

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	MP	21/11/19
Planning Development Manager authorisation:	AN	26/11/19
Admin checks / despatch completed	CC	04.12.19
Technician Final Checks/ Scanned / LC Notified / UU Emails:	EL	04/12/19

Application: 19/01383/FUL **Town / Parish:** Frinton & Walton Town Council

Applicant: Mr Paul Shadbolt

Address: Sandyhook 42 The Esplanade Frinton On Sea

Development: Proposed second floor extension to block of flats to provide a new 3 bedroom flat and car parking space.

1. Town / Parish Council

Frinton and Walton Town Council Approval

2. Consultation Responses

Essex County Council Heritage The application is for a second floor extension to a block of flats to provide a new 3 bedroom flat and car parking space.

The above concerns Sandyhook (42 The Esplanade). The application site is located within the Frinton Conservation Area.

The proposed extension and remodelling of elevations to Sandyhook, a building of 40s/50s provenance and an early modernist appearance, are seen to conform the structure stylistically to its neighbour, Esplanade Court, built around the 60s or early 70s based on cartographic evidence. Whilst the fragment of the conservation area within which the buildings are located displays an eclectic mix of built form, the existing structure of 42 The Esplanade is considered positive and in keeping with a distinct individual character; the creation of a mock Streamline Moderne complex as seen within the proposal, however, is considered at odds with the honesty principle of conservation, where the proposal would cause a loss of discernibility of the real age of the buildings and the ethos by which they were conceived.

For the above, the proposal is considered to cause "less than substantial" harm to the significance of a designated heritage asset (the Frinton Conservation Area) and paragraph 196 of the NPPF is relevant.

ECC Highways Dept

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

1 The proposed vehicular access shall be provided in complete accord with the details shown in Drawing Numbered.PS8-10.

Reason: To ensure that all vehicles using the private drive access do

so in a controlled manner, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

2 No unbound materials shall be used in the surface treatment of the proposed vehicular access throughout.

Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety and in accordance with Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

Informative1: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

3. Planning History

05/01028/FUL	Erection of four additional two bedroom apartments and four additional parking spaces within the grounds of 42 The Esplanade	Refused	04.08.2005
05/01029/FUL	Alteration of Sandy Hook from a flat roof 2 storey building to a mansard roof incorporating 2 additional apartments within the roofspace at the new 2nd floor level. Demolition of 4 existing garages and their replacement on site with associated parking for the new apartments	Refused	04.08.2005
05/01030/CON	Demolition of 3 garages to create parking for new apartments.	Refused	23.08.2005
06/00175/FUL	Erection of five additional two bedroom apartments and five additional parking spaces within the grounds of 42 The Esplanade.	Refused	04.07.2006
06/00176/CON	Demolition of existing garages (to make way for re-development)	Refused	04.07.2006
06/01873/CON	Erection of 5 No. two bedroom apartments and 5 additional parking spaces within the grounds of sandyhook.		18.12.2006
06/01874/FUL	Erection of five No. two bedroom apartments and five additional parking spaces.	Refused	12.02.2007
08/00846/FUL	Demolition of existing garages and erection of two storey building having five additional two bedroom flats, four garages and five additional parking spaces within the grounds of 42 The Esplanade	Approved	29.07.2008

(Variation of permission
06/00175/FUL)

08/00847/CON	Demolition of existing garages and erection of two storey building having five additional two bedroom flats, four garages and five additional parking spaces within the grounds of 42 The Esplanade.	Withdrawn	21.07.2008
09/00431/FUL	Erection of third floor extension to existing building to facilitate construction of new apartment, erection of four storey front extension to building, application of white render to whole building and construction of 1 no. car parking space to rear.	Approved	06.08.2009
10/01317/FUL	New second floor extension to block of flats containing a 3 bedroom flat and new car parking space.	Approved	06.01.2011
13/01016/FUL	New second floor extension to block of flats containing a 3 bedroom flat and new car parking space.	Approved	06.12.2013
16/01388/FUL	Proposed second floor extension to block of flats to provide a new 3 bedroom flat, and car parking space.	Approved	09.11.2016

