

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL6 Urban Regeneration Areas

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

CL8 Specialist Shop/Cafe Area

COM5 Residential Institutional Uses

ER31 Town Centre Hierarchy and Uses

ER32a Primary Shopping Area

EN6 Biodiversity

EN6A Protected Species

EN11A Protection of International Sites European Sites and RAMSAR Sites

EN17 Conservation Areas

HG1 Housing Provision

HG9 Private Amenity Space

LP1 Housing Supply

TR7 Vehicle Parking at New Development

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

EN17 Conservation Areas

HP5 Open Space, Sports & Recreation Facilities

PP1 New Retail Development

PP5 Town Centre Uses

PP14 Priority Areas for Regeneration

PPL4 Biodiversity and Geodiversity

Local Planning Guidance

Essex Design Guide

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 Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF.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, with further hearing sessions in January 2020. The Inspector issued his findings in respect of the legal compliance and soundness of the Section 1 Plan in May 2020. He confirmed that the plan was legally compliant and that the housing and employment targets for each of the North Essex Authorities, including Tendring, were sound. However, he has recommended that for the plan to proceed to adoption, modifications will be required – including the removal of two of the three Garden Communities 'Garden Communities' proposed along the A120 (to the West of Braintree and on the Colchester/Braintree Border) that were designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033.

The three North Essex Authorities are currently considering the Inspector's advice and the implications of such modifications with a view to agreeing a way forward for the Local Plan. With the Local Plan requiring modifications which, in due course, will be the subject of consultation on their own right, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications – increasing with each stage of the plan-making process.

The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) will progress once modifications to the Section 1 have been consulted upon and agreed by the Inspector. 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 (which applies until such time that the figures in the new Local Plan are adopted).

In addition, the actual need for housing (as set out in the emerging Local Plan) 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, as recently endorsed by the Local Plan Inspector. Therefore, in weighing the benefits of residential development against the harm, the Inspector's endorsement of the lower housing requirement figure is a strong material consideration which tempers the amount of weight that can reasonably be attributed to the benefit of additional new housing to address the perceived shortfall – given that, against the Local Plan housing requirement there is, in fact, a surplus of supply as opposed to a shortfall.

5. Officer Appraisal (including Site Description and Proposal)

Site Description

The application site is on the south side of Pallister Road, it would have historically been part of a wider site comprises the historic corner shop (Starlings Stores) at 9 Beach Road (now a hair-dresser/beauty shop); the warehouse and stables for the shop are now within the curtilage of the application site, evidence of this use is by way of the pair of timber doors at first floor level. The site is a short distance from Clacton sea-front and in an area which comprises predominantly residential properties, save for the buildings either side of the site and a fishing-tackle shop opposite. The site has been vacant for some years, having previously been used as a warehouse/storage facility. The right hand element of the building has a distinctively commercial-appearance with a typical shop-window comprising large open panes of glass; above this is an extremely small terrace which also has a pair of timber doors at first floor level leading to it. The front elevation of the left hand aspect of the building has a painted render finish, the right hand is part painted render and clad in horizontal timber at first floor.

Description of Proposal

The application proposes a change of use of the redundant warehouse into a dwelling; the addition of a new first floor rear extension would facilitate a second bedroom.

Assessment

The main planning considerations are:

- Principle of Development;
- Layout, Scale and Appearance;
- Neighbouring Amenities;
- Highway Considerations;
- Conservation Area;
- Shopping Area and Regeneration;
- Town Centre Boundaries
- Financial Contributions - RAMS;
- Financial Contributions - COM6;
- Representations; and,
- Other Considerations.

1. Principle of Development:

The site is located within the Development Boundary therefore there is no principle objection to the proposal, subject to the detailed considerations discussed below.

2. Layout, Scale and Appearance:

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.

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.

In regards to the external appearance of the development, the front elevation will remain largely unchanged apart from the replacement of the windows/doors and a proposed glazed panel for the Juliet balcony. The extent of these changes will have minimum impact on the street scene. The extension to the rear will be a timber frame clad with Hardie board. The roof will be slates to match existing; overall the proposal is considered to relate well to its site and surroundings particularly in relation to its form and design.

3. Amenities of Existing & Future Occupiers:

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).

The adjoining premises at No. 22 is used a healthcare clinic with treatment rooms at first floor which is served in part by a side-facing window. The drawings indicate a first floor window facing directly on to this; irrespective of what is shown on the plans, it is considered imperative to require by way of a suitably-worded condition, that the proposed window is obscurely glazed and permanently fixed shut. In regards to the adjacent property at No. 20 there is a first-floor side facing window which is obscurely glazed – this is located roughly centrally within the flank wall. The proposed first floor side facing window is set some distance rearwards of this and would face on to a blank wall.

Different dwelling sizes and types provide accommodation for individuals and families with a wide range of expectations and need for private amenity space. "Private amenity space" comprises a private outdoor sitting area not overlooked by adjacent or opposite living rooms or outdoor sitting areas. It will therefore not necessarily always amount to the entire rear garden. Apart from its private recreation function, private amenity space is also important in achieving well laid out development.

