

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	DA	16.02.2021
Planning Development Manager authorisation:	TC	23/02/2021
Admin checks / despatch completed	DB	25/02/2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	25.02.2021

**Application:** 20/01149/FUL **Town / Parish:** Clacton Non Parished

**Applicant:** Ms S Harrison

**Address:** 11 Pier Avenue Clacton On Sea Essex

**Development:** Conversion of existing residential dwelling to 3no. flats.

### **1. Town / Parish Council**

No Parish Council

### **2. Consultation Responses**

ECC Highways Dept  
09.10.2020

Application No. 20/01149/FUL

Site Location

11 Pier Avenue Clacton On Sea Essex CO15 1QB

Proposal

Conversion of existing residential dwelling to 3no. flats.

The site is in a town centre location where there is reasonably good transport links; It is noted that the existing dwelling has no off-street parking and the Highway Authority would not deem the application of current Parking Standards necessary in this instance.

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

1. 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.

2. 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 in accordance with policy DM1.

3. Prior to occupation of the proposed dwellings, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack per dwelling, for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator free of charge.

(Continued...)

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10

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: 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.

2: Steps should be taken to ensure that the Developer provides enough off-loading facilities for delivery and site worker vehicles, within the limits of the site together with an adequate parking for those employed in developing the site.

3: 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](mailto:development.management@essexhighways.org) or by post to:

SMO1 - Development Management Team  
Ardleigh Depot,  
Harwich Road,  
Ardleigh,  
Colchester,  
CO7 7LT

4: 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.

Environmental Protection  
28.09.2020

I have no objections to the above application but would suggest that a condition be applied which restricts noisy works and construction times whilst works are being carried to: 08.00 - 18.00hrs Monday to Friday, 08.00 - 13.00hrs Saturdays, no works on Sundays and bank holidays.

UU Open Spaces

Response from Public Realm

14.10.2020

## Open Space & Play

### Application Details

Application No: 20/01149/FUL

Site Address: 11 Pier Avenue Clacton on Sea

Description of Development: Conversion of existing residential dwelling to 3no.flats  
Current Position

There is currently a deficit of 41.08 hectares of play in the Clacton/Holland area. This is broken down as follows:

### Recommendation

Although there is a deficit of play space in Clacton/Holland, it is not felt that this development would impact the current deficit. Therefore no contribution is being requested on this occasion.

### 3. Planning History

00/00873/FUL	Proposed change of use from amusement arcade to Class A3 (Restaurant/Takeaway) and external alterations	Approved	20.09.2000
00/01838/ADV	Shop fascia and projecting sign	Refused	09.02.2001
00/02178/FUL	New shopfront to replace existing	Approved	25.04.2001
01/00451/ADV	Shop fascia and projecting sign	Approved	10.07.2001
04/01045/ADV	Shop fascia and projecting sign	Approved	12.07.2004
05/01571/FUL	Internal alterations to form 4 residential units	Approved	31.10.2005
11/01418/ADV	Replacement fascia and projecting signage.	Approved	28.02.2012
20/01149/FUL	Conversion of existing residential dwelling to 3no. flats.	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

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 of a three storey mid terraced building with commercial premises on the ground floor. The application site is located within the Clacton Town Centre Primary Shopping Area, town centre boundary and with an Urban Regeneration Area.

### Proposal

Planning permission is sought for the conversion of the existing residential dwelling into 3no self-contained flats. The accommodation comprises of three one bedroom flats one on the first floor and two on the second floor.

### Principle of Development

The site is located within the Development Boundary therefore there is no in principle objection to the proposed conversion of the upper floors, subject to the detailed considerations discussed below.

### Layout, Scale and Appearance

The Government attach great importance to the design of the built environment. Good design is seen as being a key aspect of sustainable development, 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.

No changes are proposed to the external appearance of the building therefore the proposal will not conflict with the aforementioned policies which seek to secure high standards of design.

### Standard of accommodation

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).

Different dwelling sizes and types provide accommodation for individuals and families with a wide range of requirements. The current proposal would create three flats of varied size and layout.

The nationally described space standards 2015 have not been adopted by the local planning authority. However, Policy LP3 of the emerging local plan identifies the importance of these standards at sub section b.

