

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AP	13/10/2021
Planning Development Manager authorisation:	TF	13/10/2021
Admin checks / despatch completed	DB	14.10.2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	14.10.2021

Application: 21/01614/NMA **Town / Parish:** Clacton Non Parished

Applicant: C/o Kames Capital - Aegon UK Property Fund Ltd

Address: Clacton Factory Shopping Village Stephenson Road West Clacton On Sea

Development: Non-material amendment of permission 95/00448/DETAIL, sought to make minor amendments to landscaping scheme under drawing ref 15/8/402/2044/6001 Rev C.

1. Town / Parish Council

Non-parished area

2. Consultation Responses

Tree & Landscape Officer
24.09.2021

The proposed felling and removal of 8No. X Cupressocyparis Leylandii situated close to the rear boundary of 190 Gorse Lane Clacton on Sea will not significantly affect the screening function of the landscaping scheme for the site.

3. Planning History

00/01333/ADV	Illuminated free standing 6 sheet light box and installation of advertising panels to bus shelter.	Approved	22.08.2000
00/01334/FUL	Installation of secure cycle parking units. Modification of bus shelter.	Approved	23.08.2000
02/01069/FUL	Redevelop existing 17m advert pole to 18m telcom monopole.	Approved	25.07.2002
93/00430/FUL	Variation of condition 2[a] of consent TEN/1223/89 to allow reserved matters to be submitted within a period of 5 years from the date of the consent notice of 18 April 1990	Approved	07.04.1994
95/00448/DETAIL	Submission of Reserved Matters under Planning Permissions TEN/1223/89 and TEN/93/0430 - (Change of Use from Agricultural to Industrial for consideration in relation to Categories B1, B2, B8 and A1 (Non Food	Approved	09.10.1996
96/00202/ADV	(Stephenson Road West, Oakwood	Approved	21.03.1996

	Industrial Estate, Clacton on Sea) Two display hoardings		
96/01393/FUL	(Willow Farm, Gorse Lane, Clacton on Sea) Change of use from A1 (Non-Food Retail) to A3 (Catering) in relation to Clacton Common Factory Outlet Village: Planning Consent TEN/95/0448 (Units 31 and 37)	Approved	11.12.1996
96/01394/FUL	(Willow Farm, Gorse Lane, Clacton on Sea) Construction of underpasses in relation to Clacton Common Factory Outlet Village: Planning Consent TEN/95/0448	Approved	11.12.1996
96/01395/FUL	() Factory Outlet Centre: Willow Farm, Gorse Lane, Clacton on Sea (Variations to Design of Scheme as Approved under Planning Consent TEN/95/0448) incorporating the erection of a visitor information centre	Approved	11.12.1996
97/00530/FUL	() Variations to design as approved under consent TEN/95/0448 and consequential amendments to scheme as approved under consents TEN/96/1393, TEN/96/1394 and TEN/96/1395	Approved	03.06.1997
97/01247/FUL	() Factory Outlet Centre - Variations to design as approved under consent TEN/95/0448 and consequential amendments to scheme as approved under consents TEN/96/1393, TEN/96/1394 and TEN/96/1395	Approved	18.11.1997
98/01228/ADV	(Clacton Common Factory Shopping Village, Willow Farm, Gorse Lane, Clacton on Sea) 2 No. hoardings (freestanding), 1 No. 20 metre mast (illuminated)	Approved	14.10.1998
98/01420/ADV	(Clacton Common Factory Shopping Village, Willow Farm, Gorse Lane, Clacton on Sea) Banner/pendant signs to lighting columns	Approved	15.12.1998
98/01439/ADV	(Clacton Common Factory Outlet, Clacton on Sea) Halifax Plc ATM - card cash fascia sign	Approved	07.12.1998
03/01992/ADV	1 Non-illuminated sign advertising commercial shopping outlets	Approved	28.11.2003

