

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	JD	24.07.20
Planning Development Manager authorisation:	SCE	24.07.20
Admin checks / despatch completed	CC	03.08.2020
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CD	03.08.2020

Application: 20/00674/FUL **Town / Parish:** Clacton Non Parished

Applicant: Mr Forzani - The Regard Partnership

Address: Trelawne 31 Lancaster Gardens West Clacton On Sea

Development: Proposed change of use to provide supported independent living accommodation for residents with learning disabilities.

1. Town / Parish Council

Not applicable.

2. Consultation Responses

UU Open Spaces No response.

ECC Highways Dept
14.07.2020

The information submitted with the application has been thoroughly assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material by the Highway Authority, therefore:

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

1. Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres while each vehicular parking space which is bounded by walls or other construction shall have minimum dimensions of 3.4 metres x 5.5 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. As per the information provided 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.

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: 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

Building Control and
Access Officer
13.07.2020

Building regulation approval will be required.

Waste Management
06.07.2020

Waste and recycling storage area to be of sufficient size to accommodate 1 x 180 litre wheeled bin per unit for fortnightly refuse collection and total of 4 x 240 litre wheeled bins for recycling. All bins will need to be presented at the kerbside for collection on the allocated collection day.

3. Planning History

91/01355/FUL	Rear extension to provide four extra bedrooms, office, lounge, lift, laundry and bathrooms. Reposition existing garage	Refused	14.01.1992
98/01534/FUL	Rear extension	Approved	17.03.1999
13/00276/FUL	Change of use of care home to a hotel for wheelchair users restricted to 4 bedrooms	Approved	13.05.2013
16/00761/FUL	Change of use from class C1 Hotel to class C2 residential institutional use for 9 no. services users with learning difficulties.	Approved	
16/00918/FUL	Change of use from Class (C1) hotel to Class (C2), residential institutional use for 9 No. service users with learning difficulties.	Approved	18.08.2016
17/01834/FUL	Change of use to property, currently C3 to D1 - a one surgery private dental practice in the four front rooms of the property. The remaining part of the property to be	Approved	

used as the dentist residence.

19/01029/DISCON	Discharge of condition 3 (Bicycle Storage) of approved application 16/00918/FUL.	Approved	09.08.2019
20/00674/FUL	Proposed change of use to provide supported independent living accommodation for residents with learning disabilities.	Current	

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

NPPG 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

ER24 Protection of Hotels and Guest Houses

COM5 Residential Institutional Uses

TR7 Vehicle Parking at New Development

CL17 'The Gardens' Area of Special Character

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

SP1 Presumption in Favour of Sustainable Development

SPL2 Settlement Development Boundaries

HP2 Community Facilities

LP10 Care, Independent Assisted Living

PPL12 The Gardens Area of Special Character, Clacton-On-Sea

CP2 Improving the Transport Network

LPG Local Planning Guidance

The Gardens Clacton Area of Special Character

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

Site Description

The application property is a sizeable detached house, with accommodation on three storeys, and its curtilage. The site has a dropped kerb and a hard surfaced area for parking in front of and to the side of the house. At the time of the site visit to view the setting to the site the property appeared to be vacant.

The site is set in a residential area of Clacton.

The site is within The Gardens Area of Special Character, Clacton-On-Sea as defined in the adopted Local Plan and by the Proposals Map of the emerging Local Plan.

Proposal

The proposal is for a change of use to provide supported independent living accommodation for residents with learning disabilities.

The application documentation includes a Design & Access Statement which refers, at page 6, to how the proposed development is for eight self-contained dwellings with a ground floor staff office to provide 24 hour assistance. Although the flats would be self-contained, they would be supported living units with 24 hour on site staff support. It is understood that the accommodation would be used by adults with a learning disability who require a support package to live in the community. The accommodation would provide intermediate living accommodation. It is understood that no individual resident would live permanently at the property; the intermediate living accommodation would be used to encourage service users to live as independently as possible with appropriate support and ongoing monitoring.

