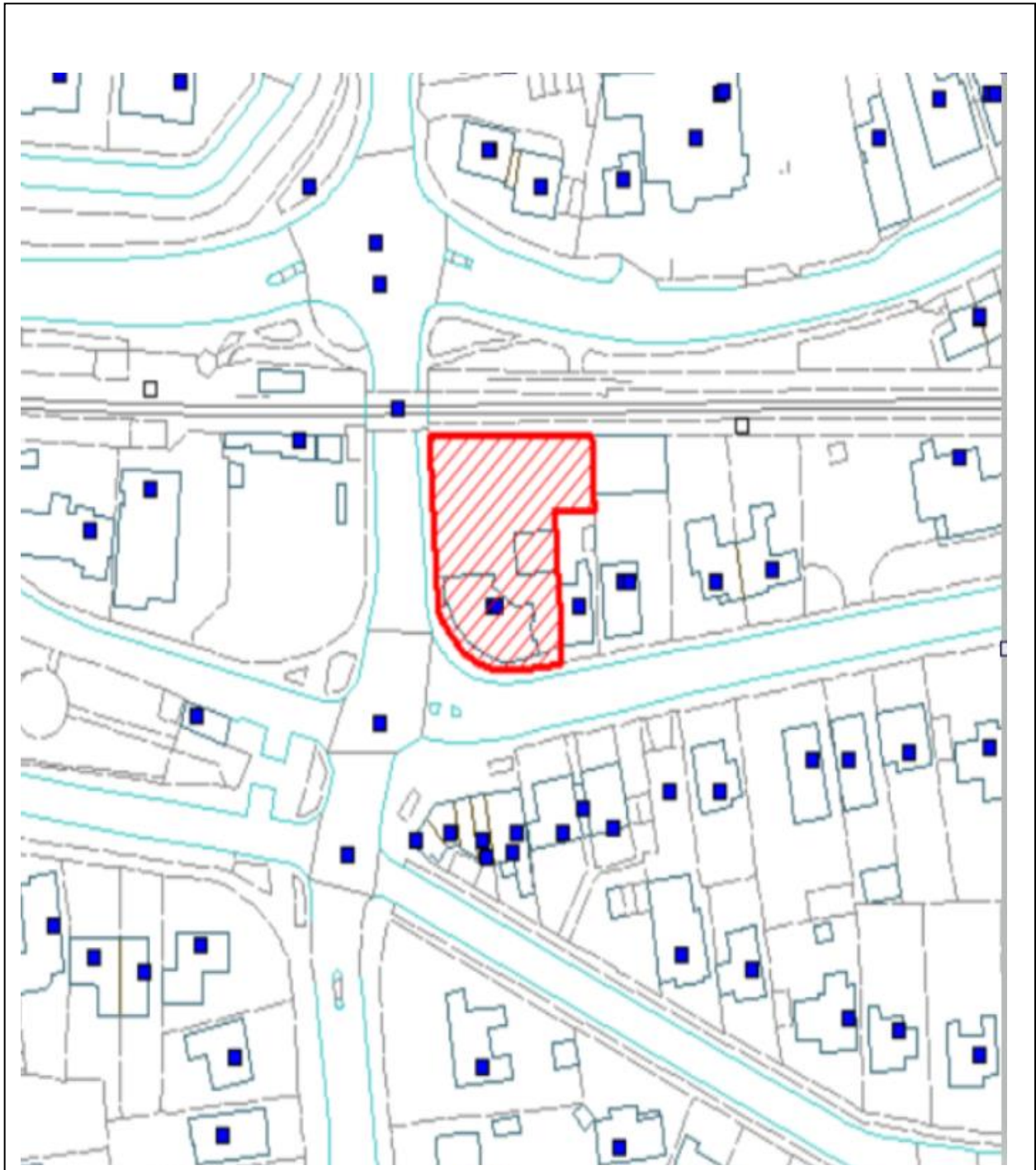


PLANNING COMMITTEE

12th April 2022

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.3 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 called in the application, in relation to the impact of the proposal on the Conservation Area.
- 1.2 This application was deferred at Planning Committee on the 18th January 2022, to enable amended plans to be provided by the applicant to Frinton and Walton Town Council for consideration to overcome their objection to the proposal. However, their request for a more symmetrical two-sloped design would be beyond the financial means of the applicant, it is also considered by Officers to increase the visual impact of the proposal. Therefore, as there appears no way forward, the applicant has requested that the application be considered (unamended) by the Planning Committee on its merits.
- 1.3 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 sits within the Frinton and Walton Conservation Area.
- 1.4 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 regarding the impact on the neighbouring residential properties and subject to conditions the proposal is considered acceptable.

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**

- 2.1 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 Section 1 (adopted January 2021)

SP7 Place Shaping Principles

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

SPL3 Sustainable Design

PPL8 Conservation Areas

Status of the Local Plan

2.2 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

91/00976/FUL	Change of use first floor flat to offices.	Approved	16.10.1991
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
Comments on original proposal

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
Comments on amended
proposal

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 Frinton & Walton Town Council: REFUSAL on the grounds that it does not enhance the area. The town council would like to see a design in keeping with area and building design, to include a further ramp on the other side, giving symmetry.
- 5.2 The application was deferred at Planning Committee on the 18th January 2022, to enable amended plans to be provided by the applicant to the Town Council. However, their request for a more symmetrical two-sloped design would be beyond the financial means of the applicant, it is also considered by Officers to increase the visual impact of the proposal. Therefore, as there appears no way forward, the applicant has requested that the application be considered (unamended) by the Planning Committee on its merits.
- 5.3 No other representations have been received.

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 attractive 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.
- 6.3 The application was originally submitted with handrails and brick facing. In response to concerns raised by ECC Heritage the handrails were removed, and the base was amended to reflect the stone plinth of the host building and to be surfaces with Chelsea setts.

Principle of Development

- 6.4 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. The site lies within the Frinton-on-Sea Settlement Development Boundary as established within the adopted local plan.
- 6.5 Policy SPL3 (Sustainable Design) of the Local Plan (section 2) seeks 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. It is noted that customers with mobility limitations currently are required to ring a bell outside of the shop to be served on the street, as they are unable to scale the existing steps.

Appearance

- 6.6 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. Adopted Policy SPL3 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.
- 6.7 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 and surrounding area.
- 6.8 The site can accommodate a proposal of this size and scale whilst ensuring that there would be negligible impact on the adjacent pathway. The design is also consistent and sympathetic to the existing host building materials.
- 6.9 The proposal will be located to the front of the building so would be visible from the streetscene, however the limited profile and sympathetic design are not deemed to have a materially negative impact on visual amenity.

Highway Safety/Parking

- 6.10 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 and non-designated heritage asset

- 6.11 Paragraph 202 of the NPPF states: Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset (the Frinton and Walton Conservation Area), this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 6.12 Paragraph 203 of the NPPF states: The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

- 6.13 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 and detailing of the 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 samples of materials.
- 6.14 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 SPL3 which 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 under 'Part M' (Access for Disabled People) of the Buildings Regulations) outweighs the minor impact on the significance of the building, and on the appearance of the Conservation Area.

Impact on Residential Amenity

- 6.13 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 SPL3 of the adopted 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'.
- 6.14 By virtue of 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 appearance 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 samples 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 within the Frinton and Walton Conservation Area.

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/>.