

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	WC	30/01/2020
Planning Development Manager authorisation:	AN	30/01/2020
Admin checks / despatch completed	CC	30/01/2020
Technician Final Checks/ Scanned / LC Notified / UU Emails:	AP	30/1/2020

Application: 19/01850/FUL **Town / Parish:** Brightlingsea Town Council

Applicant: K Dinnadge

Address: 49 Victoria Place Brightlingsea Colchester

Development: Change of use from A1 to Sui generis

1. Town / Parish Council

Mrs Brightlingsea Town
Council

2. Consultation Responses

ECC Highways Dept

HOLDING RESPONSE REQUEST FOR ADDITIONAL
INFORMATION

Insufficient information is provided within the application to demonstrate to the satisfaction of this Authority that the impact on the highway network caused by this proposal will not have unacceptable consequences in terms of highway safety and efficiency.

The applicant should be invited to provide such additional information as listed below:

1. The dimensions of the signage (length, height and how far protruding from the front elevation over the footway)
2. The means of illumination (internally or externally illuminated)
3. The proposed illuminance levels in Candelas/m²

Upon receipt, the Highway Authority may properly consider this proposal.

Environmental Protection

Environmental Protection have reviewed the above application and has no comments to make.

3. Planning History

19/01850/FUL

Change of use from A1 to Sui
generis

Current

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

NPPG National Planning Policy Guidance

Tendring District Local Plan 2007

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

EN22 Extensions or Alterations to a Listed Building

ER32a Primary Shopping Area

ER33 Non-retail Uses Within Primary Shopping Frontages

COM22 Noise Pollution

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

PP5 Town Centre Uses

SPL3 Sustainable Design

PPL8 Conservation Areas

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 Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF.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

Proposal

Change of use of ground floor shop unit from A1 to Sui generis.

Site Description

No. 49 Victoria Place is a small retail unit within a row of small shops in the centre of Brightlingsea. The shop was formerly a pet shop but has now been converted to a beauty clinic (sui generis). It is located within core / primary shopping frontage as identified in both the adopted and emerging local plans. The site is also within the Brightlingsea Conservation Area.

Impact on vitality and viability of town centre

Victoria Place is a street located in the heart of Brightlingsea characterised by shops and town centre uses. No. 49 is within the town centre's primary shopping frontage as defined by Policy ER33 of the adopted Local Plan. Policy ER33 seeks to retain Class A1 uses in the primary shopping frontage, allowing 10% to be A2-A5 but prohibiting any non-retail uses on ground floor.

The equivalent emerging policy, PP5, in the Tendring District Local Plan 2013-2033 and Beyond Publication Draft, seeks to retain 70% of core shopping frontage for A1 use; and given this policy's conformity to the NPPF, some weight should be given to this policy, as explained in this report under Status of the Local Plan. This policy thus allows some scope for non-retail use if 70% of the frontage is retained for retail use.

Paragraph 85 of the National Planning Policy Framework 2019 (NPPF) states the local planning authorities should recognise town centres as the heart of their communities and pursue policies to support their viability and vitality, they should retain and enhance existing markets and, where appropriate, re-introduce or create new ones. Local planning authorities should promote competitive town centres that provide customer choice and diverse retail offer and which reflect the individuality of town centres.

The Officer visited the site to assess the level of existing provision of retail use in the town centre. No. 49 is located in a section of primary frontage north of the green central area of the town centre. It was noticed this part is only a small section of the total core frontage in the town centre. It comprised of Tesco (double/triple unit), Spiral Cards, Café Chic, Pet Shops, Book shop and two

vacant units. This is a total of 8 units including No. 49, 4 of which are A1, 2 vacant, and 1 sui generis (No. 49). The 4 retail units therefore equates to 50% of the primary frontage on this particular section, which is small in comparison to the primary frontage as a whole.

