

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	MP	25/10/19
Planning Development Manager authorisation:	AN	28/10/19
Admin checks / despatch completed	CC	30/10/19
Technician Final Checks/ Scanned / LC Notified / UU Emails:	AP	30/10/19

Application: 19/01331/FUL **Town / Parish:** Clacton Non Parished

Applicant: Robert Whetlor

Address: 75A Station Road Clacton On Sea Essex

Development: Variation of condition 3 of application TEN/95/0264 to change opening hours from Mon-Sat 08:00-18:00 to 08:00-22:00 and Sun 09:00-18:00 (Sunday hours ad-hoc and not every week).

1. Town / Parish Council

Clacton – Non Parished.

2. Consultation Responses

N/A

3. Planning History

95/00063/FUL	(75a Station Road, Clacton on Sea) Change of use from office to sandwich bar	Refused	21.02.1995
95/00264/FUL	(75A Station Road, Clacton on Sea) Take-away Sandwich Shop	Approved	23.05.1995
02/01796/ADV	Painted sign to flank wall	Approved	05.12.2002

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL11 Environmental Impacts and Compatibility of Uses

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 Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF.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.

5. Officer Appraisal

Site Description

The application site is 75a Station Road, Clacton-on-Sea. The property is currently occupied by Pit Stop, a sandwich shop operating under an A1 retail use through the sale of cold food for consumption off premises. The surrounding area is dominated by built form, with a number of residential and commercial properties to all sides, including the Clacton Town Hall to the north.

The site falls within the Settlement Development Boundary for Clacton-on-Sea within both the Adopted Tendring Local Plan 2007 and the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Description of Proposal

This application seeks planning permission for the variation of condition 3 of previous planning permission TEN/95/0264, which stated the following:

"The use hereby approved shall only take place between the hours of 8.00 am and 6.00 pm on weekdays, 8.00am and 6.00pm on Saturdays and shall not take place at any time on Sundays or Public Holidays."

Reason - In the interest of local amenity."

The proposal seeks to amend the opening hours to the following:

Mondays to Saturdays: 8am - 10pm

Sundays and Bank Holidays: 9am - 6pm

Assessment

The proposed change of opening hours will see the store open later into the evening and also open on Sundays and Bank Holidays. While this has the potential to cause harm to existing neighbouring amenities through increased noise disturbance, it is acknowledged that the site is a small local operation that involves no hot foods that could generate significant noise. Further, the site is located on the edge of the Clacton Town Centre where there are a number of other uses open until later hours, including a number of hot food takeaways to the north. The Clacton Town Hall itself opens until similar hours to that being proposed. The opening hours are not out of

keeping with the surrounding area and therefore there is not considered to be significant additional disturbance to surrounding residential properties that would warrant a reason for refusal.

Condition 2 of the original planning permission stated the site was to only be used for Take Away Sandwich Bar purposes and shall not be used for any other use including any purpose in Class A1 and A3. However this is a dated condition that is not reflective of the flexibility of the NPPF, especially when considering the highly sustainable location of the site. Therefore it would not be reasonable to reattach this condition on this occasion.

Other Considerations

Clacton-on-Sea is non-parished so no comments are required.

There have been no other letters of representation received.

6. Recommendation

Approval.

7. Conditions

- 1 Use of the premises as hereby permitted shall be confined to the following hours:

Mondays to Saturdays: 8am - 10pm

Sundays and Bank Holidays: 9am - 6pm

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

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.



TENDRING DISTRICT COUNCIL

Planning Services

Council Offices, Thorpe Road, Weeley, Clacton-on-Sea, Essex CO16 9AJ

AGENT: Mr Gerald Bird - Gerry Bird
Consultants Ltd
Canhams
Upper Road
Lt Cornard
Sudbury
CO10 0PA

APPLICANT: Mr T Barber
C/O Agent

TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION NO: 19/01330/FUL

DATE REGISTERED: 4th September 2019

Proposed Development and Location of the Land:

**Refurbishment with extensions to rear and porch for existing cottage, and improvements to existing access and parking provision.
3 - 4 Brook Cottages Colchester Road Elmstead Colchester**

THE TENDRING DISTRICT COUNCIL AS LOCAL PLANNING AUTHORITY **HEREBY GRANT PLANNING PERMISSION** in accordance with the application form, supporting documents and plans submitted, subject to the following conditions;

- 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: Drawing Number: TB/019/007/A/B, Drawing Number: TB/019/006/A/B/C, Drawing Number: ETB/019/003/A/B and Drawing Number: ETB/019/004.

Reason - For the avoidance of doubt and in the interests of proper planning.
- 3 A vehicular turning facility, of a design to be approved in writing by the Local Planning Authority shall be retained/ constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

Reason - To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety.
- 4 No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

Reason - To avoid displacement of loose material onto the highway in the interests of highway safety.
- 5 Any changes to the vehicular access shall be constructed at right angles to the highway