

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AC	2 nd July 2020
Planning Development Manager authorisation:	AN	2/7/2020
Admin checks / despatch completed	CC	02/07/2020
Technician Final Checks/ Scanned / LC Notified / UU Emails:	BB	02/07/2020

Application: 20/00026/FUL **Town / Parish:** Clacton Non Parished

Applicant: Kelsey

Address: 63A Frinton Road Holland On Sea Clacton On Sea

Development: Proposed conversion of existing flat into two flats.

1. Town / Parish Council

No comments received

2. Consultation Responses

Building Control and Access Officer
24.02.2020

There are inner rooms requiring means of escape from fire.

UU Open Spaces
17.03.2020

No contribution is being requested from Open Spaces on this occasion.

ECC Highways Dept

The Highway Authority does not object to the proposals as submitted.

3. Planning History

20/00026/FUL Proposed conversion of existing Current
flat into two flats.

4. Relevant Policies / Government Guidance

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

EN6 Biodiversity

- EN6A Protected Species
 - EN11A Protection of International Sites European Sites and RAMSAR Sites
 - HG1 Housing Provision
 - HG9 Private Amenity Space
 - LP1 Housing Supply
 - TR7 Vehicle Parking at New Development
 - ER31 Town Centre Hierarchy and Uses
- 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
 - HP5 Open Space, Sports & Recreation Facilities
 - PPL4 Biodiversity and Geodiversity

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide

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 Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF.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 comprises a late 1950's building with three commercial units (currently a hairdresser, estate agent and plumber's merchant) at ground floor with two residential flats above. No. 63a is the right hand of the two flats. At first floor the flats are set back from the front building line below which provides a small private balcony area for each flat. Access to the flats is for pedestrians only with a narrow passageway to the right of the shops which leads to an external staircase. The staircase leads to a large flat area to the area (which is the flat roof of the ground floor below). The perimeter of the roof terrace is marked with galvanised steel railings and has two separate small flights of stairs leading to elevated entrances to the two flats. Presently the area is used for informal cycle storage.

The flat has a floorspace in the region of 72sqm and comprises two bedrooms of a comfortable size, a separate living room and a large hallway.

Description of Proposal

The application proposes splitting the two flats in such a way that approximately one third of each flat will be donated to create a new flat. No. 63a would remain as a two-bedroom unit and have a new internal floorspace of 44sqm, 63b would be a one-bedroom unit and have an internal floorspace of 25sqm. The external changes required are the blocking up of the existing door from the main bedroom which leads to the forward-facing balcony and the erection of a 1.8m high fence which would partition off the existing large flat roofed area to the rear to provide amenity spaces for the two existing flats.

Assessment

The main planning considerations are:

- Principle of Development;
- Layout, Scale and Appearance;
- Neighbouring Amenities;
- Highway Considerations;
- Town Centre Hierarchy and Uses
- 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 blocking-up of the existing patio-type door this would have a nominal effect on the external appearance of the building. In regards to the erection of the partition fences; the rear of the building has an industrial appearance of very little architectural merit. The installation of fences would respect the character of the original building and layout and would improve the amenity of the proposed occupiers.

The building itself is detached at first floor to the left hand side and completely detached from the adjacent building at the right hand side. The increase in activity would be created in the centre of the existing built form, for this reason there would not be a materially damaging impact on the amenities of occupiers of nearby properties.

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 building itself is detached at first floor to the left hand side and completely detached from the adjacent building at the right hand side. The increase in activity would be created in the centre of the existing built form, for this reason there would not be a materially damaging impact on the amenities of occupiers of nearby properties.

In regards to the occupiers of the proposed subdivision of 63a; the blocking up of the existing patio door (thereby removing the access to the forward-facing balcony area) prevents any mutual overlooking that this could have caused.

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 a minimum balcony area of 5 square metres is required; although the proposed flat would have an area marginally less (at around 3.7sqm) this is not considered to insufficient to warrant a refusal in this regard. 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 existing flat has no off-street parking; the introduction of one additional flat is not going to have an extensive impact on the highway network. The flat is in a highly-sustainable area with access to a variety of shops and good footway links to public transport.

5. Town Centre Hierarchy and Uses

Saved Policy ER31 of the adopted Tendring District Local Plan 2007 states that development involving the provision of town centre uses must be properly related in their scale and nature to the hierarchy of the given area.

District centres usually comprise groups of shops often containing a supermarket, a range of non-retail services and public facilities. Local centres include a range of small shops of a local nature and serve a small catchment area. Holland on Sea is a District Centre; 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. Development proposals which adversely affect the vitality, viability and the urban or rural regeneration objectives associated with each centre will not be permitted.

The proposal does not result in any change to the way that the existing development functions within the wider area. Overall the proposal would not adversely affect the vitality, viability and the urban or rural regeneration objectives associated with each centre will not be permitted.

6. 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 flat on a site that lies within the Zone of Influence (Zol) being approximately 7,164 metres from Hamford Water Special Protection Area. Since the development is for 1 dwelling only, the number of additional recreational visitors would be limited and the likely effects on Hamford Water from the proposed development alone may not be significant. However, new housing development within the Zol would be likely to increase the number of recreational visitors to Hamford Water; 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.

7. 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.

8. Representations

No representations have been received.

9. 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 Refusal**

- 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:- 327MVE-001, REV B (received 13th March 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 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.

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

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