It should be noted this calculation is only based on a small section of the primary frontage comprising approximately 8 units and thus does not give an accurate picture of the level of A1 use in the town centre primary frontage as a whole. Instead a more accurate calculation would be to undertake a survey of all primary shopping frontage in the town centre; but no such up-to-date survey has been undertaken. Nonetheless, on visiting the town centre it was felt there was a strong presence of A1 use in the town centre as a whole and that the town centre exhibited vitality with no obvious signs of unhealthy non A1 clusters.

Another consideration to take into account is a recent appeal decision on a similar change of use in the Tendring District, regarding 93 Connaught Avenue, Frinton (appeal reference APP/P1560/W/18/3199484). This appeal was allowed by the Inspector for change of use from A1 to a physio therapy practice. The Appeal was allowed by the inspector on the basis of observing a strong presence of A1 with no undue clusters of non-A1 uses; and the complementary nature of a physio practice to the shopping centre:

'Although a physiotherapy clinic is a non-retail use, I consider that it is a use that is compatible with and complementary to the functioning of a shopping centre, in the same way that doctors' and dentists' surgeries compliment the functioning of shopping areas. That is because visits to clinics and surgeries are often undertaken in conjunction with other trips to shopping areas (para 9).'

Similarly, it is considered that a beauty clinic in Brightlingsea can also have a comparable effect: it brings in customers into the town centre, thus playing a complimentary role to the shopping centre.

Consultation with the council's Regen team was carried out verbally, who were supportive of the change of use on the basis of its complementary nature and the creation of 4 new employees (evidenced from the Four B's website). Their comments made of the fact the unit had been vacant for three months which was formerly a pet shop which has moved to a larger unit next door, and were satisfied that a marketing campaign for A1 use was not necessary in this case.

Impact on the Conservation Area:

The change of use has no impact on the character of the Conservation Area and therefore raises no issues; however any changes to the signage should be assessed under a separate application for advertisement consent.

Environmental Protection

The opening hours of the business are 9.30 - 21.30 Monday to Saturday and it is possible there are upper floor flats nearby. According to the agent, the first floor of No. 49 was last used as offices but has been vacant for a while. However, there are no objections from the Environmental Protection team regarding noise and other forms of pollution.

Impact on Residential Amenities

There may be some flats within the vicinity of the site; however, given this is a town centre location surrounded by mixed uses with the nearby Tesco store open until 11pm and pubs in close proximity so a reasonable level of public activity and noise is to be expected, the impact on residential amenity from the proposed use will be negligible.

Highway safety and Parking

Highway comments have raised concerns about insufficient information for the signage, however the signage will be part of a separate application for advertisement consent. No further comments were made.

The site is located within in a highly sustainable town centre. The application will not result in any highway safety or accessibility issues and there is public parking available outside the premise.

Conclusion

It is concluded that the development has had no adverse effect on the vitality and viability of the town centre taking into account its complementary role in supporting the vitality, the representations in support, the strong presence of A1 use evident in the town centre as a whole and other reasons detailed in the report. Whilst there is conflict with Policy ER33 of the Local Plan it is considered that conflict is of insufficient magnitude to warrant the withholding of planning permission.

Other considerations:

Brightlingsea Town Council have supported the application.

160 online representations have been received in support. Many left no comments other than stating their support. Those that did add comments often referred to the following reasons for support:

- The proposal would be better off used than empty
- The use is not obtrusive
- The proposal contributes to the life of the town centre.

1 objection was received concerning the illumination of the town.

6. Recommendation

Approval - Full

7. Conditions / Reasons for Refusal

- 1 The development hereby permitted shall be carried out in accordance with the following approved plan: P01C, received 15th January 2020

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

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.

This permission does not include changes to the signage, which should be part of a separate application for advertisement consent.

Are there any letters to be sent to applicant / agent with the decision? If so please specify:	YES	NO
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Are there any third parties to be informed of the decision? If so, please specify:	YES	NO