

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AC	22 nd Jan 2021
Planning Development Manager authorisation:	TF	26/01/2021
Admin checks / despatch completed	DB	26/01/2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	26.01.2021

Application: 20/01638/FUL **Town / Parish:** Clacton Non Parished

Applicant: Mr Mark Howe

Address: 80 Rosemary Road Clacton On Sea Essex

Development: Change of use from retail (A1) to tattoo studio (sui generis).

1. Town / Parish Council

Not applicable

2. Consultation Responses

TDC Environmental Protection No comments.

Please be aware that the applicant will require a licence from the Food, Health and Safety Team for the proposed use. They can be contacted via fhsadmin@tendringdc.gov.uk.

TDC Waste Management 07.12.2020 No comments

3. Planning History

02/01486/FUL	Forecourt trading for a limited area (fronting 80A, 80B and 1A Hayes Road) and vehicle parking (fronting 1A Hayes Road)	Approved	23.10.2002
92/01173/FUL	Retention of covered domestic storage area	Approved	15.12.1992
05/01183/FUL	Change of use from retail to residential accommodation	Approved	25.08.2005
09/00227/FUL	Amend condition 2 of consent 02/01486/FUL to allow additional forecourt trading area outside 80A Rosemary Road.	Approved	01.05.2009
20/01638/FUL	Change of use from retail (A1) to tattoo studio (sui generis).	Current	

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
- ER31 Town Centre Hierarchy and Uses

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

- SPL1 Managing Growth
- SPL2 Settlement Development Boundaries
- SPL3 Sustainable Design
- SP1 Presumption in Favour of Sustainable Development
- PP5 Town Centre Uses

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 Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF.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) 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

Description of Proposal

The application seeks permission for the change of use from A1 retail to Sui Generis Tattoo shop at 80a Rosemary Road.

No physical alterations to the building are proposed.

Assessment

The main considerations in this instance are;

- Principle of Development and Compatibility of Uses;
- Residential Amenities;
- Parking; and,
- Representations.

Principle of Development and Compatibility of Uses:

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 site is located within an established row of commercial uses within close proximity to the main shopping thoroughfare and centre of Clacton. The site is not within a protected shopping frontage area and the loss of retail use is not contrary to policy.

The proposed use ensures that the unit is retained for employment, contributes positively to vitality of the town centre by bringing a vacant unit back into use and adding to the mix of uses within the town centre. The proposed use is a recognised town centre use appropriate to the character of the area.

The applicant intends to open from 10am to 6pm most days opening from 10am to 4pm on Sundays. This will allow for some later evening appointments on the most suitable end of week period. Given the location of the site surrounded by commercial uses the opening time is considered acceptable.

Residential Amenities:

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 nature of the proposed use may result in some noise and disturbance from the tattoo equipment. However, having regard to the predominantly commercial character of the locality, the

impact on residential amenities from the proposed use cannot be considered significantly harmful. The opening times are not excessive and any noise will be during sociable hours.

Parking:

The site is located in a highly sustainable location in close proximity to public transport.

Representations:

The site is located within the non-parished area of Clacton on Sea.

No letters of representation have been received.

Conclusion:

In the absence of any material harm resulting from the development, the application is recommended for approval.

6. **Recommendation**

Approval - Full

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 use hereby permitted shall only be open during the hours of:

10.00 to 18.00 Monday to Saturday
10.00 to 16.00 Sunday

Reason - To ensure the use of the site is appropriate to the locality.

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.

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