

PLANNING COMMITTEE

15 March 2022

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.5 PLANNING APPLICATION – 21/01748/FUL – KINGSCLIFF HOTEL 55 KINGS PARADE HOLLAND ON SEA CLACTON ON SEA CO15 5JB



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Application: 21/01748/FUL

Town / Parish: Clacton Non Parished

Applicant: Stephen Gook - Flying Trade Group PLC

Address: Kingscliff Hotel 55 Kings Parade Holland On Sea Clacton On Sea CO15 5JB

Development: Proposed retention of constructed dining pod.

1. **Executive Summary**

- 1.1 The application has been referred to the Planning Committee at the request of Councillor Baker due to the fact that the building is out of character and does not improve the street scene, it is poorly designed and has a negative impact on the street scene, it is not in accordance with emerging Plan (Part 2) Policy SPL3 or PP2 and the negative impact upon neighbours.
- 1.2 This application seeks planning permission for the retention of the constructed dining pod.
- 1.3 The application site is located within the settlement development boundary of the Tendring District Local Plan 2013-2033.
- 1.4 Local Plan Policy PP8 states that to attract visitors to the Tendring District and support economic growth in tourism, the Council will generally support proposals that would help to improve the tourism appeal of the District to visitors.
- 1.5 A condition is imposed in regards to lighting and to restrict the use of music within the pod.
- 1.6 The dining pod is considered acceptable in terms of its design and appearance and it is considered that it will not cause any material impact upon neighbouring amenities.

Recommendation:

That the Assistant Director for 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**

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

National Planning Policy Framework July 2021

National Planning Practice Guidance

Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1 Plan (adopted January 2021)

SP7 Place Shaping Principles

Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022)

PP8 Tourism

SPL3 Sustainable Design

Local Planning Guidance

Essex Design Guide

Status of the Local Plan

Planning law requires that decisions on 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 (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), together with any neighbourhood plans that have been brought into force.

3. Relevant Planning History

92/00839/FUL	(Kingscliff Hotel, 55 Kings Parade, Holland on Sea) Rear extension	Approved	07.08.1992
12/00251/FUL	First floor extension to provide six additional bedrooms.	Approved	14.05.2012
13/01239/NMA	Additional fixed element not indicated on original submission.		04.11.2013
13/01404/FUL	Variation of Condition 2 of 12/00251/FUL to include the proposed/installed extract ducts from the kitchen and revised window sizes/positions to north, south and western elevations.	Approved	17.03.2014
14/01504/FUL	Erection of 3 bedroom house & associated landscaping works.	Withdrawn	11.02.2015

4. Consultations

Building Regulations
04.03.2022

Provided that the dining pod has a floor area of no more than 15m² and will not be used for sleeping accommodation it will be exempt under the Building Regulations, by virtue of Schedule 2, Class 6; Small detached buildings, item 3. Please see an excerpt below:

CLASS 6

Small detached buildings

1. A detached single storey building, having a floor area which does not exceed 30m², which contains no sleeping accommodation and is a building—

(a) no point of which is less than one metre from the boundary of its curtilage; or

(b)which is constructed substantially of non-combustible material.

2. A detached building designed and intended to shelter people from the effects of nuclear, chemical or conventional weapons, and not used for any other purpose, if—

(a)its floor area does not exceed 30m²; and

(b)the excavation for the building is no closer to any exposed part of another building or structure than a distance equal to the depth of the excavation plus one metre.

3. A detached building, having a floor area which does not exceed 15m², which contains no sleeping accommodation.

With regards to the fire safety aspect, this would be a matter for the owner of the premises to incorporate this new building into his Fire Risk assessment under his obligations to the Regulatory Reform Order 2005. This legislation is enforced by the Fire and Rescue Service.

Environmental Protection
09.02.2022

I can confirm that given the information below the EP Team would suggest that no music is allowed to be played within the Pod.

Our original response was based on information stating that no music was to be played in the pod, however, given the information now indicates that the use of a speaker will be permitted by the site to enable patrons to play music from their mobile device and given there is no limiter associated with the level of noise, a speaker by its nature, indicates music will be played and this would have the potential for a level of audibility outside of the pod. In addition, the type of materials used within the construction may not be effective in minimising sound escape; we do have some concerns in relation to this activity.

As a result of this, the EP Team would suggest that should this application be given approval, a condition relating to the use of music should be considered.

Reason: to protect the amenity of nearby residential dwellings.

Environmental Protection
20.01.2022

Given the confirmation from the Agent we have no comments to make in relation to noise.

We would suggest that the use of the pod is conditioned on any potential, subsequent, approval; and in addition would request an informative in relation to lighting is included -

Lighting: Any lighting of the pod in question should be located, designed and directed [or screened] so that it does not [cause avoidable intrusion to adjacent residential properties/ constitute a traffic hazard/cause unnecessary light pollution outside the site boundary]. "Avoidable intrusion" means contrary to the Code of Practice for the Reduction of Light Pollution issued by the Institute of Lighting Engineers.

REASON - to protect the amenity of nearby residential

dwelling

5. Representations

5.1 Clacton is non parished.

5.2 1 letter of support has been received stating the following:

The Kingscliff is an asset to the area and should be encouraged. As for the pod I don't have a problem with it's look it appears to be a standard design as I've seen the same thing in a number of places, it's distinctive and modern which brings the area up to my mind many people are going for a more modern look with their homes you don't have to look too far to see them.

