

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	DM	21/01/2021
Planning Development Manager authorisation:	TC	21/01/2021
Admin checks / despatch completed	DB	21/01/2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	21.01.2021

Application: 20/01494/FUL **Town / Parish:** Brightlingsea Town Council

Applicant: Durmius Aslan

Address: 22A - 22B Victoria Place Brightlingsea Colchester

Development: Variation of condition 2 of planning 17/00875/FUL for installation of 2 no. canopies at shop frontage and improved access and disability ramp at frontage.

1. Town / Parish Council

Brightlingsea Town Council
18.12.2020

Supports the application.

2. Consultation Responses

Essex County Council
Heritage
28.12.2020

The application is for variation of condition 2 of planning 17/00875/FUL for installation of 2 no. canopies at shop frontage and improved access and disability ramp at frontage.

There is no objection to this application. I do however have concerns over the details of the materials. I recommend the silver aluminium is reconsidered to a powder coated colour to be aesthetically more subtle. Further details of the canopy are also required to ensure the quality is appropriate.

It has been assumed there is no alteration/variation to advertising sign.

ECC Highways

It is noted that this application concerns variation of Condition 2, to allow a minor material amendment and exterior alfresco dining space required to maintain 2m COVID-19 safe distancing. From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions:

1. The proposed canopy/awning shall afford a minimum headroom of 2.2 metres above the cycleway/footway/verge. The Canopy/ awning can only be opened during opening times of the business.

Reason: To ensure the unimpeded passage of pedestrians and cyclists, in the interests of highway safety and in accordance with Policy DM1.

Note: Any part of the canopy/awning and/or table and chairs overhang/ encroaching onto the highway requires a licence under Section 177 or 178 of the Highways Act, 1980. The applicant should contact: Highways.Notices@essex.gov.uk to apply for the appropriate license. The Highway Authority reserves the right under Section 152 of the Highways Act, 1980 to remove or alter any item overhanging/ encroaching onto the highway which is considered to be an obstruction to the safe and convenient passage of the public in the highway.

3. Planning History

15/01157/FUL	Erection of first and second storey extensions over existing Cafe to create 2 new flats. (Class C3).	Refused	30.06.2016
17/00875/FUL	To construct 1 storey over existing Victoria Cafe and create 1 no. 3 bed flat as private residence accessed from stairwell behind. Proposed use class C3. In addition upgrade the thermal performance of existing cafe with replacement of windows and doors and external decoration.	Approved	02.02.2018
20/01494/FUL	Variation of condition 2 of planning 17/00875/FUL for installation of 2 no. canopies at shop frontage and improved access and disability ramp at frontage.	Current	

4. Relevant Policies / Government Guidance

National Planning Policy Framework
 National Planning Practice Guidance
 TDLP - 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
 HG1 - Housing Provision
 HG3 - Residential Development Within Defined Boundaries
 HG6 - Dwelling Size and Type
 EN17 Conservation Areas
 EN18 Fascia and Shop Front Signs in Conservation Areas

Draft Tendring District Local Plan 2013-33 and Beyond
 SP1 Presumption in Favour of Sustainable Development
 SPL2 Settlement Development Boundaries
 PPL8 Conservation Areas

Status of the Local Plan

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of

consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) has been examined by an Independent Planning Inspector who issued his final report and recommended 'main modifications' on 10th December 2020. The Inspector's report confirms that, subject to making his recommended main modifications (including the removal from the plan of two of the three 'Garden Communities' proposed along the A120 i.e. those to the West of Braintree and on the Colchester/Braintree Border), the plan is legally compliant and sound and can proceed to adoption. Notably, the housing and employment targets in the plan have been confirmed as sound, including the housing requirement of 550 dwellings per annum in Tendring.

The Council is now making arrangements to formally adopt Section 1 of the Local Plan in its modified state and this is expected to be confirmed at the meeting of Full Council on 26th January 2021 – at which point will become part of the development plan and will carry full weight in the determination of planning applications – superseding, in part, some of the more strategic policies in the 2007 adopted plan. In the interim, the modified policies in the Section 1 Local Plan, including the confirmed housing requirement, can be given significant weight in decision making owing to their advancement through the final stages of the plan-making process.