For flats, either: a minimum of 25 square metres per flat provided communally; or a minimum of 50 square metres private garden area for a ground floor flat or maisonette and a minimum balcony area of 5 square metres for units above. There is a small courtyard at ground floor which has an area a little over 5sqm

Overall the proposal is considered to secure a good standard of amenity for future occupants of the proposed dwelling.

4. Highways

Paragraph 108 of the NPPF 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. These objectives are supported by emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

The Council's current Parking Standards require that for dwellings with 3 bedrooms a minimum of 2 parking spaces be provided per unit. The preferred bay size for cars is 5.5 metres by 2.9 metres and the minimum bay size is 5 metres by 2.5 metres.

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 and public car parking facilities.

The proposal does not include any new vehicular accesses, and the development does not create any highway safety concerns. The road has several existing waiting and limited waiting restrictions and most of the properties in the vicinity have no off-road parking. The site, being a town centre location offers good sustainable transport alternatives.

5. Conservation Area

Heritage assets range from sites and buildings of local historic value to those of the highest significance. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations. The character of an area is made up not only by individual buildings but also their relationship to each other and the sense of place that they create. The setting of a building is therefore a material consideration when assessing the suitability of development proposals in Conservation Areas.

Paragraph 192 of the NPPF requires the Local Planning Authority, when determining applications for development, to take account of the desirability of sustaining and enhancing the significance of heritage assets, the positive contribution that conservation of heritage assets can make to sustainable communities and the desirability of new development making a positive contribution to local character and distinctiveness.

When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Policy EN17 of the Saved Plan (Development within a Conservation Area) requires that development must preserve or enhance the character or appearance of the Conservation Area. Development will be refused where it would harm the character or appearance of the Conservation Area, including historic plan form, relationship between buildings, the arrangement of open areas and their enclosure, grain, or significant natural or heritage features. Emerging Policy PPL8 reflects this consideration.

The special character of Clacton Seafront Conservation Area is derived from its seaside architecture and formal planned street pattern. The Area is the heart of the coastal resort and includes Victorian and Edwardian seaside buildings that were part of the early planned development of the resort, as well as formal gardens and pavilions, and important landmarks like the Martello Tower F and the Pier.

Until the middle of the 19th century, the area occupied by Clacton-on-Sea was an agricultural landscape crossed by lanes serving hamlets and isolated farms south of the small settlement of Great Clacton. The only major development in the seafront area at this time was the construction of three Martello towers south west of the road from Magdalen Green, to designs by Colonel Twiss and Captain Ford between 1801 and 1812.

The 1851 Census revealed that coastal resorts were the fastest growing settlements in the country. Ease of access was all important, and this improved throughout the 19th century with railways and steamships, with statutory holidays, and with the advent of cheap fares. While the building of the railway line to Colchester in 1837 and the subsequent branch lines to Harwich (1845/6) and Walton (1867) revolutionised agricultural operations, there were many who saw them as the means to open up the area for tourism.

The first attempts to develop the Clacton seafront, at the beginning of the 19th century, were frustrated by land being tied up in a trust fund. This trust expired in 1864 and the land, advertised as ripe for development, was bought by Peter Bruff, civil engineer to the Walton branch line and the promoter of the resort there, including housing, coastal defence and a new pier.

Running along the rear of the seafront blocks is Pallister Road. The western third is varied, the first block being two storied of yellow brick, while the next four are brick and stone Edwardian buildings. Now mostly fish restaurants, their ground floors are heavily altered. The next section is more immediately appealing, with, on the north side, an attractive group of eight terraced houses, all of two and a half storeys with one building still retaining its original dormers in French renaissance style. All the rest have big boxy extensions, but the group reads coherently in views of the street because the front gate piers are generally retained. The easternmost building also figures in views along Orwell Road and gives visual support to surviving Victorian details there. The view eastwards along Pallister Road is dominated by the Beach House Hotel on Beach Road.

The application site is located at the eastern-most end of Pallister Road which is not specifically mentioned in the appraisal; notwithstanding this – the building is considered a non-designated heritage asset as part of the historic shop at 9 Beach Road which the warehouse and stables historically served. The historic existence of these buildings is evidenced on the First Edition OS mapping where a structure of similar footprint is located at the same site.

The Heritage Officer initially commented that the proposal drawings do not give adequate detail of the existing fenestration and doors, it is also unclear what windows and doors are to be retained in the proposals or if all are to be replaced. The proposed UPVC windows and doors, glazed Juliet balcony, entrance doorway, and synthetic 'Hardie' weatherboarding will be detrimental to the historical and architectural character and significance of the building, As such the proposals cause harm to the non-designated heritage asset and paragraph 197 of the NPPF is therefore relevant.

During the determination period a number of points were clarified. In view of the use of modern materials on adjacent buildings, the use of a high-quality Hardie-board is considered acceptable; an appropriately-worded condition requiring a sample of the material to be used is deemed appropriate. A window schedule was subsequently submitted; similarly, as a consequence of the high degree of uPVC window frames on adjacent buildings, an objection in this regards cannot be substantiated.

