

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	NH	14/04/2022
Planning Development Manager authorisation:	AN	14/04/22
Admin checks / despatch completed	DB	14.04.2022
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	14.04.2022

**Application:** 21/01514/FUL **Town / Parish:** Clacton Non Parished

**Applicant:** Nalan Sasikaran

**Address:** Abbott House 17 Rosemary Road Clacton On Sea

**Development:** Proposed change of use from retail to dwelling.

### **1. Town / Parish Council**

Clacton on Sea is non parished.

### **2. Consultation Responses**

ECC Highways Dept  
01.10.2021

The information that was submitted in association with the application has been fully considered by the Highway Authority. Due to the recent COVID-19 restrictions no site visit was undertaken in conjunction with this planning application. The information submitted with the application has been thoroughly assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material, google earth image dated April 2019. Having regard to the fact that the previous business allocation could generate traffic associated with staff, customers and deliveries, and the existing parking restrictions limit the risk of inappropriate parking. The location is close to the town centre with good transport links and local amenities; considering these factors and the building's current use, the Highway Authority would not deem the introduction of the proposal at this location to have a severe impact.

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions:

1. Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to first occupation and retained at all times.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy DM8.

2. Prior to occupation of the proposed dwelling, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator free of charge.

Reason: In the interests of reducing the need to travel by car and

promoting sustainable development and transport in accordance with policies DM9 and DM10.

3. Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the highway.

Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety in accordance with policy DM1.

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative:

1: In main urban areas with frequent and extensive public transport, cycling and walking links, the EPOA Parking Standards recommend that a reduced parking standard provision may be applied to residential developments. A reduced parking standard provision level can be applied to this proposal as it is located very close to regular public transport services and public car parking facilities.

2: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to:

SMO1 - Development Management Team  
Ardleigh Depot,  
Harwich Road,  
Ardleigh,  
Colchester, CO7 7LT

3: The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

Essex County Council  
Heritage  
11.04.2022

Built Heritage Advice pertaining to an application for: Proposed change of use from retail to dwelling.

There is no objection to the application which reinstates the shop front. Conditions should be attached requiring details of windows, doors and paint.

It should be noted that the glass at ground floor should remain clear (not misted) as not to detract from the character and appearance of the Conservation Area.

### 3. Planning History

96/00266/FUL	Change of use from shop and residential to shop at ground floor level and advice centre at first floor level	Approved	10.04.1996
06/00556/FUL	Single storey rear extension and new shop front.	Refused	23.05.2006
06/01013/FUL	Single storey rear extension and new shop front.	Approved	08.08.2006
21/01514/FUL	Proposed change of use from retail to dwelling.	Current	

### 4. Relevant Policies / Government Guidance

#### **NPPF 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)*

- SP1 Presumption in Favour of Sustainable Development
- SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
- SP3 Spatial Strategy for North Essex
- SP4 Meeting Housing Needs
- SP7 Place Shaping Principles

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

- SPL1 Managing Growth
- SPL2 Settlement Development Boundaries
- SPL3 Sustainable Design
- HP5 Open Space, Sports & Recreation Facilities
- LP3 Housing Density and Standards
- LP4 Housing Layout
- PPL4 Biodiversity and Geodiversity
- PPL8 Conservation Areas
- CP1 Sustainable Transport and Accessibility

## **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.

In relation to housing supply:

The Framework requires Councils boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, to account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible or if housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, Paragraph 11 d) of the Framework requires granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole (what is often termed the 'tilted balance').

The Local Plan fixes the Council's housing requirement at 550 dwellings per annum. On 19 October 2021 the Council's Strategic Housing Land Availability Assessment (SHLAA) updated the housing land supply position. The SHLAA demonstrates in excess of a six-and-a-half-year supply of deliverable housing land. On 14 January 2022 the Government published the Housing Delivery Test (HDT) 2021 measurement. Against a requirement for 1420 homes for 2018-2021, the total number of homes delivered was 2345. The Council's HDT 2021 measurement was therefore 165%. As a result, the 'tilted balance' at paragraph 11 d) of the Framework does not apply to applications for housing.

