

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Planning Officer recommendation:	NH	17/01/2024
Team Leader authorisation / sign off:	JJJ	17/01/2024
Assistant Planner final checks and despatch:	ER	17/01/2024

Application: 23/01404/FUL **Town / Parish:** Clacton Non Parished

Applicant: Mr Prabu Dhanaraman

Address: 2 Burnham Court Clacton On Sea Essex

Development: Proposed double storey side extension, new balcony to bedroom number 2, first floor terrace and a commercial unit for ice cream and coffee takeaway accessed from side.

1. Town / Parish Council

Clacton is non parished.

2. Consultation Responses

ECC Highways Dept
09.01.2024

The information that was submitted in association with the application has been 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. It is noted that the proposal would see the loss of an existing garage and the introduction of a commercial/ takeaway unit within a predominately residential area that has no public transport links to the location and also has a number of existing waiting restrictions to control on-street parking, due to its close proximity to the beach, however, the proposed commercial unit would be accessed from Selsey Avenue and is located close to the junction with Burnham Court and the sweeping bend on Selsey Avenue that has existing waiting restrictions on both sides of the road:

From a highway and transportation perspective the impact of the proposal is NOT acceptable to the Highway Authority for the following reasons:

The Highway Authority will protect the principal use of the highway as a right of free and safe passage of all highway users.

1. As far as can be determined from the submitted plans, the proposed conversion of the garage would reduce the parking for the dwelling and provide no off-street parking for the commercial unit, any enterprise such as this is likely to lead to sporadic/short term invasive parking on the existing waiting restrictions which will be virtually impossible to address or enforce, a particular concern given the presence of a sharp bend. Burnham Court is also an adopted Highway, and this may witness some displacement of short-term parking, this would result in an unacceptable degree conflict, risk, and hazard to all highway users to the detriment of highway safety.

From a road safety and parking point of view this application is extremely problematic. Restrictions located outside a business like this are rarely effective as they are reliant on enforcement and visits to premises such as those described are ad-hoc and sporadic in nature, virtually impossible to prevent parking issues, whereas currently, the waiting restrictions are self-enforcing.

2. This proposal would introduce additional slowing and overtaking movements where they are currently not expected, likely leading to increased conflict with the passage of through vehicles and risk of collisions for both emerging and approaching vehicles and increased hazard to other highway users to the detriment of highway safety. Where for the most recent 5-year period (01/11/2018 to 31/10/2023) there are no recorded collisions at this location.

If permitted this would set a precedent for future similar proposals which would lead to inappropriate parking detrimental to the general safety of all highway users.

The proposal is therefore contrary policies DM1, DM4 and DM8 contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

3. Planning History

96/01506/FUL	Siting and erection of 11 No. dwellings, parking arrangements and ancillary work	Approved	03.06.1997
05/01253/FUL	Alterations, remove porch canopy replace with balcony.	Refused	16.09.2005
06/00660/FUL	Front Balcony (1200mm Projection). Re-Submission of 05/01253/FUL.	Withdrawn	12.05.2006
23/01404/FUL	Proposed double storey side extension, new balcony to bedroom number 2, first floor terrace and a commercial unit for ice cream and coffee takeaway accessed from side.	Current	

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework 2023

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

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
PPL9 Listed Buildings
CP1 Sustainable Transport and Accessibility
CP2 Improving the Transport Network
PP2 Retail Hierarchy
PP3 Village and Neighbourhood Centres

Local Planning Guidance
Essex County Council Car Parking Standards - Design and Good Practice

5. 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), supported by our suite of evidence base core documents (<https://www.tendringdc.uk/content/evidence-base>) together with any neighbourhood plans that have been brought into force.

6. Neighbourhood Plans

A neighbourhood plan introduced by the Localism Act that can be prepared by the local community and gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan to promote development and uphold the strategic policies as part of the Development Plan alongside the Local Plan. Relevant policies are considered in the assessment. Further information on our Neighbourhood Plans and their progress can be found via our website <https://www.tendringdc.uk/content/neighbourhood-plans>

7. Officer Appraisal (including Site Description and Proposal)

Site Description

This application relates to 2 Burnham Court, a two storey dwelling which forms the end of a terrace of three properties. The application site is located within floodzone 3 and is located within the settlement development boundary of Clacton on Sea. The locality is well built up and predominantly residential in character.

