

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AL	10/01/2020
Planning Development Manager authorisation:	TF	10/01/2020
Admin checks / despatch completed	CC	10/01/2020
Technician Final Checks/ Scanned / LC Notified / UU Emails:	KAE	10/01/2020

**Application:** 19/01753/FUL **Town / Parish:** Clacton Non Parished

**Applicant:** Ms Sandra James

**Address:** 1 - 7 Broadway Jaywick Clacton On Sea

**Development:** Change of use of No. 1 (retail shop) and No. 3 - 7 (Wonderland Amusement arcade) Broadway, Jaywick to become an office, therapy room, training room within No. 1 and training catering space and dining area, community space for recreational, creative and learning activities for young people and be available for the wider community within No. 3 - 7.

### **1. Town / Parish Council**

Clacton – non parished.

### **2. Consultation Responses**

ECC Highways Dept

The information that was submitted in association with the application has been fully considered by the Highway Authority.

The premises are located on Broadway and has existing parking restrictions outside the front of the building and adjoining side roads that will not change. The site is in proximity of existing bus services and is providing some cycling parking facilities as part of this application therefore:

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

1. The proposed vehicular parking space (disabled parking space) shall have minimum dimensions of 3.9 metres x 6.5 metres.  
Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8.

2. The Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to first occupation and retained at all times.  
Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy DM8.

3. Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the highway.  
Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the

construction period in the interest of highway safety in accordance with policy DM1.

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative 1: In main urban areas with frequent and extensive public transport, cycling and walking links, the EPOA Parking Standards recommend that a reduced parking standard provision may be applied to residential developments. A reduced parking standard provision level can be applied to this proposal as it is located very close to regular public transport services.

Informative 2: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

Informative 3: Steps should be taken to ensure that the Developer provides enough turning and off-loading facilities for delivery and site worker vehicles, within the limits of the site together with an adequate parking area for those employed in developing the site

Informative 4: 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.

The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to:

SMO1 - Essex Highways  
Colchester Highways Depot,  
653 The Crescent,  
Colchester  
CO4 9YQ

Arch. Liaison Off, Essex  
Police

No comments received.

Environmental Protection

Environmental Protection have no comments to make in relation to the above application.

Crime Reduction Officer

Essex Police would encourage the developer to incorporate Crime Prevention Through Environmental Design (CPTED) into this site by integrating the nationally approved, Police preferred, Secured By Design (SBD) Commercial accreditation into this development. Essex Police provide a free, impartial advice service to any applicant who request this service. Essex Police would be eager to work with the developers in this project to mitigate these risks by employing the principles of Crime Prevention Through Environmental Design using Secured by Design as an enabler. Essex Police is able to support the applicant to achieve appropriate consideration of the Secure By Design requirements and is invited to contact Essex Police via [designingoutcrime@essex.police.uk](mailto:designingoutcrime@essex.police.uk)

Thank you for your consultation received 25 November 2019, we have reviewed the plans as proposed and we have no objection to this planning application, providing that you have taken into account the flood risk considerations which are your responsibility. We have highlighted these in the flood risk section below.

#### Flood Risk

Our maps show the site lies within tidal Flood Zone 3a defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' as having a high probability of flooding. The proposal is for a change of use from retail and leisure use to a community space for young people which is classified as a 'less vulnerable' development, as defined in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance. Therefore, to comply with national policy the application is required to be supported by a site specific Flood Risk Assessment (FRA).

#### Sequential Test and Exception Tests

The requirement to apply the Sequential Test is set out in Paragraph 158 of the National Planning Policy Framework. The Exception Test is set out in paragraph 160. These tests are your responsibility and should be completed before the application is determined. Additional guidance is also provided on Defra's website and in the Planning Practice Guidance.

