved	25.06.2003
19/00669/FUL	To rebuild property.	Approved	
19/01250/FUL	To rebuild new cafe after extensive fire damage.	Current	

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

QL3 Minimising and Managing Flood Risk

EN3 Coastal Protection Belt

ER32 Town Centre Uses Outside Existing Town Centres

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

SPL1 Managing Growth

SP1 Presumption in Favour of Sustainable Development

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

PPL1 Development and Flood Risk

PP13 The Rural Economy

PPL2 Coastal Protection Belt

Local Planning Guidance

Essex Design Guide

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 (including Site Description and Proposal)

Site Description

The application site is located on the Tower Estate, Point Clear Bay and is located on a corner between the Martello Tower (to the south) and the ramp which accesses the sea wall footpath.

A small pocket of commercial uses exists in the locale including the Ferryboat Inn, a small supermarket and gift shop; the Martello Tower has been converted into the East Essex Aviation Museum tourist attraction. All these commercial properties are served by a central car parking area.

Following an act of arson, the structure is now unsafe and has to be rebuilt.

Proposal

The structure would be single storey in nature and primarily have a dual pitched roof running in an east/west orientation. The maximum ridge would be around 3.6m with eaves around 2.2m; to the north elevation it is proposed to provide a toilet with a marginally larger footprint than that which existed before.

Principle

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. The site is located outside the settlement boundary. Policy QL9 requires that 'All new development should make a positive contribution to the quality of the local environment and protect and enhance local character. Planning permission will only be granted if the following criteria are met:

- o new buildings, alterations and structures are well designed and should maintain or enhance local character and distinctiveness;
- o the development relates well to its site and surroundings particularly in relation to its siting, height, scale, massing, form, design and materials;
- o the development respects or enhances views, skylines, landmarks, existing street patterns, open spaces and other locally important features;
- o the design and layout of the development incorporates important existing site features of landscape, ecological or amenity value such as trees, hedges, water features, buffer zones, walls and buildings (as well as opportunities to enhance such features e.g. habitat creation); and
- o boundary treatments and hard and soft landscaping are designed as an integral part of the development reflecting the function and character of the development and its surroundings.

In regards to size, scale and height the proposed replacement café would occupy a space similar to the existing structure; for this reason it would not be visually intrusive on a skyline nor would it adversely affect adjoining properties or main habitable rooms in terms of privacy, amenities and aspect.

Design & Appearance

The Government attach great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people. One of the core planning principles of The National Planning Policy Framework (NPPF) as stated at paragraph 130 is to always seek to secure high quality design.

Saved Policies QL9, QL10 and QL11 aim to ensure that all new development makes a positive contribution to the quality of the local environment, relates well to its site and surroundings particularly in relation to its form and design and does not have a materially damaging impact on the amenities of occupiers of nearby properties. Emerging Policy SP1 reflects these considerations.

The proposed use of fibrous cement boarding, which has the appearance of horizontal weatherboarding would closely match the exterior of the existing structure and is therefore considered entirely appropriate.

Impact to Neighbouring Amenities

The NPPF, at 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 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 proposal is tantamount to a like-for-like replacement; there is no significant additional risk of loss of privacy, daylight or harm to the amenities of any of the adjacent neighbours.

Highway Issues

The proposed development neither generates an additional need for parking nor decreases the existing parking provision at the site.

Flooding

In recent years there has been an increase in the frequency and scale of river flooding nationally, and climate change is expected to increase the risk of coastal and river flooding in the future as a result of sea level rise and more intensive rainfall. Reducing vulnerability to flood risk now and throughout the lifetime of development is therefore vital to maintaining community safety and achieving long-term quality of life for residents in the District. The property is located within Flood Zone 3.

Policy QL3 of the Saved Plan states that 'a Flood Risk Assessment is required to be submitted with all planning applications for new development on land within Flood Zones 2 and 3 as shown on the proposals map'. This sentiment is carried forward in Policy PPL1 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017), requiring that all development proposals should include appropriate measures to respond to the risk of flooding on and/or off site.

The application is accompanied by a Flood Risk Assessment; as the proposed application is for the rebuilding of an existing café, the sequential test does not apply.

This site is located adjacent to the tidal reach of the River Colne, which will be impacted by sea level rise over the life of the development. Rainfall is also predicted to increase in intensity and duration.

Site-Specific Flood Risk:-

Ground Water Flooding	The predominant underlying geology comprises of clay, silt, sand and gravel creating an impermeable barrier preventing groundwater rising to the surface, reducing the risk of groundwater flooding and
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	therefore a low risk.
Surface Water Flooding	The site is not shown to be at risk of surface water flooding during the high risk (1 in 30 year), medium risk (1 in 100 year) and low risk scenario (1 in 1000 year) scenarios. This mapping shows that currently the site is not at significant risk from surface water flooding
Tidal/Fluvial Flood Risk	The site is located in an area which benefits from defences and available mapping shows the site to be at a low risk of fluvial flooding from the tidal River Colne.

The assessment of levels and depths confirms that the site is currently not at risk of tidal / fluvial flooding, however with the addition of climate change there a low risk to the site with flood depths predicted to be 0.16m. In the event of a defence failure flood depths at the site could reach 2.82m during a 1 in 1000 year event (plus climate change). Details contained within the application confirm that it is proposed to set the floor level of the new building in line with the existing café and to incorporate flood resilient construction up to a level of 5.15m above ordnance datum providing 300mm freeboard on the potential maximum depth during a 1 in 1000 year event (plus climate change).

Coastal Protection Belt

Saved Policy EN3 of the Tendring District Local Plan 2007 confirms that the purpose of the Coastal Protection Belt is to protect the unique and irreplaceable character of the Essex coastline from inappropriate forms of development. Emerging Policy PPL2 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) goes on to say that the undeveloped coast of Tendring District has an important role in terms of quality of life for residents and visitors, not only in terms of visual amenity but in terms of access to the natural environment.

The proposal will not have a substantial impact on the Coastal Protection Belt as it is a replacement of similar height, scale and footprint of the existing structure on the site.

Town Centre Uses Outside Existing Town Centres

Saved Policy ER32 of the Tendring District Local Plan 2007 states that proposals for town centre uses outside existing town centres will be considered against a sequential site approach and need assessment, only then will they be permitted providing that the development is of a scale appropriate to the catchment area, it does not harm the vitality and viability of an existing centre, it is accessible by a choice of means of transport and it would not prejudice the provision of employment land, housing, recreation or tourism facilities.

The proposal is for a replacement structure; the new structure would serve the same purpose as have similar structures for the preceding [circa] 20 years.

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 plans: 01 and 02, received 19th August 2019.

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

- 3 Prior to occupation of the premises a Contingency Flood Plan should be prepared; this plan should include:
- A list of important contacts (including Floodline), building services, suppliers and evacuation contacts for staff
 - A description or map showing locations of key property, protective materials and service shut-off points
 - Basic strategies for protecting property, preventing business disruption and assisting recovery
 - Checklists of procedures that can be quickly accessed by staff during a flood. The Environmental Agency has a Flood Plan proforma:-
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/410606/LIT_5284.pdf.

Reason - the site is located in an area which is at high risk of flooding.

8. Informatives

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?		NO
Are there any third parties to be informed of the decision?		NO