In regards to the concern of over domesticating the building from its past usage as stabling; if the rear extension was omitted the development could potentially be implemented by way of a Prior Approval.

6. Town Centre Boundaries, Shopping Area and Regeneration

The town centres are conveniently located for the majority of the District's population and are also the focal point for public transport. It is the Council's intention that they be protected and remain the economic and social focus for the whole community. The District centres also contain a wide range of shops and services and will be suitable locations for accommodating new retail and related developments such as cafes and professional offices in scale with the functions and size of the particular centre. In addition to a town centre boundary, a 'primary shopping area' has been

defined for Clacton. Policy ER32a states that within this area proposals for non-retail development at ground floor level will not be permitted. Typically if the proportion of Class A1 shop uses in the Primary Shopping Frontages continue to decline through the changes of use away from shops the Council is concerned that this could undermine the retail function of the District's town centres. In addition, allowing a number of non-retail uses in close proximity to one another within the Primary Shopping Frontages will have the effect of breaking up the coherence of the centres. This could damage the attractiveness of the shopping frontages and lead to an undermining of the overall vitality and viability of a centre.

Notwithstanding this; the application site has been a non-retail warehouse for some years. Following an on-going unsuccessful marketing of the site for the last 10 years, which includes display of a 'To Let' sign in the window, the premises remains vacant. The lack of parking for access and the restrictive size of the warehouse offers limited opportunity for prospective tenants.

7. Recreational Disturbance Avoidance and Mitigation Strategy (RAMS)

Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation. The contribution is secured by unilateral undertaking.

The application scheme proposes a new dwelling on a site that lies within the Zone of Influence (Zoi) being approximately 3,458m from Essex Estuaries SAC. Since the development is for 1 dwelling only, the number of additional recreational visitors would be limited and the likely effects on the Essex Estuaries SAC from the proposed development alone may not be significant. However, new housing development within the Zoi would be likely to increase the number of recreational visitors to the Essex Estuaries; and, in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.

A unilateral undertaking has been prepared to secure this legal obligation. This will ensure that the development would not adversely affect the integrity of European Designated Sites 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.

8. Public Open Space

Paragraph 54 of the National Planning Policy Framework (2019) states Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Paragraph 56 of the NPPF states planning obligations must only be sought where they are necessary to make the development acceptable in planning terms, directly relate to the development and fairly and reasonably relate in scale and kind to the development.

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". These sentiments are carried forward within emerging Policy HP5.

In line with the requirements of saved Policy COM6 and emerging Policy HP5 the Council's Open Space Team have been consulted on the application to determine if the proposal would generate the requirement for a financial contribution toward public open or play space. The outcome of the consultation is that no contribution is being requested from Open Spaces on this occasion.

9. Representations

No representation have been received from the Town Council. One comment was received as a result of the public consultation, summarised as:-

I would like to make a comment regarding any windows on any elevations that may allow people to see into our building, in particular the side elevation facing my property. We have privacy concerns as we are a health clinic, and we see clients in the rooms upstairs in our property. In this case, I ask that privacy glass is used in any facing windows.	Noted and agreed.
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10. Other Considerations

The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), Schedule 2, Part 3, Part P permits the change of use of a building and any land within its curtilage from a use falling within Class B8 (storage or distribution centre) of the Schedule to the Use Classes Order to a use falling within Class C3 – subject to the Prior Approval of the Local Authority. The proposal before us includes a first-floor rear extension which would facilitate a second bedroom; as the other bedroom is within the un-extended part of the building – the conversion of the original building under Part P holds significant weight as a material consideration.

Conclusion

For the reasons set out above, the proposal is considered to represent a sustainable form of development in a location supported by national and local plan policy that will not result in any material environmental or residential harm that warrants refusal of planning permission.

6. Recommendation

Approval – Full

7. Conditions / Reasons for Approval

- 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 PROPOSED FLOOR PLANS AND ELEVATIONS (received 2nd March 2020) and un-numbered WINDOW SCHEDULE (received 25th May 2020).

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

- 3 Notwithstanding the details contained within the un-numbered proposed elevation or window schedules, the first-floor side-facing window on the east facing elevation shall be glazed with obscure glass and permanently fixed shut for the perpetuity of the development.

Reason - In order to safeguard the privacy of adjoining occupiers

- 4 The existing/ redundant drop kerb at the front of the property directly opposite the main entrance shall be suitably and permanently closed incorporating the reinstatement to full height of the highway verge / footway / cycleway / kerbing immediately the proposed new access is brought into first beneficial use.

Reason - To ensure the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway in the interests of highway safety.

- 5 Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to occupation of the proposed dwelling hereby permitted site and shall be maintained free from obstruction at all times for that sole purpose in perpetuity.

Reason - To ensure appropriate cycle parking is provided in the interest of highway safety and amenity.

- 6 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. 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.

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 and public car parking facilities.

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.

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 or by post to:

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

The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

Are there any letters to be sent to applicant / agent with the decision?		NO
Are there any third parties to be informed of the decision?		NO