To assist you in making an informed decision about the flood risk affecting this site, the key points to note from the submitted FRA, by Evans Rivers and Coastal, referenced 2413/RE/11-19/01 and dated November 2019, are: Actual Risk

- The site lies within the flood extent for a 0.5% (1 in 200) annual probability event, including an allowance for climate change.
- The site does benefit from the presence of defences. However the defences are below the 0.5% (1 in 200) annual probability flood level including climate change and therefore the site is at actual risk of flooding in this event.
- Finished ground floor levels have been proposed at 3.60m AOD. This is below the 0.5% (1 in 200) annual probability flood level including climate change of 5.13m AOD and therefore at risk of flooding by 1.53m depth in this event.
- Flood resilience measures have been proposed up to 5.60m AOD which is 0.05m above the 0.5% (1 in 1000) annual probability flood level including climate change.
- There is no first floor in this development and therefore there is not refuge above the 0.1% (1 in 1000) annual probability flood level of 5.55m AOD.
- The site level has not been provided but can be assumed to be 0.3m below floor level and therefore flood depths on site are 1.83m in the 0.5% (1 in 200) annual probability flood event including climate change.

- Therefore assuming a velocity of 0.5m/s the flood hazard is danger for all including the emergency services in the 0.5% (1 in 200) annual probability flood event including climate change.
- Therefore this proposal does not have a safe means of access in the event of flooding from all new buildings to an area wholly outside the floodplain (up to a 0.5% (1 in 200) annual probability including climate change flood event). We have no objections to the proposed development on flood risk access safety grounds because an Emergency Flood Plan has been submitted by the applicant but you should determine its adequacy to ensure the safety of the occupants.
- Compensatory storage is not required.

#### Residual Risk

- The FRA explores the residual risk of a breach using the 2015 Jaywick Strategic Flood Risk Assessment (SFRA). This shows that the site could experience breach flood depths of up to one metre during the 0.5% (1 in 200) annual probability including climate change breach flood event and up to two metres during the 0.1% (1 in 1000) annual probability including climate change breach flood event (up to the year 2115).

Since the SFRA was undertaken our flood levels have been updated. A comparison of the undefended on-site flood levels and LIDAR site levels shows that in a worst-case scenario the site could experience breach (undefended) flood depths of up to 1.91m metres during the 0.5% (1 in 200) annual probability including climate change breach flood event and up to 2.18 metres deep during the 0.1% (1 in 1000) annual probability including climate change breach flood event.

Therefore assuming a velocity of 0.5m/s the flood hazard is danger for all including the emergency services in the 0.5% (1 in 200) annual probability flood event including climate change.

- Finished ground floor levels have been proposed at 3.60m AOD. This is below the 0.5% (1 in 200) annual probability undefended (breach) flood level including climate change of 5.21m AOD and therefore at risk of flooding by 1.61m depth in this event.
- Flood resilience measures have been proposed to 5.60m AOD which is 0.39m above the 0.5% (1 in 200) annual probability breach flood level including climate change.
- There is no first floor in this development and therefore there is not refuge above the 0.1% (1 in 1000) annual probability breach flood level including climate change of 5.48m AOD.
- A Flood Evacuation Plan has been proposed and is necessary to ensure the safety of the development in the absence of safe access and with internal flooding in the event of a breach flood.

#### Other Sources of Flooding

In addition to the above flood risk, the site may be within an area at risk of flooding from surface water, reservoirs, sewer and/or groundwater. We have not considered these risks in any detail, but you should ensure these risks are all considered fully before determining the application.

### **3. Planning History**

79/00881/FUL	Change of use from shop to amusement arcade	Approved	31.07.1979
80/00136/FUL	Alterations to shop to form extn to amusement arcade	Approved	25.03.1980
00/01085/FUL	Change of use from office to tattoo studio	Approved	21.08.2000
91/00537/FUL	Use of shop as Betting Office		20.08.1991
91/01184/FUL	Retention of a receive only satellite antenna.	Approved	25.11.1991
00/00019/FUL	Alterations to front (new entrance doors and windows)	Approved	17.02.2000

### **4. Relevant Policies / Government Guidance**

National Planning Practice Guidance

NPPF National Planning Policy Framework February 2019

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL3 Minimising and Managing Flood Risk

QL6 Urban Regeneration Areas

QL8 Mixed-Uses

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

ER7 Business, Industrial and Warehouse Proposals

ER26 Conversion of Premises

ER31 Town Centre Hierarchy and Uses

ER32 Town Centre Uses Outside Existing Town Centres

COM4 New Community Facilities (Including Built Sports and Recreation Facilities)

TR7 Vehicle Parking at New Development

CL15a Jaywick Regeneration

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

SP1 Presumption in Favour of Sustainable Development

SPL1 Managing Growth  
SPL3 Sustainable Design  
HP2 Community Facilities  
PP5 Town Centre Uses  
PP14 Priority Areas for Regeneration  
PPL1 Development and Flood Risk  
CP1 Sustainable Transport and Accessibility

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.

