

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Case Officer recommendation:	MP	26/01/23
Planning Manager / Team Leader authorisation:	SCE	31.01.2023
Planning Technician final checks and despatch:	ER	01/02/23

Application: 22/01892/FUL **Town / Parish:** Clacton Non Parished

Applicant: S. Sumner

Address: 22 - 24 Harold Road Clacton On Sea Essex

Development: Proposed change of use of the whole property from Care Home (C2) to residential (C3) in the form of four new flats (3x3 bedroom flats, and 1x1 bedroom flat) including bin and bike stores and amenity spaces.

1. Town / Parish Council

Clacton – Non-Parished.

2. Consultation Responses

ECC Highways Dept
13.12.2022

The information that was submitted in association with the application has been fully considered by the Highway Authority. 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

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

1. The vehicular access shall be widened and constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway as shown on submitted drawing no. AWA/1116/01 and shall be provided with an appropriate dropped kerb vehicular crossing of the footway.

Reason: to ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

2. Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres. A buffer of at least 1 metre should be provided between the parking spaces and the footway to allow for pedestrian visibility.

Reason: To ensure adequate space for parking off the highway is provided and to provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

3. Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack per dwelling, for sustainable transport, approved by Essex County Council.

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 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011

Informative:

1: 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

2: 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.

Environmental Protection
06.12.2022

With reference to the above application, I can advise I have reviewed the proposal, and the EP Team have no adverse comments to make. However, should the application be approved, we would request the following is adhered to:

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

- o 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.

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

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).

REASON: to protect the amenity of nearby residential premises.
Response from Public Realm

Open Space & Play

Application Details

Application No: 22/01892/FUL

Site Address: 22 - 24 Harold Road Clacton On Sea Essex CO15 6AJ

Description of Development: Proposed change of use of the whole property from Care Home (C2) to residential (C3) in the form of four new flats (3x3 bedroom flats, and 1x1 bedroom flat) including bin and bike stores and amenity spaces.

Current Position

There is currently a deficit of 41.08 hectares of play in the Clacton/Holland area.

Recommendation

Due to the close proximity to the Seafront Gardens and will likely see the biggest impact from the development, a contribution towards the improvements and ancillary items is justified and relevant to this application.

3. Planning History

TRE/98/78	T.1 reduce and T.2 - Ash fell	Current	11.12.1998
91/00805/FUL	Single storey rear extension to form additional bedrooms(resubmission of application reference No. TEN/91/0378)	Approved	15.10.1991
91/00378/FUL	Rear extension to form additional bedrooms, laundry room, office, bathroom, lift, all with nurse accommodation over.	Refused	11.06.1991
22/00528/FUL	Proposed change of use from care home (C2) to residential (C3) to create seven new flats, including a bin and bike store and amenity space.	Withdrawn	09.05.2022

4. Relevant Policies / Government Guidance

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)

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

DI1 Infrastructure Delivery and Impact Mitigation

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

LP10 Care, Independent Assisted Living

PPL5 Water Conservation, Drainage and Sewerage

PPL10 Renewable Energy Generation

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.

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

Site Description

The application site is 22-24 Harold Road, which lies to the northern edge of Harold Road within Clacton-on-Sea. The site is currently a large two storey detached property serving as a former care home, and is located within the Settlement Development Boundary for Clacton-on-Sea within the adopted Local Plan 2013-2033.

The character of the surrounding area is heavily urbanised. The immediate character predominantly consists of residential properties, with sporadic commercial properties to all sides. The Clacton Town Centre is sited approximately 450 metres to the west, and the Clacton Train Station is approximately 430 metres to the north-west.

Description of Proposal

This application seeks planning permission for the change of the property from its existing use as a Care Home (Use Class C2) to residential use in the form of four flats (Use Class C3). Three flats are to be served by three bedrooms, with the fourth flat to be served by one bedroom.