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

COM6 Provision of Recreational Open Space for New Residential Development

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

EN17 Conservation Areas

HG9 Private Amenity Space

HG14 Side Isolation

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

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

HP5 Open Space, Sports & Recreation Facilities

LP1 Housing Supply

LP2 Housing Choice

LP4 Housing Layout

PPL4 Biodiversity and Geodiversity

PPL8 Conservation Areas

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

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

Site Description

The site is located on the north-western side of The Esplanade at the junction with Pole Barn Lane and is within the Settlement Development Boundary for Frinton-on-Sea as established in the Tendring District Local Plan 2007. The site is also within the Frinton-on-Sea Conservation Area. The site contains a two-storey block of 4 no. flats with associated amenity space with direct views across The Esplanade to the North Sea. Adjacent to the site is a four-storey block of flats to the south-east and a two-storey block of flats to the north.

Description of Proposal

The proposal is a re-submission of previously approved applications 10/01317/FUL and 13/01016/FUL, for a new second floor to provide 1 no. 3-bedroom flat. A new third floor will provide a roof terrace and tank room.

Planning History

Planning permission (ref: 10/01317/FUL) was granted for "new second floor extension to block of flats containing a 3 bedroom flat and new car parking space". Furthermore, planning permission (ref: 13/01016/FUL) was re-submitted and approved for the same application.

More recently, under planning reference 16/01388/FUL, this scheme was again granted planning permission. This permission is extant but will expire 9 November 2019.

Assessment

1. Design/Impact upon Conservation Area

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).

Policy EN17 of the Adopted Local Plan states that development within a Conservation Area must preserve or enhance the character or appearance of the Conservation Area. The sentiments of this policy are carried forward within Policy PPL8 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

Sandyhook' is a building of flat roofed design with white concrete balconies and is of late 'art deco' styling. Furthermore, the building is described as a 'neutral feature' within the Frinton & Walton Conservation Area Appraisal. It is considered that the new addition proposed would complement the existing building and relate appropriately to the 'art deco' style buildings in the locality and on the adjacent site. The large areas of glazing, the horizontal metal railings and painted white render (to be applied to the whole building) are all strong characteristics of the 'art deco' design approach and would certainly improve the character of the existing building and thereby enhance the character and appearance of this section of the conservation area. The additional storey proposed would add 4 metres to the overall height of the building. Given the height and scale of the adjacent 'Esplanade Court', the extra height would not mean that the building dominates this section of The Esplanade. The building would remain lower in height than 'Esplanade Court' and would provide a visual step down to the new flats to the north of the site that wrap round into Pole Barn Lane. The proposed car parking space would not be located directly to the front of the building so would not erode the open character of the site's frontage. Furthermore, the inclusion of planting will help to soften the appearance of the hardstanding and screen the parking space from the residents of the newly constructed flats to the north-west.

Overall it is considered that the form, proportions and styling of the proposed development would relate acceptably to this section of The Esplanade and would enhance the character of the existing building and the conservation area setting.

It is noted that since the determination of 16/01388/FUL, the Council has a Historic Environment consultant. They have raised concerns that the existing structure is considered positive and in keeping with a distinct individual character; the creation of a mock Streamline Moderne complex is therefore considered at odds with the honesty principle of conservation, where the proposal would cause a loss of discernibility of the real age of the buildings and the ethos by which they were conceived. However, while these concerns are acknowledged, 16/01388/FUL is an extant permission that can be implemented regardless of the determination of this application. It is therefore a material consideration of this application, and as such it would be unreasonable for the Local Planning Authority to object on the basis of the above comments.

2. Impact to Neighbouring 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'. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

The proposal would not result in a significant impact upon residential amenity in the locality. Although it is conceded that there would be a loss of light to some of the apartments in the adjacent 'Esplanade Court', it is not considered that the loss of light, on balance, would warrant a refusal of planning permission. Due to the 6 metre gap between the two properties it is the ground floor flat that would be predominantly affected, however, in any case this unit is already affected by the existing building and the new floor would not significantly alter the position. In addition, the windows affected are secondary windows, the rooms receive the vast majority of their light from the windows on the front of the building. These windows would not be affected due to the set back nature of the proposed apartment.