Proposal

This application seeks planning permission for the following:

- a two storey side extension with first floor terrace
- front balcony
- a single storey extension accommodating a commercial unit for ice cream and coffee takeaway accessed from side.

Assessment

The main considerations in this instance are:

1. Principle of Development
2. Appearance and Visual Impact
3. Compatibility of Uses and Residential Amenities
4. Parking and Highway Safety

5. Flood Risk
6. Representations
7. Overall Planning Balance and Conclusions

1. Principle of development

The application site is located within the settlement development boundary for Clacton on Sea. As set out within Section 6 of the adopted Local Plan, a key requirement of the adopted Local Plan is to provide for appropriate sustainable employment opportunities and to support the growth of local businesses and attract investment in the District.

Adopted Local Plan Policy PP2 sets out a Retail Hierarchy identifying the key locations that can be resilient to future economic changes. These centres will be the focus for 'town centre uses' which include retail, leisure, commercial, office, tourism and cultural, community and residential development. Proposals must be properly related in their scale and nature having regard to the hierarchy. The site is not in the identified town centre of Clacton however the retail element included in this application is of a comparatively minor scale that clear policy conflict with Policy PP2 cannot be identified.

The application site is also located within a sustainable location as demonstrated by its location within the defined settlement development boundary. The general thrust of the above-mentioned policies supports new local businesses. The principle of extending residential properties is also supported in terms of local and national policies. On this basis, subject to all other relevant local plan policies and material considerations, the proposal is acceptable in principle.

2. Appearance and Visual Impact

Paragraph 126 of the National Planning Policy (NPPF) states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

Local Plan Policy SP7 states that all new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Furthermore, Policy SPL3 seeks to provide new development which is well designed and maintains or enhances local character and distinctiveness. The development should relate well to its site and surroundings and should respect or enhance local landscape character and other locally important features.

Due to the location of the dwelling being located on the corner plot of Burnham Court shared with Selsey Avenue, the two storey side extension will be highly visible to the street scene. However, due to the set back from the highway and the use of matching materials, this element of the proposal is not considered to cause any significant impact in terms of visual amenity.

The front balcony will serve a bedroom and it will be visible from Burnham Court. There are other examples of balconies of a similar design along Selsey Avenue and Burnham Court and therefore this element of the proposal is considered in keeping with the character of the area.

The proposed first floor terrace is considered to be fairly large in size however the railings are considered acceptable in terms of design and appearance. Although the terrace is considered to be large in size, due to its location to the south easterly side elevation and that the area has other examples of balconies within the vicinity and no overlooking will be caused by the proposal, it is not considered to cause any significant harm to visual amenities.

The single storey side extension will be highly visible from Selsey Avenue due to its close proximity to the streetscene. The proposed commercial element in the proposed side will accommodate an ice cream/coffee shop/kiosk and the plans provided demonstrates that the proposed glazed doors located in the north east facing side elevation is clearly intended to enhance the visibility of the kiosk and specifically what the small retail element here will offer. The proposed glazed opening coupled with the inevitable visible equipment, lights and general commercial nature of this element of the proposal will appear completely out of keeping with the prevailing residential character of the area.

For these reasons the proposal is considered to be harmful to the predominant residential character of the area contrary to the above local and national planning policies.

3. Compatibility of Uses and Residential Amenities

Paragraph 130 of the NPPF includes that planning decisions should ensure developments 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.

Local Plan Policy SPL3, Part B requires that buildings and structures are designed and orientated to ensure adequate daylight, outlook and privacy for future and existing residents. Furthermore, Part B states that, new development must meet practical requirements, including provision for adequate private amenity space, waste storage and recycling facilities, vehicle and cycle parking.

Policy SPL3 Part C requires all new development (including change of uses) to be compatible with surrounding uses and not resulting in materially damaging impact on amenities of occupiers of nearby properties.