## **5. Officer Appraisal (including Site Description and Proposal)**

### **Site Description**

The application relates to unit 1 Broadway and units 3-7 Broadway, Jaywick. The building is located within the settlement development boundary for the area, within an area designated as Flood Zone 3 and also within an Urban Regeneration Area and a designated Local/Village Centre.

The site is located on the northern side of Broadway on the corner with Garden Road and forms part of the main thoroughfare through the centre of Jaywick predominately characterised by commercial uses with residential streets to the rear and beyond.

Number 1 is a vacant retail unit and numbers 3-7 accommodates Wonderland amusement arcade.

### Description of Proposal

Additional information has been provided by the Agent (received via email on 9th January 2020) to clarify the proposed use of the premises. The use classes shown within questions 17 and 19 of the accompanying application form did not correlate.

The application seeks a change of use of numbers 3 - 7 from the existing Sui Generis Wonderland Amusement arcade to allow for a mixed use D1 and D2 comprising a training catering space and dining area; community space for recreational, creative and learning activities for young people, and general hub open to the wider community. The application also seeks the change of use of the existing A1 retail use at number 1 Broadway into an office, therapy room and training room associated with the community facilities within number 3-7. Links between the units are shown on the proposed plans but the proposed opening hours of the 2 units will be different (as detailed within question 19 of the accompanying application form).

### Assessment

The main considerations in this instance are;

- Principle of Development and Compatibility of Uses;
- Flood Risk;
- Residential Amenities;
- Parking and Highway Safety; and,
- Representations.

### Principle of Development and Compatibility of Uses

Paragraph 85 of the National Planning Policy Framework 2019 (NPPF) states that planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.

1 Broadway is a retail unit (Planning Use Class A1) and 3-5 Broadway is an amusement arcade (which is a sui generis planning use). The buildings are located within an Urban Regeneration Area and a designated Local/Village Centre where our planning policies seek to encourage town centre uses and to protect/enhance the vitality and viability of the area.

Saved Policy QL6 of the adopted Tendring District Local Plan 2007 (TDLP) states that within Urban Regeneration Areas permission will be granted for development that enhances the function, character and appearance of the area and contributes towards regeneration and renewal. In particular, a focus on investment that promotes social inclusion, education, health and community safety and accessibility. These sentiments are echoed within draft Policy PP14 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 (ELP).

Saved Policy COM4 of the TDLP states that permission will be granted for new community facilities provided the proposed facility is readily accessible to local people, is not detrimental to the character or amenities of the area and will not lead to unacceptable traffic problems. These sentiments are echoed within draft Policy HP2 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 (ELP).

Appropriate town centre uses include retail, offices, leisure, entertainment, sport and recreation, culture and tourism. The proposals are therefore considered to be an appropriate use for this location where they will be easily accessible to local residents on foot or via bus services and will complement the other surrounding commercial uses. The development provides a positive investment toward the health and needs of the local community and the vitality of the centre of Jaywick. The alterations to the external appearance of the building will also contribute positively to the street scene and character of the area.

### Flood Risk

Saved Policy QL3 of the TDLP states that the Council will ensure that flood risk is taken into account at all stages in the planning process, to avoid inappropriate development in areas at risk of flooding. These sentiments are echoed within draft Policy PPL1 of the ELP.

The site is located within Flood Zone 3 (high risk). The proposed use would be classed as 'less vulnerable' by the Environment Agency which is the same as the current uses and is acceptable in principle in this location. The application is accompanied by the necessary site specific flood risk assessment. As set out within the National Planning Policy Guidance, the Sequential and Exception Tests do not need to be applied to minor developments and changes of use.

Appropriately worded conditions will be imposed to ensure that the development is carried out in accordance with the recommendations set out within the FRA and to ensure that a Flood Evacuation Plan is approved and adhered to.

