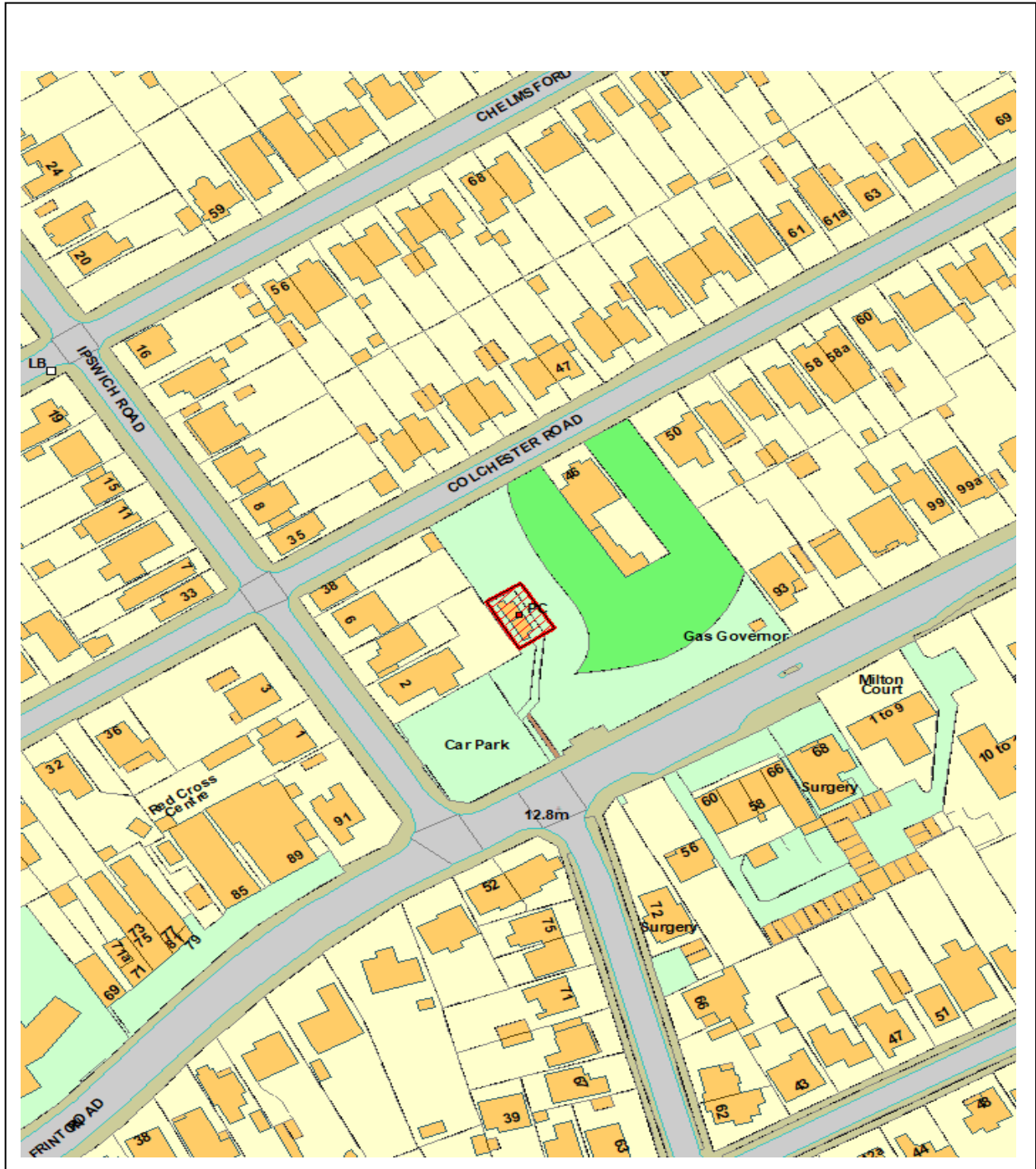


PLANNING COMMITTEE

12 FEBRUARY 2020

REPORT OF THE HEAD OF PLANNING

A.4 PLANNING APPLICATION – 19/01427/FUL – FORMER PUBLIC CONVENIENCES
FRINTON ROAD HOLLAND ON SEA CO15 5DE



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Application: 19/01427/FUL

Town / Parish: Clacton Non Parished

Applicant: Mr Stuart Hazell

Address: Former Public Conveniences Frinton Road Holland On Sea CO15 5DE

Development: Change of use of former public conveniences to cafe with internal/external seating areas.

1. **Executive Summary**

- 1.1 The planning application has been referred to Planning Committee as the land is owned by Tendring District Council
- 1.2 The building is the former public convenience located within a public open space, adjacent the Ipswich Road public car park.
- 1.3 The site lies inside the defined town centre and in an area that requires the protection of existing recreational open space.
- 1.4 The building is no longer in use and has been empty since its closure. Whilst there is very little appearance of dilapidation, the planning application presents an opportunity to realise a viable alternative tourism-related use for a redundant building that would be in keeping with the general location and also supports local economic activity and wider regeneration aims of the Council.
- 1.5 The modest scale of the proposed café is considered to be an acceptable alternative use. With appropriate conditioning and moderate adaptation, no material harm is envisaged to the visual amenity of the surrounding area and the amenity of residents nearby. The application is therefore recommended for approval.