Due to the application site being located on a corner plot, the proposed side extension with first floor terrace and single storey side extension will be visible to the neighbouring dwellings. However as there are no immediate neighbours to the north eastern elevation, there is no significant impact proposed to neighbouring amenities.

The proposed balcony to the front elevation will not cause any harmful overlooking to areas that will likely to be occupied by neighbours and therefore is acceptable in terms of neighbouring amenities.

The proposed commercial unit will result in some noise, general comings and goings however due to the size of the coffee shop, it is not considered to cause any significant impact upon the immediate residential amenities.

4. Parking and Highway Safety

Paragraph 112 of the National Planning Policy Framework 2023 seeks to ensure that safe and suitable access to a development site can be achieved for all users. Paragraph 115 of the Framework states that Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Policy SPL3 (Part B) of the Adopted Local Plan 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. The EPOA Parking Standards 2009 sets out the requirements for commercial and residential parking provision.

The dwelling is currently served by a garage and 2 parking spaces to the front of the host dwelling. The proposal will remove the existing garage and replace with an extension to serve a study/home office.

There is no off street parking proposed nor is there scope due to the size of the site. The area is a fairly busy residential area in terms of the overall traffic movements with only limited on street parking spaces due to its proximity to the beach.

Essex County Council Highways Department have been consulted on this application and have stated that the proposed conversion of the garage would reduce the parking for the dwelling and provide no off-street parking for the commercial unit, any enterprise such as this is likely to lead to sporadic/short term invasive parking on the existing waiting restrictions which will be virtually impossible to address or enforce, a particular concern given the presence of a sharp bend. Burnham Court is also an adopted Highway, and this may witness some displacement of short-term parking, this would result in an unacceptable degree conflict, risk, and hazard to all highway users to the detriment of highway safety.

ECC Highways have stated that from a road safety and parking point of view this application is extremely problematic. Restrictions located outside a business like this are rarely effective as they are reliant on enforcement and visits to premises such as those described are ad-hoc and sporadic in nature, virtually impossible to prevent parking issues, whereas currently, the waiting restrictions are self-enforcing. The proposal is therefore contrary to policies SPL 3 and CP2.

5. Flood Risk

The application site is located within National Flood Zones 3. The Gov.uk advice for flood risk and coastal change identifies that minor developments, including householder developments such as the current proposal, are unlikely to raise significant flood risk issues.

Policy PPL1 states that development proposals in Flood Zones 2 and 3 must be accompanied by a Flood Risk Assessment.

Although no flood risk assessment has been submitted with the application, the Government advice states that for householder extensions the proposed floor level cannot be any lower than the existing (or 300mm above the estimated flood level) which in this instance will not be, therefore the proposal is compliant with this and will not increase the risk of flooding. The Government guidance adds that flood resistant materials should be used up to at least 300mm above the estimated flood level to speed recovery in case water gets in, an informative has been added to this effect.

6. Other Considerations

35 letters of objection have been received raising the following concerns:

- Concerns raised in regards to the increase to the number of bedrooms and the limited parking available

This concern has been addressed within the report.

- Concerns in regards to the large balcony which isn't in keeping

This concern has been addressed within the report.

- Concerns raised in regards to the commercial element particularly signage, no toilets, seating

No signage has been proposed however this may require a separate advert consent application. As part of the application no seating has been proposed and therefore has not been taken into consideration when determining this application. If toilets and seating is required then an amended application would need to be submitted.

- Concerns that the deeds of the property state that it cannot be used for any type of business or manufacturing

This concern is separate from planning and is not a material planning consideration and therefore has not been taken into consideration when determining this application.

- Concerns that the building is being used as a B&B

There has not been a planning application to change the use of the building to a B&B. However, if any concerns are raised, this will need to be raised to the planning enforcement team to investigate.

- Concerns that insufficient parking provision and impact upon the traffic.

This concern has been addressed within the report.

- Concerns of noise impact to residential amenities

Due to the size of the proposed unit, it is not considered to cause any significant harm to neighbouring amenities.

7. Overall Planning Balance and Conclusions

The proposed commercial element in the ground floor side extension would be inappropriate in this location due to the harm to the character of the area and highway safety as set out above. The limited economic benefits would not outweigh the identified harm and the proposal cannot be made acceptable through the use of planning conditions. Therefore, the application is recommended for refusal.

