

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	MP	12/05/22
Planning Development Manager authorisation:	JJ	11/05/2022
Admin checks / despatch completed	ER	11/05/2022
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	11.05.2022

**Application:** 22/00643/DEMCON                      **Town / Parish:** Clacton Non Parished

**Applicant:** Mr Daniel Mills - Tendring District Council

**Address:** Low Tide Cafe 26 - 27 Tamarisk Way Jaywick

**Development:** Demolition of cafe and unsuitable bungalow.

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

Clacton – non-parished

### **2. Consultation Responses**

Environmental Protection      Construction and Demolition

In order to minimise potential nuisance caused by demolition/construction works/Ground Works, Environmental Protection recommend that the following below is conditioned;

- No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Mondays to Saturdays (finishing at 13:00 on Saturdays) with no working of any kind permitted on Sundays or any Public/Bank Holiday whilst construction works and alterations are being carried out.

- No materials produced as a result of the site development or clearance shall be burned on site.

- All reasonable steps, including damping down site roads, shall be taken to minimise dust and litter emissions from the site whilst works of construction and demolition are in progress.

Adherence to the above condition will significantly reduce the likelihood of public complaint and potential enforcement action by Pollution and Environmental Control. The condition gives the best practice for Demolition and Construction sites. Failure to follow them may result in enforcement action under nuisance legislation (Environmental Protection Act 1990), or the imposition of controls on working hours (Control of Pollution Act 1974).

Asbestos

If there is any asbestos present in the current building or site then adequate and suitable measures should be carried out for the minimisation of asbestos fibres during demolition, so as to prevent

airborne fibres from affecting workers carrying out the work, and nearby properties. Only contractors licensed by the Health and Safety Executive should be employed. Any redundant materials removed from the site should be transported by a registered waste carrier and disposed of at an appropriate legal tipping site.

### **3. Planning History**

08/00436/FUL	Continuation of use of former retail shop as cafe.	Approved	22.05.2008
22/00461/DEMCO N	Demolition of cafe and unsuitable bungalow.	Withdrawn	12.04.2022

### **4. Relevant Legislation**

Schedule 2, Part 11, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015.

No planning policies or other Government guidance are relevant to this application

#### **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**

#### **Proposal**

This application seeks the demolition of the former Low Tide Café sited, located on the corner of Tamarisk Way and Sea Way, and the demolition of the adjacent bungalow located directly to the north.

#### Permitted Development/Prior Notification

Permitted development; any building operation consisting of the demolition of a building.

B.1 Development is not permitted by Schedule 2, Part 11, Class B if -

(a) the building has been rendered unsafe or otherwise uninhabitable by the action or inaction of any person having an interest in the land on which the building stands and it is practicable to secure safety or health by works of repair or works for affording temporary support;

*The building has not been rendered unsafe or otherwise uninhabitable by the action or inaction of any person having an interest in the land on which the building stands and it is practicable to secure safety or health by works of repair or works for affording temporary support. The proposal complies.*

(b) the demolition is "relevant demolition" for the purposes of section 196D of the Act (demolition of an unlisted etc building in a conservation area)(a); or

*The demolition is not "relevant demolition" for the purposes of section 196D of the Act (demolition of an unlisted etc building in a conservation area)(a). The proposal complies.*

(c) the building is used, or was last used, for a purpose falling within Class A4 (drinking establishments) of the Schedule to the Use Classes Order, including a purpose as described in Class AA (drinking establishments with expanded food provision) of Part 3 of Schedule 2 to this Order.

*The building was not last used as a drinking establishment/establishment with expanded food provision. The proposal complies.*

(d) the building is used, or was last used, for the purpose of—

- (i) a concert hall;
- (ii) a venue for live music performance; or
- (iii) a theatre

*The building was not last used for any of the above-mentioned uses. The proposal complies.*

(e) the demolition relates to a statue, memorial or monument ("a commemorative structure") in place for a period of at least 10 years on the date of any proposed demolition, other than a commemorative structure—

- (i) that is a listed building;
- (ii) that is a scheduled monument;
- (iii) within a cemetery, on consecrated land, or within the curtilage of a place of public worship;
- (iv) within the grounds of a museum or art gallery; or
- (v) within the curtilage of a dwellinghouse

*The demolition does not relate to a statue, memorial or monument. The proposal complies.*

