

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	MP	17/12/19
Planning Development Manager authorisation:	AN	17/12/19
Admin checks / despatch completed	CC	18/12/19
Technician Final Checks/ Scanned / LC Notified / UU Emails:	JNE	18/12/19

Application: 19/00840/FUL **Town / Parish:** Little Clacton Parish Council

Applicant: Mr's G, T, and N Georciou

Address: Brays DIY 54-56 The Street Little Clacton

Development: Proposed change of use from A1 to A5 to provide hot food takeaway with two bedroom flat above.

1. Town / Parish Council

Little Clacton Parish Council

Whilst the advice from Tendring District Council is no loss of parking spaces, therefore no issues with the application, this thought seems completely wrong. The eight existing spaces will still accommodate the one existing flat plus service the new two bed flat. The possibly only remaining 6 spaces would then need to be split again to accommodate the future empty unit (no.54) reopening as a possible separate business. Therefore this application must be viewed as only providing 3 spaces for the takeaway.

However, Little Clacton Parish Council recommend approval of this planning application.

2. Consultation Responses

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 development shall not be occupied until such time as the residential element of the proposal has been allocated car parking spaces for 2 vehicles which has been appropriately signed and marked out in parking bays for private use. The car parking area shall be retained and maintained in this form at all times thereafter and shall not be used for any purpose other than the parking of vehicles related to the use of the residential development.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and in accordance with Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.

2. All off street car parking shall be provided in precise accord with the details contained within the current Parking Standards being provided within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining

streets does not occur, in the interests of highway safety and in accordance with Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.

3. Prior to the occupation of the proposed development, details of the provision for the storage of bicycles for the residential element and the parking of bicycles for the commercial element, sufficient for all occupants or visitors of that development of a design that shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To promote the use of sustainable means of transport in accordance with Policy DM 1 and 9 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

14/00902/FUL	Alteration to part shop front, involving replacing softwood doors & windows with aluminium.	Approved	22.08.2014
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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

COM6 Provision of Recreational Open Space for New Residential Development

COM20 Air Pollution/ Air Quality

COM22 Noise Pollution

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

EN23 Development within the Proximity of a Listed Building

HG1 Housing Provision

HG3 Residential Development Within Defined Settlements

HG9 Private Amenity Space

HG14 Side Isolation

QL1 Spatial Strategy

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)

CP1 Sustainable Transport and Accessibility

HP5 Open Space, Sports & Recreation Facilities

LP1 Housing Supply

LP4 Housing Layout

PPL4 Biodiversity and Geodiversity

PPL9 Listed Buildings

SP1 Presumption in Favour of Sustainable Development

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 application site is 54-56 The Street, which is currently derelict but previously occupied by Brays DIY. The building is two storeys and sited in amongst a relatively urbanised area, dominated by predominantly residential, but also occasional commercial, properties. Further out to the east and west in particular the character of the area takes on a more rural feel, with large areas of agricultural land. To the north lies Kinfauns Cottages, a Grade II Listed Building.

The site falls within the Settlement Development Boundary for Little Clacton, as agreed in 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 change of use to the southern section of the building at ground floor level from A1 retail use to A5 hot food takeaway, with a change of use to the first floor from its existing B1 office use to a C3 residential use, in the form of a two bedroom flat.

The proposal will involve some minor external alterations, namely a revised shop front to include a rendered brick plinth and a large window in place of two existing doors, the inclusion of an extractor unit to the rear of the building, and the infilling of a first floor north elevation window which currently serves a kitchen.

Assessment

1. Principle of Development

The application site falls outside of a recognised Primary Shopping Area and therefore the site is not safeguarded for retail use. The area includes other commercial properties, including an A5 hot food takeaway at Number 55 The Street. The property will therefore retain its employment use, with the number of employees actually set to slightly increase on the previous use (4.5 equivalent compared to 3 currently).

With regards to the residential unit in this location, the site is situated within the defined settlement limits of Little Clacton as defined by both the adopted Tendring District Local Plan (2007) and emerging Publication Draft (2017), and therefore the principle of residential development in this location is acceptable.

2. Visual Impacts

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).