Although the balcony area serving the apartment would be located on the southern side of the building near to the balconies serving 'Esplanade Court', there are already numerous windows in the side elevation of Sandyhook that cause overlooking into these balconies. The proposed balcony would therefore result in mutual overlooking between the two buildings, thus not representing a worsening of the current situation on site.

In addition, the proposed roof terrace will be screened to the rear, ensuring extra privacy to the residents of the proposed development and the new flats. Furthermore, the proposed car parking space would be located a suitable distance away from the flats to the north-west and would be suitably screened from view by the proposed planting.

7. 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 not be carried out except in complete accordance with the details shown on drawing numbers 01, 10, 101A, 04A, 05B, and the document titled 'Heritage Impact Statement'.

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

- 3 Notwithstanding the details shown on submitted plan numbers 10, 04A and 05B, no development shall be commenced until precise details of the manufacturer and types and colours of the external facing (including railing details) and roofing materials to be used in construction have been submitted to and agreed in writing by the Local Planning Authority. Such materials and details as may be agreed shall be those used in the development unless otherwise agreed in writing with the Local Planning Authority.

Reason - The site is in a publicly visible location within a conservation area. The use of appropriate facing materials is therefore an essential requirement.

- 4 Notwithstanding the details shown on submitted plan numbers 10, 04A and 05B, before any work is commenced drawings to a scale of not less than 1:50 fully detailing the new windows and doors to be used and indicating materials, decorative/protective finish, cross sections for glazing bars, sills, heads and method of glazing shall be submitted to and approved in writing by the Local Planning Authority. The approved works shall be installed/carried out in complete accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

Reason - To preserve and enhance the special character of the conservation area.

- 5 Notwithstanding the details shown on submitted plan numbers 10 and 05B, no above ground works shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard and soft landscaping works for the site, which shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 Trees in relation to design, demolition and construction."

Reason - To ensure that the hard surface materials to be used in the construction of the access and parking area are sympathetic to the character of the area and the proposed planting is suitable to soften the appearance of the car parking and access areas.

- 6 All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason - To ensure the effective implementation of the approved landscaping scheme in the interests of visual amenity.

In conclusion, it is considered that the proposed apartment would not impinge upon the privacy levels of the residents of the new flats any more than the existing flats at Sandyhook already do.

3. Highway Safety

Essex County Council Highways has no objections to the proposed vehicular access subject to the inclusion of a condition relating to no use of unbound materials in the surface treatment of the vehicular access.

Adopted Parking Standards state that for a new dwelling with two bedrooms or more, there should be minimum provision of two parking spaces measuring 5.5m x 2.9m. However, while the submitted plans show only one car parking space, it is considered to be an adequate provision for this scheme given its siting in close proximity to the town centre and the availability of on-street parking in surrounding roads.

4. Private Amenity Space

The proposed apartment will be served by a roof terrace and balcony area that equate to approximately 48 square metres in size. This is in excess of the policy requirements for amenity space to flats. Policy HG9 of the adopted Tendring District Local Plan (2007) states that flats should have a minimum balcony area of 5 square metres, the provision proposed is therefore acceptable and complies with this particular policy.

5. Habitats Regulation Assessment

Following Natural England's recent advice and the introduction of Zones of Influence around all European Designated Sites (i.e. Ramsar, Special Protection Areas and Special Area of Conservation); within Zones of Influence (which the site falls within) Natural England are requesting financial contributions to mitigate against any recreational impact from new dwellings.

Legal advice has been sought in relation to the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) which supports the view that Tendring District Council can seek financial contributions in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). 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 the Hamford Water Ramsar and SPA. The contribution is secured by unilateral undertaking. There is therefore certainty that the development would not adversely affect the integrity of the Hamford Water Ramsar and SPA 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 approval.

There has been one letter of objection received, with concerns that the proposal will partially obstruct views and will cause overlooking.

In answer to this the impact to neighbouring amenities has been addressed within the main body of the report above.

6. Recommendation

Approval.

- 7 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.

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.

Legal Agreement Informative - Recreational Impact Mitigation:

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: mitigation against any recreational impact from residential developments in accordance with Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Highways Informative:

All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.