

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	DM	8.3.21
Planning Development Manager authorisation:	TF	09/03/2021
Admin checks / despatch completed	CC	06.04.2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	DB	06.04.2021

**Application:** 21/00126/FUL **Town / Parish:** Thorrington Council

**Applicant:** Mr Khunti

**Address:** Post Office Clacton Road Thorrington Colchester Essex CO7 8JP

**Development:** Proposed 1st Floor and Single Storey Extension, Enlargement of Shop Area with Internal Alterations

### 1. Town / Parish Council

Thorrington Parish Council                      No response

### 2. Consultation Responses

TDC Environmental Protection - Extraction units Details and positioning of any extraction or ventilation equipment shall be submitted in writing for prior approval by the local planning authority and any methods the applicant proposes to employ to control noise.

### 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.		
20/01343/FUL	Proposed first floor and single storey extension and enlargement of shop area with internal alterations.		

#### **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 and the Principle of Development**

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 10<sup>th</sup> 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 site lies within the Thorrington Development Boundary as defined within both the adopted Tendring District Local Plan (2007) and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017). Policy QL1 sets out that development should be focussed towards the larger urban areas and to within development boundaries as defined within the Local Plan. These sentiments are carried forward in emerging Policy SPL1 of the Publication Draft.

Paragraph 7 of the National Planning Policy Framework 2019 (NPPF) states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 explains that achieving sustainable development means that the planning system has three overarching objectives, namely an economic objective, a social objective and an environmental objective. However, Paragraph 9 emphasises that these objectives should be delivered through the preparation and implementation of plans and the application of the policies in the NPPF; they are not criteria against which every decision can or should be judged. This is supported through Paragraph 11 which states that plans and decisions should apply a presumption in favour of sustainable development and for plan-making this means that plans should positively seek

opportunities to meet the development needs of their area. Strategic policies should, as a minimum, provide for objectively assessed needs for housing.

For decision-taking this means approving development proposals that accord with an up-to-date development plan without delay. Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date then permission should be granted. Footnote 7 explains that this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites with the appropriate buffer, as set out in paragraph 73.

However, Paragraph 12 of the NPPF states that presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed. Paragraph 47 confirms that planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

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The Council has now formally adopted Section 1 part of the development plan which carries 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)**

The application site is located on the northern side of Clacton Road at the junction with Chapel Lane and is within the Settlement Development Boundary for Thorrington as established in the Saved Local Plan. The site contains a Post Office with residential accommodation split between

the rear of the unit at ground floor and first floor. Vehicular access exists on to both Clacton Road and Chapel Lane. The site includes a large single storey outbuilding to the rear.

The application is for a first floor & single storey extension, enlargement of shop area with internal alterations.

The proposal would increase the shop's internal area from 68sqm to 126sqm. In relation to the living area this would be increased by circa 81sqm.

### Design, Appearance

The proposed development is substantial and larger than anything that has been found acceptable by the planning authority previously. The increased visual impact would be most apparent at the junction of Chapel Lane and Clacton Road and would present a new gable to the side elevation that would be a similar scale to that at the existing host dwelling. The proposal employs red facing brickwork at ground floor level to match existing and traditional style weather boarding to the first floor section to the rear and both sides. The existing flat roof would be extended rearward following the site constraints. Similarly, a flat roof element would project from the aforementioned two storey addition rear ward. The main entrance to the shop from Clacton Road will be moved to the left hand side of the building to ensure level threshold access and opening increased for wheelchair provisions. This proposal would reduce amenity space, however not to an unacceptable extent where a useful private amenity space would remain. 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.

### Impact to Neighbouring Amenities

The NPPF, at paragraph 127 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 enlarged first floor extends approximately 2.8m beyond the rear elevation of Crosbi; the application site is to the south east of this neighbour, separations distances in excess of 5m (flank to flank) exist. For these reasons the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

### Parking and Highway Safety

Highway Issues 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 proposal does not generate any further need for parking.

### Representations

A site notice was erected and nearby neighbours were 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: 305-002d

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

3. Prior to first occupation of the development hereby approved details of any extraction/ventilation plant shall be submitted in writing for prior approval by the local planning authority and any methods the applicant proposes to employ to control noise.

Reason - To safeguard existing neighbour amenity

## 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. 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

3. Highway boundary information can be obtained from the following email address: [highwayrecords@essexhighways.org](mailto:highwayrecords@essexhighways.org)

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

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