Recommendation:

That the Head of Planning be authorised to grant planning permission for the development subject to:-

- a) Subject to the conditions stated in section 8.2

2. **Planning Policy**

- 2.1 The following Local and National Planning Policies are relevant to this planning application.

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

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

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

SP1 Presumption in Favour of Sustainable Development

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

Local Planning Guidance

Essex Design Guide

Status of the Local Plan

- 2.2 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.
- 2.3 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.
- 2.4 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.

3. Relevant Planning History

19/01427/FUL	Change of use of former public conveniences to cafe with internal/external seating areas.	Current
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4. Consultations

ECC Highways Dept From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to conditions.

5. Representations

5.1 Two letters contributions have been received in response to the four neighbour notification letters and the display of the site notice on 8th November 2019. The letters are summarised below:-

Contribution One

- The British Toilet Association (BTA) advocates the need for more and better toilets to ensure Health and Well-being, Equality, Public and Private Decency and Social Inclusion.
- No documentary evidence could be produced to support the claims of anti-social behaviour and vandalism.
- Mr Hazell's planning application has some incorrect and omitted information in it. For example, no opening hours are listed.
- Notice on the former PC door states the reason for the closure was due to vandalism and antisocial behaviour, and re-redirects people to alternative facilities opposite Brighton Road and Holland Haven Country Park, (2 and 3 miles away respectively). The Country Park facility is not accessible to those with mobility constraints.
- The plans show that the lessee is to extend out over the existing footpath. The TDC map shows there is no footpath from the former PC to Colchester Rd.
- The open space is designated as protected so approval of a planning application to encroach on that space breaches and sets a precedent for more building.
- A loo-pod is required to replace the unfit brick toilet and is now urgent due to relocation of GP surgery Jan20

Contribution Two

- The identified toilet block that forms the basis of this planning application is one meter from the rear boundary of my property. Indeed the rooftop can be clearly seen from my kitchen window, conservatory and garden.
- When in use as a public toilet facility voices were easily carried over the fence and were often of a disturbing nature. On numerous occasions anti-social behaviour has occurred to such an extent that on occasions it has been necessary to seek police assistance for the disturbances.
- The small boundaries of the car park adjacent to the proposed site directly borders the right hand side of my property and travels the right hand side of the garden and our drive access in Ipswich Road. Again at times I have had to raise concern over the noise pollution from this Car Park, causing, at times, significant disturbance and again requiring intervention from the Police.
- Question the appropriateness of a building originally intended as a public convenience as being fit for the suggested purpose?
- Additional concerns are:- Noise pollution and disturbance of the peace for residents • Rubbish/waste storage, collection and associated odours and the inevitable attraction of additional vermin as a result • Cooking fumes which will undoubtedly travel to local residences on a daily basis • Opening hours and security of the identified premises as well as my own premises, during out of hours. (There were considerable episodes of vandalism when this site were open as public toilets) • Two cafe's already available within the immediate vicinity of proposed application, in more appropriate premises • Car parking capacity pressures and how this may cause issues for local residents access to

the local Dr surgery, Tesco express and other local businesses • Access to my own property continues to become compromised when the public car park becomes full. Despite yellow lines, parking is often to be seen on resident access pavements.

6. Assessment

6.1 The main planning considerations are:

- The Principle of the Use;
- Highway Safety/Parking; and
- The Impact on Neighbouring Amenities.

6.2 The application site is the vacant former public toilets situated on the north-west side of Frinton Road and adjacent to Ipswich Road public car-park.

6.3 The single-storey building is simple in its form; being constructed in the late 1960's in red buff brick; it has a dual pitched roof constructed in interlocking cement tiles. To its north and south ends are small additions which comprised the entrances to the gentlemen's toilet to the south and ladies' toilet to the north. The 'middle' entrance provided access to an internal service area at the rear of the building and access to a disabled toilet at the front of the building (with level entrance).

6.4 The surrounding area comprises a side and rear boundary of No. 2 Ipswich Road that abuts both a public car-park that has 22 unrestricted spaces and 2 spaces reserved for disabled drivers and the public open space. The public open space is extremely verdant which benefits from established and mature tree planting. A concrete path exists from the car-park to the north-western end of the toilet block.

6.5 The site is owned by Tendring District Council, and is to be leased to the applicant.

Planning History

6.6 There is no relevant planning history on the site.

Proposal

6.7 The application proposes three main elements; the conversion/change of use of the toilet block to a café, the replacement of the gentlemen's toilet with a larger extension to facilitate a unisex toilet provision and use of the space in front of the building as an outdoor seating area.

Principle of Development

6.8 The site is located within the Development Boundary therefore there is no principle objection to the proposal, subject to the detailed considerations discussed below. The proposed development will re-imagine the functional use of a redundant feature building, revive and animate the location, and contribute to the local economy.

