

04/00056/FUL	Division of shop to form two units, rear extension and conservatory	Approved	05.03.2004
04/00704/FUL	Change of use to restaurant and take away.	Refused	14.07.2004
04/01443/FUL	Take away and restaurant opening hours 8 am to 8.30 pm	Refused	17.09.2004
04/01917/FUL	Hot food take-away with associated parking	Refused	26.11.2004
06/00867/FUL	First floor extension & alterations conversion to form three flats.	Approved	11.07.2006
06/01358/FUL	Change of use to Class A5 (Take-away) from residential use with new shopfront and extract flue.	Refused	27.09.2006
07/00179/FUL	Variation of 06/00867/FUL to form Class A5 retail outlet to ground floor		05.11.2007
09/00275/FUL	First floor extension and alterations - conversion to two apartments (Variation to approval 06/00867/FUL, as constructed).	Approved	15.06.2009
09/00762/FUL	Details of extraction flue	Approved	06.11.2009
09/00795/FUL	Variations to approval 06/00867/FUL and 09/00275/FUL - first floor extension and alterations, conversion to two apartments, as constructed.	Approved	09.11.2009
22/00153/FUL	Proposed replacement of window panel, frames and 2 doors. Windows to be replaced with aluminium Bi-Fold doors. Two doors to be replaced with matching doors and frames.	Current	
22/00174/FUL	Proposed relocation and replacement of the existing ducting and fan.	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

SP3 Spatial Strategy for North Essex

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

PP6 Employment Sites

CP1 Sustainable Transport and Accessibility

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

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.

5. Officer Appraisal

Site Description

Holland Road is a classified road (B1032) linking Clacton's town centre with Holland-on-sea. The application site is situated on the eastern side of Holland Road on a corner site at the junction with Gainsford Road, Eastcliff Avenue and Holland Park. The ground floor Holland Road frontage serves as a Fish & Chip shop with serving/seating area and associated prep-kitchen and storage area to the rear. The ground floor Gainsford Avenue frontage is a residential flat and there are two further flats at first floor – approved in 2006.

The existing extraction and ducting system is sited adjacent to the flat roof projections to the east elevation, approximately 9.7m from the flank wall of Nos. 1 & 2 Gainsford Road. The system has been in place for well over 20 years no longer meets to the current standards and is having a negative environmental impact. Despite having been recently cleaned the company advised the existing extraction and ducting is rusting and coming apart and no longer fit for purpose.

Description

The application proposes resiting the extract/ducting system from the east elevation to the south elevation (Gainsford Road). The flue currently extends around 2.1m above the eaves; the replacement flue would be lower at 1.4m above the eaves.

Assessment

The main planning considerations are:

- Principle of Development;
- Layout, Scale and Appearance;
- Neighbouring Amenities;
- Highway Considerations;
- Representations

Principle of Development

Within Settlement Boundary

The site is located within the Development Boundary of Clacton, therefore there is no principle objection to the proposal, subject to the detailed considerations discussed below.

Layout, Scale and Appearance

Section 1 Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design which responds positively to local character and context. Section 2 Policy SPL3 of the 2013-33 Local Plan also requires, amongst other things, that the development respects or enhances local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features.

Despite the existing ducting being located at the rear of the premises; the premises is at the junction of two meeting roads and for this reason the rear elevation is highly visible in the public domain.

The Gainsford Road elevation contains a number of fittings to the wall including a very large prominent mounting for a television aerial, downpipes and meter cabinets. Whilst the flue will be visible, this doesn't automatically make it harmful. The flue is considerably smaller in height than the existing; it would also run up the face of the wall rather than upwards in to open space. The existing flue is visually harmful as a consequence of it being at the end of its useful life. For these reasons the development is considered to have a neutral impact on the host building and wider streetscene in general.

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. Section 1 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 existing flue is sited adjacent the return of a rear wall – the rooms internally are a bathroom, toilet and bedroom; and approximately 9.7m from the flank wall of Nos. 1 & 2 Gainsford Road. The relocated flue would be sited in-between two of the bedrooms serving the first floor flats; for these reasons it is considered that the new location does not materially affect the residential amenity with regards to noise or smell when compared to the existing location.

Highway Considerations

Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety. Paragraph 112 states that applications for development should (a) give priority first to pedestrian and cycle movements and (c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter. Paragraph 130 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. These objectives are supported adopted Policy SP7 of the Tendring District Local Plan 2013-2033.

The proposed development neither increases nor decreases what (limited) parking provision the premises has to offer.

Representations:-

No letters have been received in response to the publicity of this application.

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:- 02, 03, 04 and the DEFRA Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems (2005) (guidelines); received 4th March 2022.

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

- 3 The noise from the cooking extraction equipment, air conditioning units and any other equipment e.g. condensers must not be audible at the boundary of the nearest noise sensitive premises.

Reason - To control the noise emitted from the site in the interests of residential amenity.

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.

Environmental Protection:-

The noise from the cooking extraction equipment, air conditioning units and any other equipment e.g. condensers must not be audible at the boundary of the nearest noise sensitive premises.

If the noise from the cooking extraction equipment, air conditioning units and any other equipment is audible at the boundary of the nearest noise sensitive premises, then an assessment shall be made in accordance with the current version of British Standard 4142. The noise levels shall be determined at all boundaries near to noise-sensitive premises. Confirmation of the findings of the assessment shall be provided in writing to the local planning authority for written approval. All subsequent conditions shall comply with this standard.

Are there any letters to be sent to applicant / agent with the decision?		NO
Are there any third parties to be informed of the decision?		NO