Assessment

1. Principle of development

The application site falls within the settlement development boundary for Clacton-on-Sea within the Adopted Local Plan. Adopted Policy SPL2 states that within the Settlement Development Boundaries, there will be a general presumption in favour of new development subject to detailed consideration against other relevant Local plan policies.

As such the principle of residential development on the site is acceptable subject to the detailed considerations relevant to this proposal which are set out below.

2. Loss of Care Home Use

Adopted Policy LP10 (Care, Independent and Assisted Living) states that any development that would result in the loss of all, or part, of an existing care home will not be permitted unless it can be demonstrated, with evidence, that the site or premises are no longer economically viable.

The proposed development will result in the loss of an existing care home, although it is noted the site is currently vacant. That notwithstanding, the onus is still on the applicant to successfully demonstrate, with evidence, that the site is no longer economically viable. Following discussions between Officers and the agent for the application, a Marketing and Financial Statement has been submitted in support of the application, and below is a summary of the information contained:

- The site has been advertised by Stoneridge Estate Agents as a vacant care home since May 6th 2022, with it being advertised within the agency offices, as well as online (Rightmove, Zoopla and Mayfair Office);
- The site was advertised via email/telephone to registered persons by Stoneridge Estate Agents;
- The site was advertised for £900,000, and evidence has been provided of similar properties advertised in York Road, Holland-on-Sea (£950,000), and The Street, Kirby-le-Soken (£850,000) at similar prices. In addition, two other properties in Essex (no further details provided) are shown priced at £795,000 and £1,600,000; and
- A total of three people visited the property, dated 24th May 2022, 7th September 2022 and 13th October 2022. However, two of these never got in touch with the Estate Agents afterwards, while the third purchased an alternative property instead, and ultimately no offers have been formally made.

Further to this, a letter is also provided (dated 6th December 2022) from Stoneridge Estate Agents that summarises the number of online views and highlights the three property viewers all wanted to develop the property and too much work would be involved, so this was not pursued.

In addition to the above, financial details have been provided ranging between December 2020 and November 2021, which clearly demonstrate that the business was not economically viable during this time. This subsequently led to the property then becoming vacant.

Taking all of the above into consideration, on this occasion Officers are content that the information provided has sufficiently demonstrated that the property is no longer economically viable to be retained in its Care Home use. The site has been well advertised at a reasonable price across numerous outlets, however the evidence provided shows that the number of viewers has been low, with no formal offers forthcoming. Accordingly, the submission adheres with the requirements of Policy LP10, and Officers do not raise any objections in this regard.

3. Visual Impacts

Paragraph 130 of the National Planning Policy Framework (NPPF) (2021) 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.

Adopted Policy SP7 of Section 1 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 that relates well to its site and surroundings, create a unique sense of place.

Adopted Policy LP4 states the design and layout of new residential developments is expected to provide for amenity space of a size and configuration that meets the needs and expectations of residents, and which is commensurate to the size of the dwelling and character of the area.

The proposed development predominantly consists of internal alterations necessary to facilitate the inclusion of five flats. However, Officers acknowledge there are some minor external alterations as well. These consist of the inclusion of two windows (in place of one existing) to the rear first floor elevation, and the erection of 1.8 metre high screening to the first floor rear elevation and first floor northern elevation, in order to facilitate small private amenity areas for the future occupants. The front elevation will remain unaltered. Given the minor nature of the changes, and that they will not be visible from the street scene along Harold Road, Officers do not consider that these changes will be harmful to the character and appearance of the area, and accordingly have no objections in this regard.

Adopted Policy LP4 states the design and layout of new residential developments is expected to provide for amenity space of a size and configuration that meets the needs and expectations of residents, and which is commensurate to the size of the dwelling and character of the area.