There are few external changes proposed as part of the development. The front elevation will see a slight alteration with a revised shopfront, which given the current poor state of repair will be a visual enhancement. The proposed extraction unit, while not a positive visual inclusion, is sited to the rear and will be largely hidden from all angles. Other changes include the infilling of one first floor window, which is not visible from the street scene and will therefore result in a neutral impact to the appearance of the character of the area. Overall the changes are relatively minor and what would be expected of such a development, and are all in line with restoring a currently unused building.

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

The area comprises of a mixture of commercial uses and predominantly residential development. There are residential properties to the south and east in particular that have the potential for existing amenities to be harmed. However, the extraction unit has been sited in such a location that it will face away from all residential properties. Further, in respect of noise concerns, a Noise Assessment has been supplied following a request from the Council's Environmental Protection team. This has confirmed that impacts to neighbours are acceptable, but raised potential concerns to the amenities of the existing flat above Number 56 The Street. As such the agent for the application has provided additional information that shows the fan assembly unit to be inside and a silencer outside, following a request from the Council's Environmental Protection team.

Further, the opening hours proposed are 11am - 10pm Monday to Saturday, with the unit being closed Sundays and Bank Holidays. In the context that the nearby hot food takeaway premises opens until 10.30/11pm every night including Sundays these hours are considered to be reasonable. Given this, and that The Street is a busy thoroughfare, will ensure potential noise disturbances will be reduced.

4. Parking/Amenity

Adopted Parking Standards require that for dwellings with 2 or more bedrooms that a minimum of 2 parking spaces measuring 5.5m x 2.9m are required. For an A5 hot food takeaway use, the same standards state there should be minimum provision of 1 space per 20sqm. The size of the site equates to 75sqm, and therefore there should be provision for a minimum of four parking spaces. To the front of the property is a large area allocated for parking that comfortably meets the above standards.

Essex Highways Authority have not objected to the application, but have requested conditions relating to car parking spaces being marked out and cycle parking provision. These will be included as conditions to this decision.

Saved Policy HG9 regarding private amenity space stipulates that a first floor flat should be provided with a minimum of 5 square metres balcony area. Emerging policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) again reflects these requirements. The submitted plans do not show any area allocated for private amenity; however given only a small area would be required and that the site is in a highly sustainable location in close proximity to a number of amenity areas, on balance it is not considered that this would be sufficient harm to recommend a reason for refusal.

5. Heritage Impacts

Policy EN23 of the Adopted Local Plan states that development 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 Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

To the north of the site lies Kinfauns Cottages, which is a Grade II Listed Building. However given that there is an approximate separation distance of 40 metres and that the proposal involves only minor external alterations, there is not considered to be any harm to the setting of this building as a result of the proposed development.

6. Legal Obligations

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 2.22 hectares of equipped play in Little Clacton. However, despite this deficit it is not considered that this development would impact the current deficit, and therefore no contribution is required on this occasion.

7. Habitats Regulation Assessment

Following Natural England's recent advice and the introduction of Zones of Influences around all European Designated Sites (i.e. Ramsar, Special Protection Areas and Special Area of Conservation). Within Zones of Influences (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

Little Clacton Parish Council recommend approval.

There have been no other letters of representation received.

6. **Recommendation**

Approval.

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 be carried out in accordance with the following approved plans, the untitled Site Location Plan, the untitled plans received 7 October 2019 showing the siting of the extraction system, the untitled Noise Assessment Report, the documents titled 'Block Plan', and drawing numbers 1 and 2.

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

- 3 The development shall not be occupied until such time as the residential element of the proposal has been allocated car parking spaces for two vehicles which has been appropriately signed and marked out in parking bays for private use. The car parking area shall be retained and maintained in this form at all times thereafter and shall not be used for any purpose other than the parking of vehicles related to the use of the two bedroom flat.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety.

- 4 Prior to the occupation of the proposed development, details of the provision for the storage of bicycles for the residential element and the parking of bicycles for the commercial element, sufficient for all occupants or visitors of that development of a design that shall be previously approved in writing by the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To promote the use of sustainable means of transport.

8. Informatives

Positive and Proactive Statement:

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, 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.