8. **Recommendation**

Refusal - Full

9. **Reasons for Refusal**

- 1 Paragraph 126 of the National Planning Policy Framework 2023 (NPPF) states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

Local Plan Policy SP7 states that all new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Furthermore, Policy SPL3 seeks to provide new development which is well designed and maintains or enhances local character and distinctiveness. The development should relate well to its site and surroundings and should respect or enhance local landscape character and other locally important features.

The single storey side extension will be highly visible from Selsey Avenue due to its close proximity to the streetscene. The proposed commercial element to be located in the single storey side will accommodate an ice cream/coffee shop/kiosk and the plans provided demonstrate that the proposed glazed doors located in the north-east facing side elevation are clearly intended to enhance the visibility of the kiosk and specifically what the small retail element here will offer. The proposed glazed opening coupled with the inevitable visible equipment, associated lights and general commercial nature of this element of the proposal will appear completely out of keeping with the prevailing residential character of the area contrary to the above local and national planning policies.

- 2 Paragraph 112 of the National Planning Policy Framework 2023 seeks to ensure that safe and suitable access to a development site can be achieved for all users. Paragraph 115 of the Framework states that Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Policy SPL3 (Part B) of the Adopted Local Plan 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. Policy CP2 of the Adopted Local Plan states proposals for new development which contribute to the provision of a safe and efficient transport network that offers a range of sustainable transport choices will be supported.

The proposed conversion of the garage would reduce the parking for the dwelling and provide no off-street parking for the commercial unit, any enterprise such as this is likely to lead to sporadic/short term invasive parking on the existing waiting restrictions which will be virtually impossible to address or enforce, a particular concern given the presence of a sharp bend. As a result the highly likely sporadic/short term invasive parking that the proposed commercial element in the single storey side extension would generate would introduce additional slowing

and overtaking movements where they are currently not expected, likely leading to increased conflict with the passage of through vehicles and risk of collisions for both emerging and approaching vehicles and increased hazard to other highway users to the detriment of highway safety. Burnham Court is also an adopted Highway, and this may witness some displacement of short-term parking, this would result in an unacceptable degree conflict, risk, and hazard to all highway users to the detriment of highway safety, contrary to the above-mentioned policies and Paragraph 112 of the NPPF.

10. Informatives

Application Refused Following Discussion - Where there is no Way Forward

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

Plans and Supporting Documents

The Local Planning Authority has resolved to refuse the application for the reason(s) set out above. For clarity, the refusal is based upon the consideration of the plans and supporting documents accompanying the application as follows, (accounting for any updated or amended documents):

- Drawing No. PL01
- Drawing No. PL010
- Drawing No. PL011
- Drawing No. PL012
- Drawing No. PL013
- Drawing No. PL014
- Drawing No. PL015
- Drawing No. PL06
- Drawing No. PL07
- Drawing No. PL08
- Drawing No. PL09

11. Equality Impact Assessment

In making this recommendation/decision regard must be had to the public sector equality duty (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 that in summary include A) Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act; B. Advance equality of opportunity between people who share a protected characteristic* (See Table) and those who do not; C. Foster good relations between people who share a protected characteristic* and those who do not, including tackling prejudice and promoting understanding.

It is vital to note that the PSED and associated legislation are a significant consideration and material planning consideration in the decision-making process. This is applicable to all planning decisions including prior approvals, outline, full, adverts, listed buildings etc. It does not impose an obligation to achieve the outcomes outlined in Section 149. Section 149 represents just one of several factors to be weighed against other pertinent considerations.

In the present context, it has been carefully evaluated that the recommendation articulated in this report and the consequent decision are not expected to disproportionately affect any protected characteristic* adversely. The PSED has been duly considered and given the necessary regard, as expounded below.

Protected Characteristics *	Analysis	Impact
Age	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Disability	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Gender Reassignment	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Marriage or Civil Partnership	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Pregnancy and Maternity	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Race (Including colour, nationality and ethnic or national origin)	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Sexual Orientation	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Sex (gender)	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Religion or Belief	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral

12. Notification of Decision

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