The proposal includes for private amenity space at the two flats at ground floor level (both served by three bedrooms) of 95sqm and 57sqm respectively. At first floor level the two flats (one served by two bedrooms and the other by three bedrooms) are each provided with 12sqm of private amenity space. Officers are content that the provision at ground floor level is acceptable, and while the provision at first floor level is less than would be expected it is also noted that the site lies within a highly sustainable location within good walking distance to amenable areas, notably the beach which is 250 metres to the south. Taking all of the above into consideration, on balance Officers consider that the level of provision is acceptable and that it would not be reasonable to raise an objection on these grounds.

4. Functional Layout

Paragraph 130 f) of the NPPF states that planning decisions should ensure that developments create places that are safe with a high standard of amenity for existing and future users.

Adopted Policy SPL3 (Part B)(f) seeks to ensure that provision is made for adequate private amenity space, waste storage and recycling facilities, vehicle and cycle parking.

The submitted plans demonstrate that there will be storage areas to the side of the property as well as at ground floor level. In addition there is cycle stores to the front of the site, as well as to the garden areas of both ground floor flats. This demonstrates a well-considered, practical and usable site layout in accordance with the above policies.

5. Impact to Neighbouring Amenities

Paragraph 130 of the National Planning Policy Framework (2021) confirms planning policies and decisions 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.

Policy SP7 of Section 1 of the 2013-33 Local Plan requires that the amenity of existing and future residents is protected. Section 2 Policy SPL 3 (Part C) seeks to ensure that development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

There are residential properties sited adjacent to the north and south of the application site, as well as properties to the east along Thoroughgood Road. As discussed previously, the majority of works involved in the proposed development are internal alterations. The minor external alterations will however create an area of private amenity space to the first floor rear elevation, which adjoins to the property sited to the east. However, to avoid potential overlooking concerns, the proposal includes a 1.8 metre screen. Given this, and the overall separation distances, there is not considered to be significant harm to existing amenities. Similarly the proposed changes will not be visible to the north and south facing neighbours, and will therefore result in a neutral impact to their existing amenities.

6. Highway Safety

Paragraph 110 of the National Planning Policy Framework 2021 seeks to ensure that safe and suitable access to a development site can be achieved for all users, whilst Paragraph 104 requires that streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places.

Adopted Policy CP1 (Sustainable Transport and Accessibility) of the Tendring District Local Plan 2013-2033 states that planning permission will only be granted if amongst other things; access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and the design and layout of the development provides safe and convenient access for people.

Essex Highways Authority have been consulted, and have confirmed that they have no objections subject to conditions relating to the width of the access and the submission of a Residential Travel Information Pack.

Furthermore, the Essex Parking Standards (2009) require that for dwellings with one bedroom, a minimum of one parking space is required. Parking spaces should measure 5.5m x 2.9m and garages, if being relied on to provide a parking space, should measure 7m x 3m internally.

The submitted plans show provision for four parking spaces to the front of the site, one allocated for each flat. While this falls short of the above parking standards, it is again acknowledged that the site is within a highly sustainable location within good walking distance to the shops and services provided by the Clacton Town Centre. Therefore, on balance, Officers do not raise an objection with regards to the shortfall in car parking provision on this occasion.

7. Drainage

Paragraph 174 of the Framework states that planning policies and decisions should contribute to and enhance the natural and local environment by preventing new development from contributing to unacceptable levels of water pollution. Furthermore, Paragraph 185 of the Framework states that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects of pollution on the natural environment.

Policy PPL5 of Section 2 of the adopted Local Plan states that all new development must make adequate provision for drainage and sewerage. Private sewage treatment facilities will not be permitted if there is an accessible public foul sewer. Where private sewage treatment facilities are the only practical option for sewage disposal, they will only be permitted where there would be no harm to the environment, having regard to preventing pollution of groundwater and any watercourses and odour.

The agent for the application has confirmed via an email dated 5th December 2022 that the development would be connected to the existing public foul sewer. This is in accordance with the above policy requirements and is therefore considered to be acceptable in the event of an approval.

