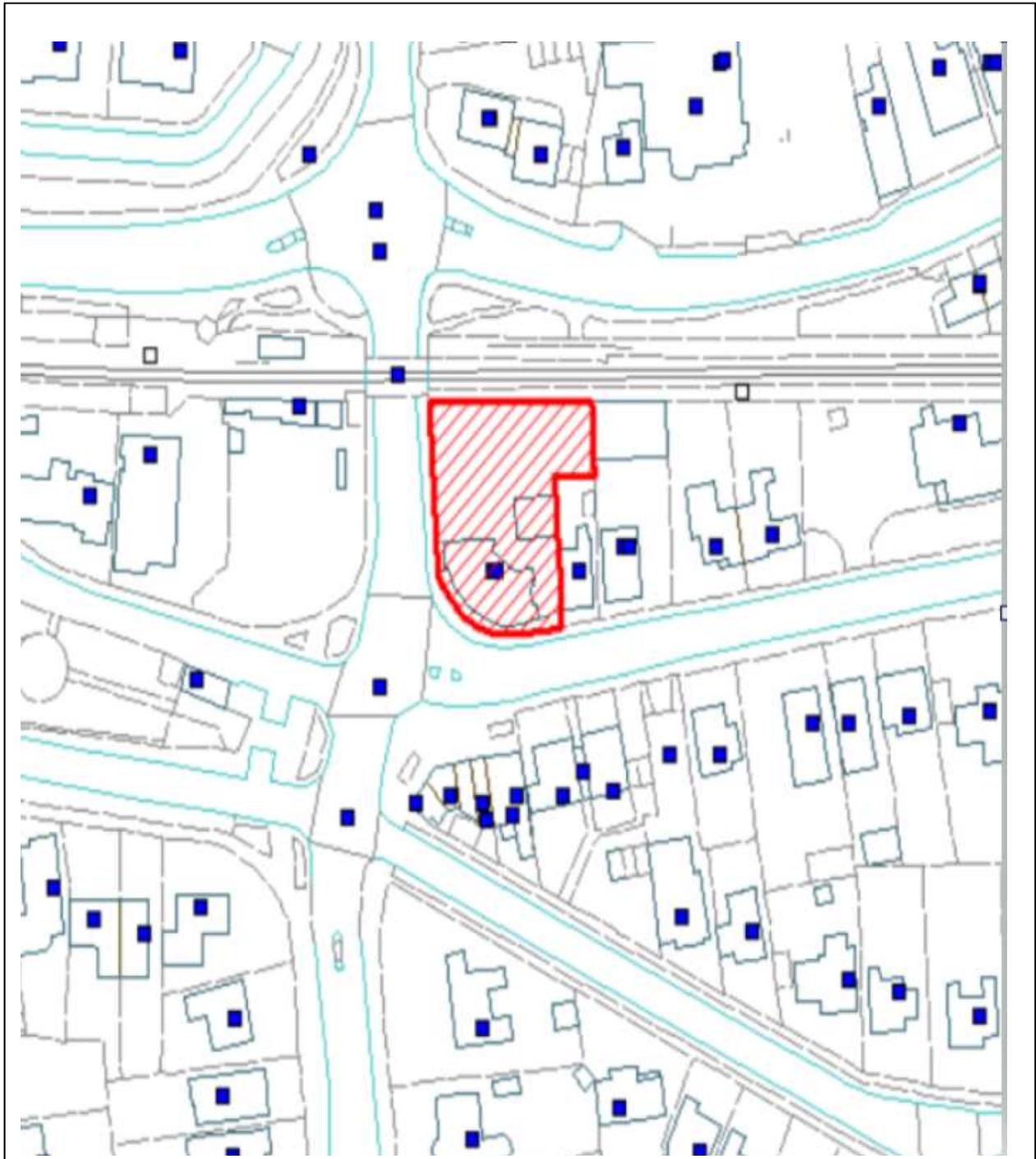


PLANNING COMMITTEE

18TH JANUARY 2022

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.5 PLANNING APPLICATION – 21/01527/FUL – 152 CONNAUGHT AVENUE FRINTON ON SEA CO13 9AD



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Application: 21/01527/FUL

Town / Parish: Frinton & Walton Town Council

Applicant: M+M Pharmacy

Address: 152 Connaught Avenue Frinton On Sea CO13 9AD

Development: Proposed disabled access.