In terms of physical changes outside the envelope of the existing house, the only change would be to place the side gates further back to allow easier access to the main entrance door.

The parking layout at the property would be unaltered, parking would remain on site for three cars. The moving of the side gates would allow a fourth car to be parked nose to tail behind one of the existing spaces.

The proposed floor plan of the ground floor shows a staff room with toilet off, a communal laundry room and a visitor's toilet. Part of a glazed wall on a side elevation of a conservatory type structure

forming a rear bay would be replaced with solid external wall. An existing outbuilding would be used as a bicycle store.

Assessment

The site is within a residential area within the development boundary of Clacton. In terms of broad principles the proposal is acceptable. The proposal is acceptable with regard to Policy QL1.

In order to assess the policy implications of the proposal, an understanding of the planning history of the site is particularly important in this case. The Design and Access Statement, whilst acknowledging that the site has a complicated history, refers to the proposed change of use to be from that of a use as a guest house.

A web search reveals that Trelawne Rest Home Ltd, classified as a convalescent home by Yell.com, was at the property. An officers' photograph taken as part of planning application 16/00918/FUL shows a name plate stating "Trelawne Rest Home" by the entrance door. This application was granted planning permission, subject to a condition that no more than nine persons shall occupy the site as residents at any one time, for a C2 residential institutional use. Details relating to another condition were approved in 2019 (19/01029/DISCON).

Planning application 17/01834/FUL has the description of the proposed development as "Change of use to property, currently C3 to D1 - a one surgery private dental practice in the four front rooms of the property. The remaining part of the property to be used as the dentist residence." However, an examination of the documentation to that application shows that the application form, at the response to question 14, described the then current use as "residential house that stopped trading, currently empty". The application was returned having never been made valid.

It is not clear whether a number of the planning permissions for the site were implemented. The reference to a guest house appears to relate to planning permission reference 13/00276/FUL the description of which was "Change of use of care home to a hotel for wheelchair users restricted to 4 bedrooms".

Having examined the planning history of the property it is clear that the property has not been a single family dwelling for a considerable time and the guest house or hotel use was of a specialised nature more akin to a care home, rather than being general tourist accommodation.

This is significant with regard to both Policy CL17, "The Gardens" Area of Special Character, and Policy ER24, Protection of Hotels and Guest Houses.

Policy CL17 requires development to have particular regard to the special character and appearance of the area. This character is defined in SPG adopted in 1990. Policy CL17 sets out a number of guidelines to safeguard the area's character. One of these is that flats will not be permitted through the subdivision of existing properties. Another guideline states that only where both the sedate residential character of the area and residential appearance of a property as a single dwelling remain unaffected, may permission for changes of use to non-residential uses be exceptionally permitted. This guideline continues by stating that commercial uses, including private hotels, guesthouses and offices will not be considered appropriate. The proposal is contrary to both the requirement that flats not be created and the requirement that commercial uses be considered unsuitable. However, the current proposal is considered acceptable on two grounds; the property is already not a single family dwelling and the commercial use would be one that would continue a form of residential use in a form that would have minimal effect to the character of the area. In the light of the history of the property it is considered that a refusal on a ground based on Policy CL17 would not be tenable. There would be no change to the exterior of the house to any appreciable degree and therefore the essentially Arcadian character of The Gardens

would be preserved by ensuring that it remains an area of what would appear to be large detached houses on spacious plots in a well-landscaped setting.

The proposal is considered acceptable with regard to Policy CL17 given the history of the site, no longer in a C3 use; the imperceptible changes to the property physically; and, the nature of the proposed use being more that of a community use than a commercial use. The proposal is considered to be in accord with that part of paragraph 91 of the NPPF which refers to how planning decisions should aim to achieve inclusive places. Paragraph 92 refers to providing community needs and to plan positively for other local services. In general terms the proposal is supported by the NPPF.