8. Financial Contributions - Open Space and RAMS

(i) Open Space

Paragraph 55 of the National Planning Policy Framework (2021) states Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Paragraph 57 of the NPPF states planning obligations must only be sought where they are necessary to make the development acceptable in planning terms, directly relate to the development and fairly and reasonably relate in scale and kind to the development.

Section 2 Policy HP5 states that the Council will work with partners and sports providers across the district to maintain, expand and improve the quality and accessibility of public open space, sports and recreational facilities of different types and will aim to achieve and exceed standards set out in the Council's 2017 Open Spaces Strategy or any future update. Financial contributions will also be sought through s106 legal agreements (or an appropriate alternative mechanism) towards ongoing maintenance.

In line with the requirements of Section 2 Policy HP5 the Council's Open Space Team have been consulted on the application to determine if the proposal would generate the requirement for a financial contribution toward public open or play space. The outcome of the consultation is that there is a deficit of 41.08 hectares of play in the Clacton/Holland area, and that a contribution towards the improvements and ancillary items is justified and relevant to this application.

However, at the time of this decision, it is inconclusive whether a specific project has been identified and therefore the request for a financial contribution does not currently meet the statutory

tests under Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended). Whilst there may be a need for improvements to the existing facilities the request from Public Space does not meet the CIL or NPP tests. Therefore, at this time, we cannot reasonably ask for a financial contribution due to the lack of justification.

(ii) 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 application scheme proposes a residential on a site that lies within the Zone of Influence (Zoi) but is approximately 6.5 kilometres from the Colne Estuary SPA and Ramsar and the Essex Estuaries SAC. New housing development within the Zoi would be likely to increase the number of recreational visitors to these sites 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 unilateral undertaking has been prepared to secure this legal obligation. This will ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with Section 1 Policy SP2 and Section 2 Policy PPL4 of the Tendring District Local Plan 2013-2033 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Other Considerations

Councillor Honeywood initially requested that the application be determined by the Planning Committee if recommended for approval, due to a lack of information to demonstrate the site was no longer economically viable. However, following discussions with Officers Councillor Honeywood was made aware that this information had been provided, although not at the time of the applications submission. Accordingly, the call-in request was withdrawn.

Clacton-on-Sea is non-parished so no comments are required.

There have been two letters of objection received, outlining the following concerns:

1. Impact to neighbouring amenities;
2. Insufficient parking; and
3. Need for future extensions.

In answer to this, points 1 and 2 are addressed within the main body of the report above. In response to point 3, the application does not include for any extensions and should these be required at a later stage, flats do not have permitted development rights and as such further planning permission would be required.

Conclusion

The application site falls within the Settlement Development Boundary for Clacton-on-Sea, and accordingly the principle of four flats in this location is accepted. Furthermore, a Marketing and Financial Statement has been provided that has demonstrated with evidence that the existing care home use is not economically viable. Essex Highways Authority have raised no objections and, on balance, Officers consider the private amenity space and parking space provision is acceptable. There are limited external alterations, and the impact to neighbouring amenities is not considered harmful enough to warrant a reason for refusal. Accordingly the application is policy compliant and is recommended for approval.

6. Recommendation

Approval.

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 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 Numbers AWA/1116/01, AWA/1116/02, AWA/1116/03, AWA/1116/04, AWA/1116/05, AWA/1116/06, and the documents titled 'Design and Access/Planning Statement', 'Marketing and Financial Statement', and an untitled letter prepared by Stoneridge Estate Agents dated 6th December 2022.

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

- 3 No vehicle connected with the works shall arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours must be 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.

Reason - In the interests of protecting the amenities of neighbouring residents.

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

Reason - In the interests of protecting the amenities of neighbouring residents.

- 5 The vehicular access shall be widened and constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway as shown on submitted drawing no. AWA/1116/01 shall be provided with an appropriate dropped kerb vehicular crossing of the footway.

Reason: To ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety.

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

Reason: In the interests of reducing the need to travel by car and promoting sustainable development.

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 Informatives:

1: 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

2: 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.