1. **Executive Summary**

- 1.1 Councillor Nick Turner has called in the application, in relation to the impact of the proposal on the Conservation Area.
- 1.2 The proposal is for a disabled access ramp to be located at the front entrance to the pharmacy. The site is located within the defined Settlement Development Boundary of Frinton-on-Sea and also sits within the Frinton and Walton Conservation Area.
- 1.3 The proposal is considered to be of a size, scale and design in keeping with the overall site and surrounding area. There are no concerns raised regarding the impact on the neighbouring residential properties and subject to conditions is considered acceptable.

Recommendation:

That the Head of Planning be authorised to grant planning permission for the development subject to:-

- a) Subject to the conditions stated in section 8.2

2. **Planning Policy**

- 2.1 The following Local and National Planning Policies are relevant to this planning application.

NPPF National Planning Policy Framework July 2021

National Planning Practice Guidance

Adopted Tendring District Local Plan 2007 (part superseded)

QL11 Environmental Impacts and Compatibility of Uses (part superseded)

EN17 Conservation Areas

COM1 Access for All

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) (Section 1 adopted on 26th January 2021)

Relevant Section 1 Policies (adopted)

SP7 Place Shaping Principles

Relevant Section 2 Policies (emerging)

SPL3 Sustainable Design

PPL3 The Rural Landscape

PPL8 Conservation Areas

Status of the Local Plan

- 2.2 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).
- 2.3 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.
- 2.4 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. On 24th November 2021, the Council received the Planning Inspectors' final report on the legal compliance and soundness of Section 2 of the emerging Local Plan. The report has confirmed, that with the inclusion of a number of 'Main Modifications' (which have already been the subject of formal public consultation), the Plan is legally compliant and sound and can now proceed to adoption. The report is due to be considered by the Planning Policy and Local Plan Committee on 11th January 2022 which is likely to recommend adoption of the Section 2 Local Plan to Full Council on 25th January 2022. On adoption, the new Section 2 Local Plan will join the new Section 1 Local Plan to form the 'development plan' for Tendring and the old 2007 Local Plan will be superseded in full.
- 2.5 Now that the Inspectors' final report is received, the Section 2 Local Plan has virtually reached the final stage of preparation, all objections have been resolved and the Inspector has confirmed that the Plan is sound and therefore in conformity with the Framework. For these reasons, Officers now advise that the emerging Plan should now carry 'almost full weight' in decision making.
- 2.6 Until the new Local Plan is adopted in January 2022, the 2007 adopted Local Plan, legally, will still form part of the 'development plan' and there will still be a requirement to refer to the 2007 Local Plan in decision making. However, the level of weight to be afforded to the policies in the 2007 Plan is reduced to very limited weight given that a more up to date Plan has progressed to such an advanced stage of the plan making process.

3. Relevant Planning History

91/00976/FUL	Change of use first floor flat to offices.	Approved	16.10.1991
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92/00337/FUL	(152 Pole Barn Lane, Frinton-on-Sea) Change of use to Wine Bar and Restaurant with single storey rear extension to provide kitchen and toilets	Refused	12.05.1992
92/00921/FUL	(152 Pole Barn Lane, Frinton on Sea) Change of use, wine bar and restaurant with extension for kitchen and toilets	Refused	27.10.1992
94/00994/FUL	Proposed neighbourhood resource centre - to convert existing shop for office use and upgrade staff kitchen and toilet facilities to adapt for disabled access/ facility	Approved	04.10.1994
08/00230/FUL	Change of use from Business Use (B1) to Retail Use (A1).	Refused	06.05.2008
08/01270/FUL	Change of use from B1(a) to A1 (Aquatic shop / pet shop).	Approved	31.10.2008
10/00968/FUL	Variation of Condition 2 of 08/01270/FUL, to vary the use from A1 Aquatic/Pet Shop to A1 Housewares and Gifts.	Withdrawn	12.10.2010
11/01359/FUL	Variation of condition 02 of planning permission 08/01270/FUL to allow use as a beauty parlour.	Withdrawn	15.12.2011
11/01477/FUL	Change of use from A1 to beauty salon.	Approved	07.02.2012
20/30236/PREAPP	Formation of disabled access ramp.		05.01.2021
21/01527/FUL	Proposed disabled access.	Current	