#### Residential Amenities

The NPPF, in paragraph 127 states that planning should always seek to secure a good standard of amenity for all existing and future occupants. In addition, Policy QL11 of the Tendring District Local Plan (2007) 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'. Emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 supports these objectives.

The site is located in the main centre of Jaywick where there are a number of takeaways and a public house in reasonably close proximity which are likely to open late and generate a moderate amount of noise and activity. Particular regard must also be had to the existing amusement arcade use approved under planning application reference TEN/881/79 with no conditions restricting opening hours. The proposed use is not only more neighbourly and less noisy in nature, the proposed opening hours which can be controlled by condition, will ensure that no material harm to the amenities of occupiers of neighbouring dwellings will result.

#### Parking and Highway Safety

Paragraph 108 of the National Planning Policy Framework 2019 seeks to ensure that safe and suitable access to a development site can be achieved for all users. Saved Policy QL10 of the adopted Tendring District Local Plan 2007 states that planning permission will only be granted if amongst other things; access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and the design and layout of the development provides safe and convenient access for people. The sentiments of this policy are carried forward within draft Policy SPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

In main urban areas with frequent and extensive public transport, cycling and walking links, the Parking Standards recommend that a reduced parking standard provision may be applied to residential developments. A reduced parking standard provision level can be applied to this proposal as it is located very close to regular public transport services and within easy walking distance of the surrounding residential dwellings that the facilities aim to serve.

The proposal is therefore considered acceptable in terms of highway safety and accessibility.

The Highway Authority have been consulted in the application and raise no objection subject to conditions, which will be imposed where necessary.

#### Representations

The site is located within the non parished area of Clacton on Sea.

1 letter of objection has been received from a neighbouring resident. The concerns raised can be summarised and addressed as follows;

- No infrastructure
- Lack of parking.
- Highway safety.
- Noise nuisance.
- Will encourage anti-social behaviour.
- The project is a reasonable one but not as it is proposed.



Given that the use and opening hours could be controlled by condition, the proposed use would have a lesser impact upon residential amenities than the existing arcade use. Any statutory noise nuisance would be a matter for environmental health legislation and not covered by planning. Anti-social behaviour is a matter for the police. Given the highly sustainable location of the site, there can be no objection in terms of accessibility.

### Conclusion

For the reasons set out above, the proposal is considered to represent a sustainable form of development providing a new community facility and contributing positively to the regeneration aspirations for Jaywick.

## **6. Recommendation**

Approval - Full

## **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 plan: 173\_HAT\_PL\_110 Revision: P1 and 173\_HAT\_PL\_111 Revision: P2.

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

- 3 Notwithstanding the provisions of The Town and Country Planning (Use Classes) Order 1987 (as amended) and the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), the community hub and office uses hereby approved shall be used solely for the purposes as described within the application form.

Reason - To ensure that the Local Planning Authority retain control over potential alternative uses in the interests of the character of the area and residential amenities.

- 4 The development hereby permitted shall only be open during the following times;

D1 and D2 Uses within No. 3-7 Broadway:

Monday to Friday 9:00 to 21:00

Saturday 10:30 to 18:00

Sunday and Bank Holiday 10:30 to 17:00

B1(a) office within no. 1 Broadway

Monday to Friday 09:00 to 17:00

No Saturday, Sunday or Bank Holiday opening

Reason - To ensure the use of the site is appropriate to the locality and to safeguard the amenities of local residents.

- 5 The development hereby approved shall be carried out in accordance with the Flood Risk Assessment report ref: 2413/RE/11-19/01 dated November 2019.

Reason – In order to minimise and manage flood risk.

- 6 Prior to the occupation of the development hereby approved, a Business Flood Plan shall be submitted to and approved in writing by the Local Planning Authority in accordance with the recommendations for 'reducing vulnerability to the hazard' as set out within section 6.4 of the

accompanying Flood Risk Assessment report ref: 2413/RE/11-19/01 dated November 2019.  
The approved Business Flood Plan shall be adhered to at all times.

Reason – In order to minimise and manage flood risk.

## **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.

### Highways Informatives

1. Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the highway to ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety.
2. On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.
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SMO1 - Essex Highways  
Colchester Highways Depot,  
653 The Crescent,  
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