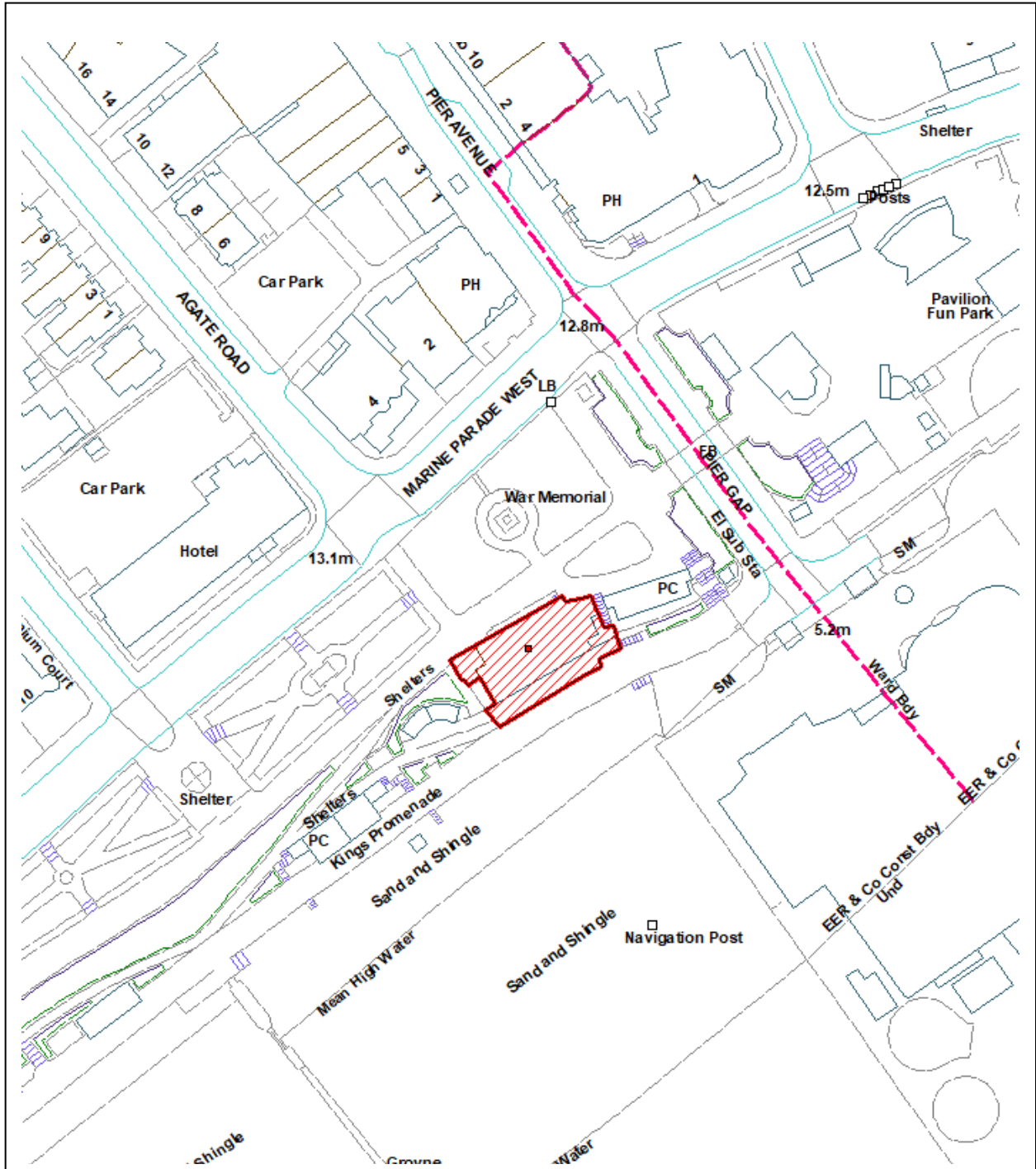


PLANNING COMMITTEE

17<sup>TH</sup> JANUARY 2023

REPORT OF THE DIRECTOR FOR PLANNING

**A.2 PLANNING APPLICATION – 22/01843/FUL – ATLANTA BUILDING KINGS  
PROMENADE CLACTON ON SEA CO15 1FS**



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**Application:** 22/01843/FUL

**Town / Parish:** Clacton Non Parished

**Case Officer:** Charlotte Cooper

**Applicant:** Mr Jon Birtles - Loungers UK Limited

**Address:** Atlanta Building Kings Promenade Clacton On Sea Essex CO15 1FS

**Development:** Proposed new shop front and external seating area to be used in connection with a lounge cafe.

## 1. **Executive Summary**

- 1.1 This application is before members as the land is owned by Tendring District Council.
- 1.2 This application seeks a new shopfront and creation of an external seating area at the Atlanta Building, Kings Promenade, Clacton on Sea. These changes will enable the building to operate as a lounge cafe
- 1.3 The existing Atlanta building is occupied by various kiosks and cafes, planning permission is not required for the change of use as all uses are within Class E.
- 1.4 The proposal is considered to be of an acceptable design and appearance, in keeping with the locality.

**Recommendation:** Approval

That the Planning Manager be authorised to grant planning permission subject to the conditions as stated at paragraph 8.2, or varied as is necessary to ensure the wording is enforceable, precise and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained.