The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) is now expected to proceed in 2021 and two Inspectors have already been appointed by the Secretary of State to undertake the examination, with the Council preparing and updating its documents ready for the examination. In time, the Section 2 Local Plan (once examined and adopted in its own right) will join the Section 1 Plan as part of the development plan, superseding in full the 2007 adopted plan.

Where emerging policies are particularly relevant to a planning application and can be given 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.

5. Officer Appraisal (including Site Description and Proposal)

Site Description

The application relates to the existing Victoria Café, 22 Victoria Place, Brightlingsea. The site is located on the corner of Victoria Place and Hall Cut within the Settlement Development Boundary and Conservation Area of Brightlingsea. Opposite the site is the Grade II Listed 'Lower Green Cottage' 30 Victoria Place separated from the application site by the tree lined Lower Green Gardens public open space. The building itself is single storey, flat roof and brick built in contrast to the older adjoining rendered and gambrel roofed building which has been converted into commercial premises with shop fronts at ground floor. These two buildings are a continuation of the main shopping centre of Brightlingsea to the north along Victoria Place. Directly to the rear of the site is a small parking court serving another small group of commercial units with residential dwellings beyond in Hall Cut and Wellington Street.

Site History

As the planning history demonstrates the *17/00875/FUL To construct 1 storey over existing Victoria Cafe and create 1 no. 3 bed flat as private residence accessed from stairwell behind* application has been approved but not commenced.

Prior to the above application *15/01157/FUL* sought planning permission for the *erection of first and second storey extensions over the existing café to create 2 new flats*. After numerous amendments to the application to overcome design and impact concerns the application was refused on 2 grounds;

1. Lack of parking contrary to the interests of highway safety.
2. No private amenity space serving the flats.

Principle of Development

The application site is within the settlement development boundary. Policy HG3 of the Saved Plan states that 'within the defined development boundaries of towns and villages, development will be permitted providing it satisfies amenity, design, density, environmental, highway, local housing needs and sustainability criteria, as appropriate, and can take place without material harm to the character of the local area'. With respect to the proposal the application is identical to the previous save for the minor alterations described in the description of development. As such, the principle of residential development and associated parking is established and accepted. Similarly occupant and residential amenity would have identical impacts to that already approved and are not discussed further in this application.

Design, Appearance and Impact on the Heritage Assets

The Heritage team were once again consulted on this application. No objections are maintained however it is requested that details of the canopy and the door/window frame colour is secured. This has been added to the decision notice via condition requesting specific details. In other respects the changes are minor and improve the character of the conservation area and do not detract from the setting of the listed structure.

For these reasons, it is considered that the proposal would not result in any adverse impact on the character and appearance of the surrounding area and would therefore preserve the character and appearance of the conservation area. The development is considered to be located a sufficient distance from the listed building opposite as to not have a significant impact on its setting.

Parking and Highway Safety

The proposal is considered to be acceptable subject to a condition controlling the headroom above the cycleway/footway/verge and stating the awning can only be opened during business hours.

Representations

The parish council supports the application. A site notice was erected and nears neighbours notified by letter. No objections or responses otherwise have been received.

6. Recommendation Approve subject to conditions.

7. Conditions

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: dwg 0/A100/CN/004 C, A/A200/PR/006 H, A/A200/PR/007 F, A/A200/PR/013 C

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

3. The proposed canopy/awning shall afford a minimum headroom of 2.2 metres above the cycleway/footway/verge. The Canopy/ awning can only be opened during opening times of the business.

Reason - To ensure the unimpeded passage of pedestrians and cyclists, in the interests of highway safety and in accordance with Policy DM1.

4. Prior to the commencement of development details of the canopies and colour/material samples of the window/door frames to the front elevation shall be submitted to the Local Planning Authority for approval in writing.

Reason - To ensure that the proposal maintains the character and appearance of the conservation area.

8. Informatives

1. Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

2. Highways Informatives

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 – Development Management Team Ardleigh Depot,
Harwich Road,
Ardleigh,
Colchester,
CO7 7LT

2: Highway boundary information can be obtained from the following email address:
highwayrecords@essexhighways.org

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