Policy ER24 states that proposals for the change of use of existing hotels and guest houses in the centres of the coastal resorts will not be permitted unless it can be proven that the current land use is no longer viable. Paragraph 3.83 of the Local Plan makes clear that this is to ensure that there is a wide choice of accommodation for tourists. Having examined the history of the property, the proposal is considered acceptable with regard to Policy ER24 as its loss as a guest house or hotel would not affect the provision of tourist accommodation for the general market.

The site is within an area designated by the Proposals Map of the adopted Local Plan as a Control of Residential Institutional Uses Area. There is no comparable designation in the emerging Local Plan. Policy COM5, Residential Institutional Uses, states that the development of new residential institutions and changes of use of existing properties to residential institutions will not be permitted within the Control of Residential Institutional Uses Areas in Clacton and Frinton as defined on the Proposals Map Insets. Paragraph 5.16 of the adopted Local Plan describes the reasons for Policy COM5 citing, amongst other reasons, loss of visitor accommodation and an erosion of local character through the conversion of front gardens to forecourt parking. These aspects would not apply to the current application. The proposal is contrary to Policy COM5 but given the history of the site, with similar uses to that now proposed having been granted in the past, and given the broad support from the NPPF as referred to above in relation to Policy CL17, it is considered, on balance, that refusal of the proposal on the ground of Policy COM5 could not be reasonably and adequately justified.

The plans show that the appearance of the property within the streetscene would be unchanged. The proposal is considered acceptable with regard to Policy QL9.

The floor plans as proposed have been examined. Four good sized units of accommodation would be provided on the ground floor. Three good sized units of accommodation would be provided on the first floor. The flat on the second floor would be a good size and a new stair with deeper treads would be provided to access it. The proposal is considered acceptable with regard to Policy QL10.

On the first floor two living room windows to unit 6 would replace a bedroom window and a wc window on a side elevation. A kitchen window would replace a bedroom on the rear elevation. The side windows would look onto the flank of no. 33. The kitchen window would overlook the rearmost part of no. 33's rear garden. The changes are essentially habitable room to another habitable room. Houses in the area have plots with a back to back pattern; some degree of overlooking of neighbouring properties already occurs. It is considered that the detailed changes to accommodation would not lead to any loss of amenity to any neighbour to a degree sufficient to reasonably justify refusal of the application and accordingly the proposal is considered acceptable with regard to Policy QL11.

The local highway authority, Essex County Council, has confirmed in writing that it has no objection to the proposal. The proposal is considered acceptable with regard to Policy TR7.

The application was advertised by a site notice and letters of notification were sent to occupiers of 5 neighbouring properties. No reply has been received in response.

6. Recommendation

Approval

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: 01; 02A; 03C; 04B; 05B; 06B; and, Design & Access Statement.

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

3. The site shall be used for supported accommodation in the form of eight units of accommodation and for no other purpose (including any other purposes in Class C2 or C3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Reason - In the interests of amenity and to ensure the development is compatible with the character of the surrounding area in accordance with Policies COM5 and CL17 of the adopted Local Plan.

4. Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres while each vehicular parking space which is bounded by walls or other construction shall have minimum dimensions of 3.4 metres x 5.5 metres.

Reason - To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy TR7 of the adopted Local Plan.

5. Prior to first use as hereby permitted the garage/store shall be made available for bicycle parking and storage, in accordance with EPOA Parking Standards and in a secure and covered form, as shown on approved plan 02A and retained as such thereafter.

Reason - To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy TR5 of the adopted Local Plan.

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.

Building regulation approval will be required.

A waste and recycling storage area to be of a sufficient size to accommodate 1 x 180 litre wheeled bin per unit for fortnightly refuse collection and total of 4 x 240 litre wheeled bins for recycling will be required. All bins will need to be presented at the kerbside for collection on the allocated collection day.

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