## **5. Officer Appraisal (including Site Description and Proposal)**

### **Site Description**

The application relates to number 17 Rosemary Road, Clacton on sea. The application site is currently a vacant retail use. The application site is located within the settlement boundary of Clacton and within the Conservation Area.

### **Proposal**

This application seeks planning permission for the proposed change of use from retail to a dwelling.

### **Assessment**

The main considerations for this are:

- Principle of Development
- Design and Appearance (including Heritage Impact)
- Loss of Employment Use
- Highway Consideration and Parking provision
- Financial Contributions - Open Space
- Financial Contributions - Habitat Regulations Assessment
- Representations

## 1. Principle of Development

The site therefore lies within the Settlement Development Boundary of Clacton on Sea as defined within the 2013-2033 Local Plan. The principle of residential development on the site is therefore acceptable subject to the relevant detailed considerations set out below.

## 2. Design and Appearance (including Heritage Impact)

Adopted Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design which responds positively to local character and context. Policies SPL3 and LP4 of Section 2 of the 2013-33 Local Plan also require, amongst other things, that developments deliver new dwellings that are designed to high standards and which, together with a well-considered site layout, create a unique sense of place. Paragraph 130 of the Framework requires that developments are visually attractive as a result of good architecture, are sympathetic to local character, and establish or maintain a strong sense of place. Furthermore, Policy PPL3 of Section 2 of the Tendring District Local Plan 2013-2033 and Beyond seek to ensure that development is appropriate in its locality and does not harm the appearance of the landscape.

Paragraph 202 of the National Planning Policy Framework (NPPF) states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. Paragraph 206 of the National Planning Policy Framework confirms that local planning authorities should look for opportunities for new development within Conservation Areas...and within the setting of heritage assets, to enhance or better reveal their significance.

Policy PPL8 of the Tendring District Local Plan 2013-2033 states that development within a Conservation Area must preserve or enhance the special character or appearance of the Conservation Area.

The proposed change of use will be mainly internal changes however this application seeks changes to the external windows and door to the ground floor flat which are considered acceptable. In terms of private amenity space, there is a communal garden to the rear of the property which will provide sufficient amenity space for both the ground floor and first floor flat.

As the application site is located within the Conservation Area, Place Services Historic Environment team have been consulted on this application. The team originally were not unopposed to the principle of the change of use however they were unable to support the proposed method due to the loss of the design, detailing and loss of character. Amended plans were provided and there were concerns raised in regards to the fascia boards and the design and detailing. After conversations with officers, amended plans were provided and the team were re-consulted. The team have no objections subject to conditions relating to windows, doors and paint. However sections have been provided to address this condition. A condition will be imposed to ensure that the glass at ground floor should remain clear (not misted) as to not detract from the character and appearance of the Conservation Area.

The proposed change of use is considered to preserve the special character and appearance of the Conservation Area.

## 3. Loss of Employment Use

Marketing information has been submitted as part of this application and states that the property was advertised as a commercial property with Stoneridge Estates throughout 2019 and was sold in December 2019. There were a number of people interested in the commercial property however people had a number of issues with trying to get finance and change of use on the property. It has been confirmed by the estate agents that the property was marketed on Rightmove and Zoopla and sales letters were sent out. The property was advertised at £140,000 which is a comparable price in this location. The Council is satisfied that the property was marketed sufficiently.

#### 4. Highway Consideration and Parking provision

Paragraph 108 of the National Planning Policy Framework 2019 seeks to ensure that safe and suitable access to a development site can be achieved for all users. Policy SPL3 Part B of Section 2 of the Tendring District Local Plan 2013-2033 and Beyond seeks to ensure that access to a new development site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and provision is made for adequate vehicle and cycle parking.