## 2. **Planning Policy**

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

National:

National Planning Policy Framework July 2021 (NPPF)

National Planning Practice Guidance (NPPG)

Local:

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)

SPL3 Sustainable Design

PPL8 Conservation Areas

Local Planning Guidance

Essex Design Guide

### **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**

14/30098/PREAPP	Use of part of the Atlanta building as an exhibition space.		03.03.2014
22/00856/FUL	Proposed installation of extraction system.	Approved	04.08.2022
22/01829/ADV	Consent to display 3no. illuminated fascia signs and 1no. illuminated menu board.	Current	
22/01843/FUL	Proposed new shop front and external seating area to be used in connection with a lounge cafe.	Current	

### **4. Consultations**

ECC Highways Dept  
05.12.2022

Having considered the information submitted with the planning application the Highway Authority has no comments to make on this proposal.

Informative

Arrangement shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.

All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to 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)

Essex County  
Council  
Heritage  
14.12.2022

The application is for proposed new shop front and external seating area to be used in connection with a lounge cafe.

The proposal site is a 1950s building within the Clacton Seafront Conservation Area and adjoining Grade II Listed Clacton-on-Sea War Memorial and Clacton Seafront Park and Garden, a Grade II Listed registered park. The building is also in a prominent position within the Pier Gap, facing Clacton Pier and the seafront. The Pier is the central focus for this area, with the Pier Gap connecting the beach with the settlement behind. It is a prominent feature within the Conservation Area, clearly visible from the Clacton Seafront Park and Garden, and it makes a positive contribution to the understanding of the development of Clacton-on-Sea.

The west of the Pier Gap, where Atlanta building is located, comprises a series of formal gardens connected by a walkway and unified by high quality street furniture, planting, and pavilions. This public realm is also a key contributor to the character of the Conservation Area and enhances our understanding of its historic development and the significance of the seafront.

The proposed works to the main elevation of Atlanta Building are generally considered to preserve or enhance the character or appearance of the Conservation Area, as per Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Paragraphs 206 and 197c of the NPPF.

There are some concerns about the installation of a new railing to mark the new external seating area. A railing would represent a permanent feature which would not be considered in keeping with the open and public character of the West Promenade (Paragraphs 197c and 206 of the NPPF are relevant here). I advise that only planters are retained as a boundary to the proposed external seating area.

If alterations are made to the proposals and the ground floor railing removed, then there would be no objection to this application.

## **5. Representations**

5.1 None Received.

## **6. Assessment**

### **Site Context**

- 6.1 The application site is 'Atlanta Building', a two storey building located along the southern edge of Kings Promenade, within Clacton-on-Sea. The site is located within the Town Centre Boundary and is identified as a priority area of regeneration.
- 6.2 The site is also located within the Clacton Seafront Conservation Area.
- 6.3 The character of the surrounding area is urbanised to the north, with significant levels of residential and commercial development. Clacton seafront is located immediately to the south with Clacton Pier towards the east.

### **Description of Proposal**

- 6.4 The proposals are to;

- i. Provide a new shop front
- ii. Creation of external seating area

- 6.5 The shopfront would be powder coated aluminium fully glazed with bifold doors along part of the shopfront provided access to the external timber decked area at ground floor level. The external seating area would be defined by low level planters and black metal railings.
- 6.6 The proposal is considered to be of an acceptable design and appearance, in keeping with the locality. It is not thought to have any significant harmful impacts on the visual amenities of the area.

#### Heritage Impact

- 6.7 As the proposal is located within the Clacton Seafront Conservation Area, Essex county Council's heritage department, Place Services and raise a concern on one issue. This being the new external railing to mark the new external seating area at ground floor. A railing would represent a permanent feature which would not be considered in keeping with the open and public character of the West Promenade (Paragraphs 197c and 206 of the NPPF are relevant here).
- 6.8 The surrounding area is largely characterised by buildings of a similar use and design. Railings appear prominently within the area, including on the existing host site and site directly opposite the application site. The railings therefore cannot be said to be out of character with the existing Conservation Area in this regard, but do change the immediate character of the area. In this case the external seat area to ensure a flat surface for seating will in part be raised and a form of enclosure is required to avoid customers falling. The enclosure provides a degree of enclosure and security as well as protection that improves the use of the building and is considered to contribute to a viable economic use and function that represents a public benefit. Therefore while harm is slight, public benefit is considered to outweigh this harm. In the planning balance it is also considered that permitted development could allow a form of enclosure (be it a little lower in height) with permission.
- 6.9 The proposed development is considered to have minimal effects in comparison to the existing building in terms of its impacts on the Conservation Area and is therefore considered acceptable.

#### 6.10 Impact on Residential Amenities

- 6.11 The proposal is not located immediately adjacent to residential properties and is therefore not considered to have any significant harmful impacts on residential / neighbouring amenities.

#### 6.12 Other Considerations

- 6.13 The proposal has no impact on the parking provisions / requirements at the site. It is acceptable in terms of highway safety. Essex County council Highways have submitted no objections to the application.
- 6.14 No letters of representation have been received.

### **7. Conclusion**

- 7.1 It is considered that the proposed development is consistent with the National and Local Plan Policies identified above and the application is recommended 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 drawings / documents, and / or such other drawings / documents as may be approved by the Local Planning Authority in writing pursuant to other conditions of this permission or such drawings / documents as may be subsequently approved in writing by the Local Planning Authority as a non-material amendment following an application in that regard:

Drawing No. LNG4605.03 A  
Drawing No. LNG4605.04 A  
Drawing No. LNG4605.07 C  
Design and Access Statement

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

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.
- 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/>.