06/00670/FUL	Change of use of units 1 & 2 from A1 (shops) to A3 (Restaurant).	Approved	15.06.2006
06/01351/FUL	Removal of some road frontage railings and piers. Alterations to gateways. Installation of bollards to southern road frontages.	Refused	29.09.2006
08/00523/OUT	Outline application for car show room, A3/A4/A5 units and a garden centre. Appearance and materials reserved.	Withdrawn	30.06.2008
08/00524/OUT	Outline application for car show room, A3/A4/A5 units and 6 'B1/B2/B8' units. Appearance and materials reserved.	Withdrawn	30.06.2008
08/00526/OUT	Outline application for car show room and A3/A4/A5 units with appearance and materials reserved.	Withdrawn	30.06.2008
08/00885/FUL	Material change of elevation. Front elevations to be overtilted with cedar type cladding and brickwork to be rendered to form a more presentable outlet centre.	Approved	08.08.2008
08/00979/OUT	Outline application for car show room, A3/A4/A5 units and 6 'B1/B2/B8' units. Appearance and materials reserved.	Approved	18.09.2008
08/00980/OUT	Outline application for car show room, A3/A4/A5 units and a garden centre. Appearance and materials reserved.	Approved	18.09.2008
08/00981/OUT	Outline application for car show room and A3/A4/A5 units with appearance and materials reserved.	Approved	18.09.2008
08/01133/FUL	Proposed part enclosure of east and west malls with stretched fabric canopys including amendments to lighting, bins, seating and planters.	Approved	15.09.2008
09/00111/FUL	Proposed part enclosure of east and west malls with stretched fabric canopy's including amendments to lighting, bins, seating and planters.	Approved	01.04.2009
09/00902/ADV	1 No. non illuminated post sign.	Approved	30.10.2009

09/00908/FUL	Variation of Condition 11 of planning permission TEN/95/0448, to allow the amalgamation of units 27-29 and a further amalgamation or sub-division of units at the outlet.	Approved	29.09.2009
10/00200/FUL	Erection of a cinema (Class D2) and A3 and/or A4 and /or A5 units and associated works.	Approved	08.09.2011
10/01427/FUL	New canopies to outdoor areas of the east and west malls and 2 emergency accesses.	Approved	16.02.2011
14/00184/DISCON	Discharge of condition 06 (landscaping scheme), 08 (materials), 11 (scheme of covered cycle parking), 12 (scheme of motorcycle parking), 13 (Refuse and recycling area details), 14 (solar panel details) and 15 (scheme of rainwater harvesting and re use) of planning permission 10/00200/FUL	Approved	04.04.2014
14/30167/PREAPP	Reconfiguration of existing site to provide a maximum of 2000sqm net additional retail (A1) floorspace together with the implementation of planning permission 10/00200/FUL with associated access and landscaping through an outline planning application.		08.07.2014
14/00594/TELLIC	Replacement of telecommunications antennas and installations of two equipment cabinets.	Determination	23.05.2014
14/01445/OUT	Hybrid Planning Application for the development of the site to provide: Full Application Element: Part-demolition and Reconfiguration of North Site Floor Space (A1/A3/A4/A5 Use) Including replacement unit at Units 23-26 (A1 Use). Reconfigured Leisure (A3/A4/A5/D2 Use) Site Floor Space to include Cinema (D2) use and Restaurant (A3) use. Outline Application Element: Development of New Retail Floor Space (A1 - restricted and A3/A4/A5 Drive Through Unit) at South Site with All Matters Reserved apart from Access. Plus Associated Access, Landscaping, Parking Amendments and Variation to Existing Section 106 Agreement.	Approved	03.08.2015

15/01304/ADV	Fascia signage comprising dibond panel with digitally printed vinyl. Acrylic yellow letters to be applied.	Approved	19.10.2015
15/01350/DISCON	Discharge of condition 9 (Strategic Phasing Plan) and 20 (Construction Method Statement) of planning permission 14/01445/OUT.	Approved	30.12.2015
15/01479/DISCON	Discharge of condition 12 (local recruitment strategy), 13 (landscape management plan), 15 (surface water drainage management strategy), 16 (external materials) and 17 (hard and soft landscaping) of planning permission 14/01445/OUT.	Approved	28.07.2016
17/30257/PREAPP	Development of southern side - Reconfiguration of Outline Planning Permission 14/01445/OUT to include A1 unit.	Refused	05.01.2018
20/01540/FUL	Proposed temporary site compound to house welfare and parking for key workers working on a railway project.	Approved	20.04.2021
20/01731/FUL	Proposed temporary site compound extension to house, office, welfare and parking for the key workers who will be working on the railway project.	Approved	20.04.2021
21/01614/NMA	Non-material amendment of permission 95/00448/DETAIL, sought to make minor amendments to landscaping scheme under drawing ref 15/8/402/2044/6001 Rev C.	Current	

4. Relevant Policies / Government Guidance

n/a

Status of the Local Plan

Planning law requires that decisions on planning applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework 2021 (the Framework).