Furthermore, Policy PPL10 of the Local Plan states that proposals for new development should consider the potential for renewable energy generation, appropriate to the site and its location, and should include renewable energy installations, or be designed to facilitate the retro-fitting of renewable energy installations.

The EPOA Parking Standards 2009 require that for dwellings with 2 or more bedrooms, a minimum of 2 parking spaces is required. Parking spaces should measure 5.5 metres by 2.9 metres and garages, if being relied on to provide a parking space, should measure 7 metres by 3 metres internally. The proposed plan shows a garage and parking bays.

Essex Highway Authority have been consulted on this application and have stated that having regard to the fact that the previous business allocation could generate traffic associated with staff, customers and deliveries, and the existing parking restrictions limit the risk of inappropriate parking. The location is close to the town centre with good transport links and local amenities; considering these factors and the building's current use, the Highway Authority would not deem the introduction of the proposal at this location to have a severe impact. The Highway Authority therefore have no objection subject to conditions relating to cycle parking, residential travel information pack and storage of building materials. The residential travel information pack condition will not be imposed as this relates to minor development only. The storage of building materials will be imposed as an informative only.

It is also considered that due to the sustainable location of the application which is in close proximity to Clacton on Sea train station, as well, as bus stops and a taxi rank and car parks within the vicinity, it is considered that the parking arrangements are acceptable.

#### 5. Impact upon Neighbouring Amenities

The NPPF, at paragraph 130 states that development should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. Adopted 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.

The introduction of residential to the ground floor will not cause any impact upon neighbouring amenities.

#### 6. Financial Contributions - Open Space

The Council's Open Spaces Strategy (2017) identifies the nature of any existing surpluses and deficiencies and provides size and quality standards for the provision of future open spaces and green infrastructure in the District. This is reflected in the Policies HP3, HP4 and HP5 of the 2013-2033 Local Plan. Specifically, Policy HP 5 states that, where new development would be better served by existing open space within an accessible distance, a financial contribution in lieu of on-site provision will be sought towards any necessary improvement or expansion of existing facilities.

The Open Space team have been consulted as part of this application and have stated that there is currently a deficit of 41.08 hectares of play in the Clacton/Holland area. Although there is a deficit of play space in Clacton/Holland, it is not felt that this development would impact the current deficit. Therefore no contribution is being requested on this occasion.

## 7. Financial Contributions - Habitat Regulations Assessment

Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation. The contribution is secured by unilateral undertaking.

This residential development lies within the Zone of Influence. The site is not within or directly adjacent to one of the European designated sites, but is sited approximately 3.6km away from Essex Estuaries SAC. In accordance with Natural England's advice there is no requirement to consult them due to the specified mitigation. New housing development within the ZOI would be likely to increase the number of recreational visitors to the Essex Estuaries, and in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.

A completed unilateral undertaking has been provided to secure this legal obligation and to ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with policies Policy PPL4 of the Tendring District Local Plan 2013-2033 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

## 8. Representations

Clacton is non parished.

No letters 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:

- Drawing No. P01e
- Drawing No. P03

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

- 3 Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to first occupation and retained at all times.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity

- 4 The ground floor windows and doors fronting Rosemary Road shall be clear glazed prior to occupation and retained as such thereafter.

Reason – To preserve the character and appearance of the Conservation Area.

## 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.

### Highways

All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to:

SMO1 - Development Management Team  
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Colchester, CO7 7LT

3: The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

### Legal Agreement Informative - Recreational Impact Mitigation

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: mitigation against any recreational impact from residential developments in accordance with Regulation 63 of the Conservation of Habitat and Species Regulations 2017. Please note that any subsequent variation / removal of condition applications (s73 applications) will require a new legal agreement to secure this obligation unless the development has commenced (subject to all necessary condition discharges) and the contribution has already been paid.

<b>Are there any letters to be sent to applicant / agent with the decision? If so please specify:</b>	YES	NO
<b>Are there any third parties to be informed of the decision? If so, please specify:</b>	YES	NO