#### Conditions

B.2 Development is permitted by Class B subject to the following conditions -

(a) where demolition is urgently necessary in the interests of safety or health and the measures immediately necessary in such interests are the demolition of the building the developer must, as soon as reasonably practicable, give the local planning authority a written justification of the demolition;

*Demolition is not urgently necessary in the interests of safety or health and the measures immediately necessary in such interests are the demolition of the building the developer must, as soon as reasonably practicable, give the local planning authority a written justification of the demolition. This condition is discharged.*

(b) where the demolition does not fall within paragraph (a) and is not excluded demolition -

(i) the developer must, before beginning the development, apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the method of demolition and any proposed restoration of the site

*The development does not fall within paragraph (a) and is not excluded demolition. Before beginning the development the developer has applied to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the method of demolition and any proposed restoration of the site.*

(ii) an application described in paragraph (b)(i) must be accompanied by a written description of the proposed development, a statement that a notice has been posted in accordance with paragraph (b)(iv) and any fee required to be paid

*An application described in paragraph (b)(i) is accompanied by a written description of the proposed development, a statement that a notice has been posted in accordance with paragraph (b)(iv) and the fee required to be paid). The developer has discharged this condition.*

(iii) omitted under UK Statutory Instruments 2015 No. 596.

(iv) subject to paragraph (b)(v), the applicant must display a site notice by site display on or near the land on which the building to be demolished is sited and must leave the notice in place for not less than 21 days in the period of 28 days beginning with the date on which the application was submitted to the local planning authority;

*The site notice was displayed on 19th April 2022; the notice has been left in place for not less than 21 days in the period of 28 days beginning with the date on which the application was submitted to the local planning authority. The developer has discharged this condition.*

(v) where the site notice is, without any fault or intention of the applicant, removed, obscured or defaced before the period of 21 days referred to in paragraph (b)(iv) has elapsed, the applicant is treated as having complied with the requirements of that paragraph if the applicant has taken reasonable steps for protection of the notice and, if need be, its replacement;

*Not applicable.*

(vi) omitted under UK Statutory Instruments 2015 No. 596.

(vii) the development must not begin before the occurrence of one of the following -

(aa) the receipt by the applicant from the local planning authority of a written notice of their determination that such prior approval is not required;

(bb) where the local planning authority give the applicant notice within 28 days following the date of receiving the application of their determination that such prior approval is required, the giving of such approval; or

(cc) the expiry of 28 days following the date on which the application was received by the local planning authority without the local planning authority making any determination as to whether such approval is required or notifying the applicant of their determination;

*The development must not begin before the occurrence of the receipt by the applicant from the local planning authority of a written notice of their determination that such prior approval is not required. It is the developer's responsibility to abide with this condition.*

(viii) the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out -

(aa) where prior approval is required, in accordance with the details approved;

(bb) where prior approval is not required, in accordance with the details submitted with the application;

*The development must be carried out in accordance with the details submitted with the application. It is the developer's responsibility to abide with this condition.*

(ix) the development must be carried out -

(aa) where approval has been given by the local planning authority, within a period of 5 years from the date on which approval was given;

(bb) in any other case, within a period of 5 years from the date on which the local planning authority were given the information referred to in paragraph (b)(ii); and

*The development must be carried out where approval has been given by the local planning authority, within a period of 5 years from the date on which approval was given. It is the developer's responsibility to abide with this condition.*

(x) omitted under UK Statutory Instruments 2015 No. 596.

## **6. Recommendation**

Prior Approval not required.

## **7. Reason**

- 1 The demolition of the building complies with the requirements of Schedule 2, Part 11, Class B of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and the prior approval of the Local Planning Authority is not required.
- 2 Given the proximity of sensitive receptors it is considered reasonable to restrict the hours of demolition and to minimise dust pollution. In order to minimise potential nuisance to nearby existing residents caused by construction and demolition works, the following should be considered:-
  - No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holidays.
  - No materials produced as a result of the site clearance shall be burned on site.
  - All reasonable steps, including damping down site roads, shall be taken to minimise dust and litter emissions from the site whilst works of demolition are in progress.
- 3 If there is any asbestos present in the current building or site then adequate and suitable measures should be carried out for the minimisation of asbestos fibres during demolition, so as to prevent airborne fibres from affecting workers carrying out the work, and nearby properties. Only contractors licensed by the Health and Safety Executive should be employed. Any redundant materials removed from the site should be transported by a registered waste carrier and disposed of at an appropriate legal tipping site.

**8. Informatives**

N/A