The nationally described floor space schedule requires overall floor space of 50 sq.m at first floor level. The proposed floor area to the first floor flat would be some 80 sq.m. The internal layout comprises of separate kitchen and dining area with a spacious general layout. Amenity space is included in the form of a first floor balcony area of 12 sq.m.

The second floor includes two 1 bedroom flats with floor areas of 42 sq.m and 61 sq.m respectively. The nationally described technical standards requires a floor area of 58 sq.m on second floors. While one of the first floor flats falls short of the national standards. These standards are aimed at new dwellings and conversions of existing dwellings and not specifically flats above shops. In the

circumstances therefore the proposal is considered acceptable as the flat would provide functional floor space with acceptable aspect and general layout.

The layout of the one bed flats on first and second floors are considered acceptable in terms of layout and aspect. One of the second floor flats however, includes a toilet and shower room accessed off the kitchen area which is not an ideal layout. However, this in itself would not provide sufficient justification for refusal.

The national technical standards have not been adopted by the Council and although the layout of one of the 1 bedroom flats is not ideal, it is not considered that if challenged a recommendation of refusal would be sustainable.

No amenity space is provided at second floor level but it is accepted that the building is within the town centre surrounded by a wide range of facilities. Moreover, the absence of amenity space to flats above shops is a commonly accepted form of accommodation above shops.

All three flats would include acceptable levels of natural light and aspect and would include generally functional layouts and as such this aspect of the proposal is considered acceptable and generally in compliance with the requirements of emerging policy LP3.

This would comply with section 12 paragraph 127 sub section f) of the NPPF which requires a high standard of accommodation for existing and future users.

Given the context of the area, it is not considered that the with-holding of planning permission on the basis of the shortfall amenity space in-itself would be justifiable given the Government's commitment outlined in the NPPF to significantly boost the supply of housing and the length of time that the premises has been vacant.

Overall the proposal is considered to represent an acceptable standard of accommodation for future occupants of the proposed dwellings.

#### Impact on the amenities of neighbouring occupiers

Paragraph 127 sub-section f) of the NPPF requires that development provides a high standard of amenity for existing and future users. Saved policy QL11 also aims to safeguard the amenities of neighbouring occupiers. The importance of amenity is echoed by Policy SPL3 of the emerging plan highlights the importance of safeguarding the amenities of neighbouring occupiers.

The adjacent premises would be affected by the increase in intensity arising from the conversion of the building. However, any such increase in activity is considered to be marginal and not so significant as to result in material harm to the neighbouring occupiers.

#### Impact on the Conservation Area

The site lies within the Clacton Conservation Area. However, the proposal does not include external changes to the building and its conversion into flats does not involve investment into the building as well as new construction jobs which would help to preserve the character of the area.

#### Highways

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 flats are in a sustainable area with access to a variety of shops and good footway links to public transport.

The site lies within an accessible location that benefits from a wide range of facilities. Moreover, the site cannot accommodate off street car parking provision.

The proposal will not result in any significant change in the way the existing building operates and the proposal will not adversely affect the vitality and viability of the parade. Indeed the investment involved in converting the upper floors would have a beneficial effect in terms of the provision of construction jobs and investment in the building and this is to be welcomed.

### 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.

### Recreational Disturbance Avoidance and Mitigation Strategy

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 signed by the applicant. 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.

## **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 plans: Drawing Numbers 100 A, 101B and 101 D.

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

3. 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.

4. 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 in accordance with policy DM1.

5. Prior to occupation of the proposed dwellings, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack per dwelling, for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator free of charge.

Reason - In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10

6. Full details of waste and recycling facilities shall be submitted to and approved in writing by the local planning authority prior to first occupation of the residential units hereby submitted.

Reason: In the interest of the amenities of surrounding occupiers.

7. Construction works shall be restricted to the hours 08:00 – 18:00 hours Monday to Fridays, 08:00 – 13:00 hours on Saturdays with no construction works on Sundays and Bank Holidays.

Reason - In the interest of protecting the amenities of neighbouring occupiers.

8. Full details of a sound insulation scheme between the first floor bedroom and living room and the second floor living room and bedrooms shall be submitted to and approved in writing by the local planning authority prior to the first occupation of the flats hereby permitted.

Reason - In the interest of protecting the residential amenities of the adjoining occupiers.

## 7. Informatives

### Positive and Proactive Statement

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.

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