Appearance

6.9 The Government attach great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people. One of the core planning principles of The National Planning Policy Framework (NPPF) as stated at paragraph 130 is to always seek to secure high quality design.

- 6.10 Saved Policies QL9, QL10 and QL11 aim to ensure that all new development makes a positive contribution to the quality of the local environment, relates well to its site and surroundings particularly in relation to its form and design and does not have a materially damaging impact on the amenities of occupiers of nearby properties. Emerging Policy SP1 reflects these considerations.
- 6.11 Externally the proposal would enlarge the historic 'gentlemens' entrance by 1.0m in width to allow it to become a wheelchair accessible unisex toilet. Other external alterations to the building are of an extremely minor nature and typically comprise simply the replacement of the windows to the front (north-east elevation) with upgraded uPVC frames.
- 6.12 The application property is not a noteworthy building neither is it of high architectural merit. The various physical alterations to the building are considered to be proportionate and necessary to facilitate the operational needs of the proposed café and full accessibility. The proposed alterations to the building are modest and will improve its appearance and facilitate its reuse.

Highway Safety/Parking

- 6.13 The site contains no land for parking however it is located adjacent a public car park that has 22 unrestricted spaces and 2 spaces reserved for disabled drivers and within a sustainable location a short walk from the shops, pubs, services.
- 6.14 Due to the modest scale of the development, its level of parking is considered to be adequate, and no appreciable highway safety issues would arise as a result of the development and no objection is raised by the Highway Authority.

Impact on Residential Amenity

- 6.15 The NPPF, at paragraph 17 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, 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).
- 6.16 It is acknowledged that the application form does not contain details of hours of opening; however the application form also has space to indicate that the hours are unknown. Notwithstanding this the Local Planning Authority can impose conditions to control opening hours for the purposes of protecting residential amenity. It is considered that trading between the hours of 09:00 to 18:00 is appropriate when considering the effect of a café on neighbouring amenity over and above the effect of the general comings-and-goings of a park.
- 6.17 The site lies adjacent to a public car park, local services etc where a reasonably high level of existing noise would be expected. By virtue of the small size of the building the use proposed is going to be small scale. Only a small servery area is shown – though the exact amount of covers is not known.
- 6.18 The application form, in question 5, makes reference to the café offering teas, coffees, cold drinks, light food, snacks and ice cream. There is no suggestion that hot food that would generate odours are being prepared. It does not appear that extraction equipment will be required but a condition will be imposed to require approval of the details of any extraction equipment in the interests of residential amenity.

Other Material Considerations

The Provision of Public Toilets

- 6.19 The Public Health Act 1936 gives local authorities a power to provide public conveniences but it imposes no duty to do so. A comprehensive review of existing public conveniences was carried out by the Commercialisation Portfolio Holder working party in October 2016. The recommendations of this working party supported the Council's vision for community leadership and the proposed rationalisation of existing service provision will help secure future service improvements as outlined in the Public Convenience Strategy.
- 6.20 At the Cabinet Meeting of 16th June 2017 the decision was taken to close this particular public toilet provision in addition to a number of others around the District that typically had low usage and suffered from anti-social behaviour.

Recreational Open Space

- 6.21 The 'park' is designated as a Recreational Open Space on proposals maps. The broad term "recreational open space" includes all formal and informal recreational uses of land, from football pitches to children's playgrounds within town parks. Placing tables and chairs, which are of a temporary nature and within close proximity of the building, is considered to entirely respect the use of the Space as a recreational space.

7. Conclusion

Overall planning balance

- 7.1 The application proposal will bring back into productive use a local building that has remained empty and redundant for a couple of years. Proposed renovations will enhance the appearance of the building, and its general scale and character and visual impact within the informal park setting are preserved.
- 7.2 The proposed development will make a positive contribution to the local economy through the creation of a new café that will create jobs.

8. Recommendation

- 8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives.

8.2 Conditions and Reasons

- 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:- un-numbered floor plans/elevation received 14th October 2019 and 20th December 2019.

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

- 3 The use hereby approved shall only take place between the hours of 09:00 and 18:00 Monday to Saturday and 09:00 to 16:00 on Sundays and Bank Holidays.

Reason: In the interest of local amenity.

- 4 No soil ventilation pipes, air extraction pipes, extractor/mechanical units boiler flues or ducting shall be installed without the proposed details having first been submitted to and approved in writing by the local planning authority.

Reason: In the interest of local amenity.

- 5 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.

8.3 Informatives

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.

9. Additional Considerations

Public Sector Equality Duty (PSED)

- 9.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
 - 9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
 - 9.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
 - 9.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.
- 9.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 9.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

Human Rights

- 9.8 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 9.9 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).
- 9.10 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Finance Implications

- 9.11 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.
- 9.12 The New Homes Bonus (NHB) is one local finance consideration capable of being a material consideration to which the weight given shall be determined by the decision maker. The NHB is a payment to local authorities to match the Council Tax of net new dwellings built, paid by Central Government over six consecutive years. In this instance, it is not considered to have any significant weight attached to it that would outweigh the other considerations.

10. Background Papers

- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report) also form background papers. All such information is available to view on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.