4. Consultations

Essex County Council Heritage
01.10.2021

The development site is located within Walton and Frinton Conservation Area, at the primary entrance into the Conservation Area from the north. The early-nineteenth century building is a prominent feature of the streetscape occupying a corner location the junction of several roads. Built in a hybrid art-deco neo-georgian in style, the building is noted in the Conservation Area Character Appraisal for its bronze glazing and excellent detailing. It is apparently a former County Council building and is a positive contributor to the Conservation Area and the streetscape. The building could be

considered a non-designated heritage asset for its historic communal interest as a focus of local government, and also for its architectural and artistic interest, given the aforementioned excellent architectural detailing of the shopfront and wider street-facing elevation.

ECC Heritage are unopposed to the provision of access to the shop, however the currently proposed ramp fails through its form and detailing to be sympathetic to the architectural articulation, materials, and detailing of the existing shopfront. The proposed railings and ramp would detract from the symmetrical architectural appearance of the building. The ramp would partly obscure and cover over the base of the architrave, steps, plinth and bronze framing and vents to the windows. This unbalancing of the shop's elevation and the loss of detailing would be detrimental to the architectural appearance of the non-designated heritage asset. In covering over the above outlined materials, these materials are likely to be damaged and would deteriorate. The proposals would result in a detrimental impact to the significance of the shop, making paragraph 203 of the NPPF relevant here.

In unbalancing the symmetrical façade of the shop, and partly obscuring parts of the façade, the proposals would fail to preserve or enhance the character and appearance of the Conservation Area. The proposals would be detrimental to the architectural appearance of the positively contributing building, resulting in low-level less than substantial harm to the significance of the Conservation Area. Paragraph 202 of the NPPF is therefore relevant here. Paragraph 206 of the NPPF is also relevant here regarding the poor-quality design.

ECC Heritage recommend the applicant engages in the pre-application process with the Local Planning Authority to discuss their ambitions for providing ramped access to the shop. There may be potential for level access to be achieved through another area of the building, or through a more sympathetically designed scheme.

Essex County Council Heritage
03.12.2021

This letter should be read in addendum to previous advice.

The scheme has been revised. The principle of harm (as outlined in previous consultation) has not been overcome given the ramp will not compliment the host building nor the prominent corner plot in the Conservation Area.

However, if it is deemed a ramp on this corner is acceptable (ie benefits outweigh harm) then I would have no objection to this form of ramp and would recommend conditions attached for samples of all materials to be agreed.

5. Representations

- 5.1 One letter of representation has been received following a public consultation, which included a site notice posted at the site and neighbouring consultation letters sent out to the adjacent properties. This was from Frinton & Walton Town Council, who deem the proposal not sympathetic to the existing building.
- 5.2 All material planning considerations raised will be taken into account within the following assessment of the proposal.

6. Assessment

Site Context

- 6.1 The site serves a large detached two-storey building located on the corner of Connaught Avenue and Pole Barn Lane, adjacent to the level crossing. The site lies within the Frinton and Walton Conservation Area; however, the building is not listed. The building is an irregular curved shape, finished in mostly exposed brickwork, with the ground floor entrance section being painted white render, with large windows and associated signage. The surrounding streetscene is formed of mostly residential buildings of differing scale and design, with exposed brickwork being a common design choice.

Proposal

- 6.2 The application seeks full planning permission to construct a disabled access ramp to the front entrance of the pharmacy, to ensure the building is more accessible for elderly or disabled customers.

Principle of Development

- 6.3 The development plan for Tendring Council comprises of the adopted Tendring District Local Plan 2007 (part superseded) and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 (Section 1 Adopted). The site lies within the Frinton-on-Sea Settlement Development Boundary as established within both the adopted and emerging local plans.
- 6.4 Policy COM1 (Access for All) of the adopted Local Plan and Policy SPL3 (Sustainable Design) of the emerging Local Plan (Part 2) seek to ensure that developments provide safe and convenient access for people of all abilities and as such the 'principle' of this application will support that requirement by improving access to the pharmacy for elderly and disabled customers.