The 'development plan' for Tendring comprises, in part, the 'saved' policies of the 2007 Local Plan. Paragraph 219 of the Framework allows local planning authorities to give due weight to policies adopted prior to its publication according to their degree of consistency with the policies in the Framework. On the 26th January 2021 Section 1 of the 2013-2033 Local Plan was adopted and now also forms part of the 'development plan' for Tendring, superseding some of the more

strategic policies in the 2007 Local Plan. Notably, the housing and employment targets were found sound and have been fixed, including the housing requirement of 550 dwellings per annum.

Paragraph 48 of the Framework 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 the policies of the Framework. In this regard 'Proposed Modifications' to the emerging Section 2 of the 2013-33 Local Plan, which contains more specific policies and proposals for Tendring, has been examined and hearing sessions have now closed. The main modifications recommended to make the plan legally compliant and sound were considered at the Council's Planning Policy and Local Plan Committee on 29th June 2021. The Council held a six-week public consultation on the Main Modifications and associated documents which began on 16th July 2021. The consultation closed at 5pm on 31st August 2021 and adoption is expected later this year. Section 2 will then join Section 1 as part of the development plan, superseding in full the 2007 Local Plan. Section 2 of the 2013-33 Local Plan is therefore at a very advanced stage of preparation and should be afforded considerable weight.

5. Officer Appraisal

From 1st October 2009 a new provision under Section 96A of the Town and Country Planning Act came into force allowing a Local Planning Authority, on application, to make a change to any planning permission if it is satisfied that the amendment proposed is non-material.

The key test as to the acceptability of an application for a non-material change is whether the change is material to any development plan policy. If the answer is 'no', three further tests should be applied:

1. Is the proposed significant in terms of its scale (magnitude, degree etc.), in relation to the original approval?
2. Would the proposed change result in a detrimental impact either visually or in terms of amenity?
3. Would the interests of any third party or body who participated in or were informed of the original decision be disadvantaged in any way?

Appraisal

The proposal comprises of the following amendment to planning approval 95/00448/DETAIL:

- The felling and removal of 8No. x Cupressocyparis Leylandii situated close to the rear boundary of 190 Gorse Lane, Clacton on Sea

The degree of change being proposed compared to the original approval would not be significant in terms of the overall appearance of the landscaping scheme. The trees subject of this application are located along the southern boundary, towards the south-west corner of the site, abutting the residential properties along Gorse Lane. They are not protected by a Tree Preservation Order, nor is the site within a Conservation Area. The existing landscaping along the southern boundary of the site, closest to 190 Gorse Lane, remains as consented under planning application 95/00448/DETAIL (condition 03) under drawing ref. 15/8/402/2044/6001 Rev. C – Landscape Proposals. The 8no. Leyland Cypress trees are within 10 metres of the rear of the residential property at 190 Gorse Lane. Other than the 8no. Cypress trees, the existing landscaping and overall design and appearance of the site will not change. There are two established tree/planting lines separating the application site from the rear garden of 190 Gorse Lane. The removal of the subject trees, which front the rear garden of 190 Gorse Lane, will not impact the tree line along the site's car park, and so an adequate level of shielding will remain to protect the privacy and outlook of the residents of 190 Gorse Lane. Removing the trees will enhance the quality of accommodation for the residents of 190 Gorse Lane and mitigate damage to the existing dwelling of 190 Gorse Lane.

The proposed amendments would not result in any additional impact or harm to visual amenity and no third parties would be disadvantaged in any way as a result of the removal of the trees.

Conclusion

In this instance it is considered the amendments being sought are minor and are therefore acceptable as a non-material amendment to the approved plans attached to 95/00448/DETAIL.

6. Recommendation

Approval Non Material Amendment

7. Conditions

No conditions

8. Informatives

None

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