5.3 1 letter of objection has been received raising the following concerns:

- Number 45 Kings Parade did not receive a planning notification

In response to this concern, neighbouring properties are only notified if they share a common boundary with the application site. A site notice was also erected to notify neighbours.

- No planning notice has been displayed outside of the Kingscliff Hotel

A site notice was erected on 10th November 2021 on the lamppost along Kings Parade in front of the Kingscliff Hotel to notify neighbours of the proposed development which allows up to 21 days for representation to be submitted.

- Concerns that the pod is used for separate parties to the Kingscliff

It has been confirmed within an email dated 20th January 2022 from the planning agent that the pod will be used for dining purposes only which will be ancillary to the Kingscliff hotel only.

- Concerns in regards to the noise from the pod

This has been addressed within the report, however a condition will be imposed so that no music is allowed to be played within the pod.

- Concerns that there is no building control application and no fire regulations approval for the pod

The floor area of the dining pod is approximately 18.09 square metres which exceeds the 15 square metres outlined by building regulations and therefore it is likely that building regulations application is required. Regardless, this concern is not a material planning consideration, the onus is on the applicant to seek any necessary building control and fire regulations approval.

- Concerns that the pod is used for separate dining and alcohol with no license.

As stated above, the pod will be used ancillary to the Kingscliff Hotel. The current alcohol license for the Kingscliff Hotel covers the use of alcohol within the dining pod.

- Concerns that there is a covenant along the front of Kings Parade to restrict development

Covenants are separate from planning and therefore this is not a material planning consideration. If such a covenant does exist the applicant would need to take legal advice.

6. Site Assessment

Site Description

- 6.1 The application site refers to the Kingscliff Hotel located in Holland on Sea. The Kingscliff Hotel is located on a corner plot between Kings Parade and Kings Avenue. The application site is located within the settlement development boundary of Clacton on Sea.

Proposal

- 6.2 This application seeks planning permission for the retention of a dining pod.

Principle of Development

- 6.3 Policy PP8 of the Tendring District Local Plan 2013 – 2033 states that to attract visitors to the Tendring District and support economic growth in tourism, the Council will generally support proposals that would help to improve the tourism appeal of the District to visitors, subject to other relevant policies in the Local Plan. It is therefore considered that the principle of the dining pod which is ancillary to the Kingscliff Hotel is acceptable in this location subject to the detailed considerations below.

Design and Appearance

- 6.4 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. Policies SP1 and SPL 3 of the Tendring District Local Plan 2013-2033 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.
- 6.5 The dining pod is visible along Kings Parade. The pod is located to the south west of the Kingscliff Hotel with access through to the main dining area.
- 6.6 The proposal is single storey in nature and is constructed from clear polythene sheets over a timber frame. The pod can seat up to 8 people and has a width of 4.8 metres and a height of 3 metres.
- 6.7 Although visible to the street scene, it is set back from the highway and is in line with the existing band stand to the south of the dining pod. It is considered that the design and appearance is acceptable and would result in no material harm to visual amenity or the character of the surrounding area.

Impact upon Neighbouring amenities

- 6.8 Policy SP7 of the Tendring District Local Plan 2013-2033 requires that all new development protects the amenity of existing and future residents and users with regard to noise, vibration, smell, loss of light, overbearing and overlooking.
- 6.9 The application site is located within a predominantly residential area. The activity associated with use of the dining pod could cause harm to the living conditions of neighbouring properties, in particular from noise. There is obviously already the potential for noise from patrons using the hotel garden. The pod is located approximately 14 metres away from the boundary shared with number 49 Kings Parade.

6.10 Environmental Protection have stated that a lighting condition should be imposed to ensure that this does not adversely impact neighbouring properties. A condition is also recommended to ensure that no music is played within the dining pod particularly due to the thin nature of the polythene sheets. Subject to these conditions the proposal would result in no material harm to residential amenity.

7. Conclusion

7.1 The retention of the dining pod subject to the conditions relating to the lighting and the use of music is acceptable in this location in terms of visual amenity and residential amenity. .

8. Recommendation

8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informative's.

8.2 Conditions and Reasons

1 The development hereby permitted shall be carried out in accordance with the following approved plans:

- Drawing No. KH100 REV A

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

2 Any lighting within the dining pod shall be located, designed and directed/screened so that it does not cause Avoidable Intrusion to neighbouring properties.

Reason - To protect the amenity of nearby residential dwellings

3 No music of any kind shall be played within the dining pod at any time unless otherwise agreed in writing by the Local Planning Authority.

Reason – To protect the amenity of nearby residential dwellings.

4 The dining pod hereby approved shall not be occupied at any time other than for purposes ancillary to the Kingscliff Hotel, 55 Kings Parade, Holland on Sea.

Reason - The site is unsuitable for an independent tourism or restaurant use in this location.

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.

Informative in relation to Condition 2

"Avoidable intrusion" means contrary to the Code of Practice for the Reduction of Light Pollution issued by the Institute of Lighting Engineers.

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.
- 9.12 The New Homes Bonus (NHB) is one local finance consideration capable of being a material consideration to which the weight given shall be determined by the decision maker. The NHB is a payment to local authorities to match the Council Tax of net new dwellings built, paid by

Central Government over six consecutive years. In this instance, it is not considered to have any significant weight attached to it that would outweigh the other considerations.

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/>.