

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	JR	21.04.2021
Planning Development Manager authorisation:	JJ	21/04/2021
Admin checks / despatch completed	ER	21/04/2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	21.04.2021

Application: 20/01807/FUL **Town / Parish:** Clacton Non Parished

Applicant: Neal Barclay

Address: The Roaring Donkey 316 Holland Road Clacton On Sea

Development: Proposed erection of a single storey timber framed building to house a Kitchen, erection of a timber open sided pergola and installation of festoon lighting on 3 metre high timber posts. All in the rear garden of the Public House.

1. Town / Parish Council

Clacton Non Parished

2. Consultation Responses

Environmental Health No objection subject to conditions with regard to the submission of a noise risk assessment for the proposed extraction system and proper installation and maintenance to reduce odour.

3. Planning History

94/01555/ADV	House name signs, fascia and amenity signs	Approved	08.02.1995
94/01556/FUL	Extension of rear lounge and patio, provision of pedimented surrounds to entrance doorways	Approved	08.02.1995
97/01512/FUL	New kitchen extension in existing internal service yard	Approved	25.02.1998
98/01127/FUL	The construction of additional parking spaces	Refused	14.10.1998
98/01557/FUL	Proposed front and rear extensions to public house	Approved	12.01.1999
99/00497/FUL	Extend play equipment within the beer garden with a Katella Happy Town Unit installed onto a black rubber safer surface	Approved	16.06.1999
07/00603/FUL	Erection of an outdoor shelter.	Refused	20.06.2007
08/00912/FUL	New smoking canopies to front and rear, with new 4m x 4m jumbrella to rear garden.	Approved	01.08.2008

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL9 Design of New Development

ER7 Business, Industrial and Warehouse Proposals

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

SPL3 Sustainable Design

PP6 Employment Sites

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 Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF.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. In this latter regard, as of 26th January 2021, 'Section 1' of the emerging Local Plan for Tendring (Tendring District Local Plan 2013-2033 and Beyond Publication Draft) has been adopted and forms part of the 'development plan' for Tendring.

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 has now formally adopt Section 1 of the Local Plan, in its modified state, at the meeting of Full Council on 26th January 2021, at which point it became part of the development plan and carries full weight in the determination of planning applications – superseding, in part, some of the more strategic policies in the 2007 adopted plan.

The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) will proceed in early 2021 and two Inspectors have 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 site relates to the public house known as The Roaring Donkey and is sited at the junction with Holland Road and Kings Avenue. The garden area is located to the rear of the main pub building and is bordered by residential dwellings to the south, a garage/parking area for the adjacent flatted development fronting Holland Road to the west. A mix of retail and other commercial properties border the site to the north and east.

Proposal

The application seeks planning permission to construct a timber building adjacent to the existing outside bar to provide a kitchen. It is also proposed to install a timber open sided pergola and festoon lighting attached to 3m high timber posts within the rear garden area.

Assessment

The main planning considerations are the principle of development, layout, scale and appearance, impact on neighbouring amenities, highway considerations and other considerations.

Principle of Development

The proposal involves the addition of an outside kitchen and upgrades to the garden area in order to expand the outside dining offering to the existing pub. The principle of the proposal is acceptable subject to the detailed consideration against Saved Policy ER7 of the Tendring District Local Plan 2007.

Layout, Scale and Appearance

The proposed kitchen building measures 2.55m high, 3m deep and 3.45m wide and is finished in shiplap timber boarding, painted in light grey and is sited adjacent to the existing outside bar, which is to be painted light grey to match the new kitchen. Both the bar and kitchen are located close to the rear of the pub building and are subservient in both size and scale.

The proposed pergola is of timber construction and is open on all four sides. The structure measures 11.35m deep, 5.25m wide and 2.65m high and encloses the existing outdoor seating area. Four, 3m high timber posts are to be installed to the outer edge of the existing patio area and attached to this are festoon lights on black cable with clear 2700K warm white led lamps at 700mm centres, which are criss-crossed across the patio to the edge of the proposed pergola as shown on Drawing No. J791-11. An existing post is to be removed to make way for the construction of the proposed kitchen. This currently holds two floodlights which light the existing play area. These floodlights are to be removed and attached to the proposed kitchen to light the play area as it is currently.

The proposals are located to the rear of the main pub building and would not be visible within the public realm. Given the current use of the site as a public house, the proposals are considered appropriate in this location and would enhance the appearance of the existing garden area. It is therefore considered that the proposal is acceptable in terms of design and appearance.

Impact on Neighbour Amenity

The site is bordered by residential dwellings to the south and west, however the site currently operates as a public house, with existing outdoor seating and lighting present in the rear garden area. The proposed kitchen however would have a small extraction system on the roof. Subject to a condition to control the noise levels and odour from the extraction system this is considered to be acceptable with regards to neighbour amenity.

Therefore the small scale additions proposed are not considered to materially increase the noise and disturbance experienced by the neighbouring occupants over and above that which presently exists on site.

Highways

The proposals are to the rear garden area of the Public House and do not impact or alter the existing car parking arrangements on site.

Other Considerations

No representations have been received.

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 development hereby permitted shall be carried out in accordance with the following approved plans and documents: J791-10, J791-11, Lighting details and extract fan details.

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

3. No external lighting other than that hereby approved shall be installed at the site unless express planning permission has been obtained.

Reason - To secure an orderly and well-designed development sympathetic to the character of the area and in the interests of residential amenity.

4. A competent person shall ensure that the rating level of noise emitted from the proposed extraction system and condensers shall not exceed 5dBA above the background. Prior to the use hereby permitted coming into beneficial use, the assessment shall be made in accordance with the current version of British Standard 4142. The noise levels shall be determined at all boundaries near to noise-sensitive premises. Confirmation of the findings of the assessment shall be provided in writing to the local planning authority for written approval. The proposed ventilation and extraction system must be installed by a relevantly qualified technician and must be maintained and cleaned in accordance with the manufacturers' guidance. All subsequent conditions shall comply with this standard.

Reason: To protect the amenity of nearby residential properties and to reduce the likelihood of nuisance complaints relating to noise and odour.

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? If so please specify:		NO
Are there any third parties to be informed of the decision? If so, please specify:		NO