Appearance

- 6.5 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 Policy QL11 (Part superseded) aims 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.
- 6.6 The proposed access ramp would measure 1.6 metres wide, with the sloped section being 5 metres long, leading to a flat-plateaued section measuring 2.4 by 1.5 metres. The structure

would reach an overall height of 0.5 metres. It is noted that this would lead customers to a height consistent with the existing access steps to the front of the building. The proposal would be limited in scale, and feature a low profile design which would reduce the impact of the slope on the visual amenity of the building.

- 6.7 The site can accommodate a proposal of this size and scale whilst retaining ample private amenity space and the limited width would ensure that there would be negligible impact on the adjacent pathway. The design is also consistent and sympathetic to the existing host dwelling materials.
- 6.8 The proposal will be located to the front of the property so would be visible from the streetscene, however the limited profile and sympathetic design are not deemed to have a negative impact on visual amenity.

Highway Safety/Parking

- 6.9 The proposal neither generates additional nor reduces the parking provision at the site and would have no impact on highway safety.

Impact on Conservation Area

- 6.10 As the site is located within the Frinton and Walton Conservation Area, ECC Heritage have been consulted. They provided feedback on the original plans, which were critical of the impact of the ramp on the visual amenity of this host building. The amended plans are deemed to overcome these issues, by removing the handrail, reducing the scale of the structure and incorporating a stone external finish and Chelsea Setts, which is more sympathetic to the existing building. The updated heritage comment, states that whilst the proposal would not compliment the host building, if the need for a ramp outweighs these considerations they would have no objection to a ramp of this type, subject to material finishing details.
- 6.11 All alternative access locations have been explored by the applicant and this proposal is deemed to be the most suitable location to access the front of the shop. There is a clear need for the provision of this ramp to enable the accessibility of this community facility by elderly and disabled customers, which is very much in-line with Policy COM1 (Access for All) of the adopted Local Plan and Policy SLP3 (Sustainable Design) of the emerging Local Plan (Part 2). For example, Policy COM1 states at clause (a) that development shall provide: *'entrances which can be easily and safely accessed by all users, including those with mobility and sensory impairments'*. Similarly, Policy SPL3 states that *'...the design and layout of the development maintains and/or provides safe and convenient access for people with mobility impairments'*. As such, it is considered 'on balance' the need to achieve improved access for those less able (which also helps fulfil statutory requirements such as 'Part M' (Access for Disabled People) of the Buildings Regulations) outweighs the impact on visual amenity and on the setting within the Conservation Area.

Impact on Residential Amenity

- 6.12 Paragraph 17 of the NPPF, 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 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 by Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).
- 6.13 By virtue to the significant separation distance between the host site and the neighbouring dwellings, it is deemed that the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

7. Conclusion

- 7.1 The proposed development is considered to accord with the National and Local Plan Policies identified above. In the absence of material harm resulting from the proposal (albeit low-level less than substantial harm to the significance of the Conservation Area has been identified), on balance it is considered that the clear benefits of the proposal in terms of supporting improved access for those with mobility impairments supports the recommendation for approval.

8. Recommendation

- 8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives.

8.2 Conditions and Reasons

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 No.

- 152/CAF/6 (Received 2nd December 2021)

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

3. No above ground works shall commence until details of the ramp surface and stone facing materials have been submitted to and agreed, in writing, by the Local Planning Authority. Such details as may be agreed shall be those used in the development and permanently maintained as such.

Reason - To ensure materials are of a very high quality to respect the building and its setting.

8.3 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.

9. Additional Considerations

Public Sector Equality Duty (PSED)

- 9.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:

- 9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- 9.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
- 9.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.
- 9.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 9.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

Human Rights

- 9.8 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 9.9 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).
- 9.10 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Finance Implications

- 9.11 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.

10. Background Papers

- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report) also form background papers. All such information is available to view on the planning file using the application reference number via the

Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.