

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Planning Officer recommendation:	CC	01.02.2024
Team Leader authorisation / sign off:	JJJ	01/02/2024
Assistant Planner final checks and despatch:	ER	02/02/2024

**Application:** 23/01789/FUL **Town / Parish:** Ardleigh Parish Council

**Applicant:** Rebecca Mackay - Rebecca Mackay Aesthetics Ltd

**Address:** 23 Mayfly Way Ardleigh Essex

**Development:** Change of use of a commercial unit from Class E/B8 to a beauty clinic (Sui generis).

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

Ardleigh Parish Council No comments submitted

### **2. Consultation Responses**

Environmental Protection  
08.01.2024 With reference to the above application, I can advise the EP Team have no comments to make.

ECC Highways Dept  
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.

Having considered the information submitted with the planning application from a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority

Informative:

i. 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](mailto:development.management@essexhighways.org)

ii. On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area, it covers, and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

iii. 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.

### 3. Planning History

15/00669/OUT	Outline planning application with all matters reserved for the residential development of 0.2 ha of land to create 4 detached dwellings with associated garaging and parking (following demolition of existing B1a offices and driving range shelter).	Approved	18.12.2015
17/02204/FUL	The construction of 91 small B1 & B8 use commercial units with ancillary facilities, associated car parking and landscaping; and the construction of 5 commercial office blocks with B1 use with associated car parking and landscaping.	Approved	14.08.2018
18/02118/FUL	The construction of 90 small B1 & B8 use commercial units with ancillary facilities, associated car parking and landscaping; and the construction of 5 commercial office blocks with B1 use with associated car parking and landscaping.	Approved	17.06.2019
19/00681/DISCON	Discharge of condition 4 (Landscaping Scheme), condition 8 (Boundary Treatments), condition 11 (Archaeological Investigation), condition 16 (Materials) and condition 17 (Noise) of approved application 17/02204/FUL for B1 and B8 units only.	Approved	17.05.2019
19/00850/DISCON	Discharge of condition 3 (site levels), condition 12 (surface water), condition 13 (flood scheme), condition 14 (maintenance plan) and condition 23 (foul water strategy) of approved application 17/02204/FUL.	Withdrawn	09.02.2021
20/00205/DISCON	Discharge of conditions 9 (Environmental Construction Method Statement) , 10 (Surface Water) , 11 (Run-Off) , 12 (Maintenance Plan) and 20 (Foul Water) for approval 18/02118/FUL.	Approved	21.12.2020
20/01372/FUL	Variation of condition 2 (approved plans) of planning permission 18/02118/FUL to secure a number of design amendments, primarily to the proposed 90 commercial Evolve units.	Approved	23.12.2020

20/01414/DISCON	Discharge of conditions 3 (landscaping), 6 (landscape management plan) and 7 (boundary treatments) of approved application 18/02118/FUL.	Approved	17.11.2020
21/00185/FUL	Erection of single storey Office Building (Use Class B1a) with associated parking, cycle shelter and landscaping	Approved	12.05.2021
22/00860/DISCON	Discharge of conditions 14 (Floodlighting) and 16 (Disabled Access) of application 18/02118/FUL.	Approved	14.06.2022
22/01115/VOC	Variation of condition 2 of application 20/01372/FUL to reinstate the first-floor windows.	Approved	30.09.2022
22/01133/DISCON	Discharge of condition 7B (Highways) of application 22/01115/VOC.	Approved	07.10.2022
23/00136/FUL	Proposed erection of B8 storage and distribution units with ancillary mezzanine office space and associated access amendments, parking and landscaping.	Approved	01.12.2023
23/00252/FUL	Proposed provision of an overflow car park.	Approved	01.12.2023

#### **4. Relevant Policies / Government Guidance**

##### **National:**

National Planning Policy Framework ([NPPF](#))

National Planning Practice Guidance ([NPPG](#))

##### **Local:**

Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic [Section 1](#) (adopted January 2021)

SP1 Presumption in Favour of Sustainable Development

SP3 Spatial Strategy for North Essex

SP5 Employment

SP6 Infrastructure and connectivity

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

PP7 Employment Allocations

PP13 The Rural Economy

CP1 Sustainable Transport and Accessibility

#### **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>

The relevant policies in the draft Ardleigh Neighbourhood Plan have been considered as part of this assessment (see relevant heading below).

## **7. Officer Appraisal (including Site Description and Proposal)**

### Site Description

The application site refers to number 23 Mayfly way, Ardleigh, which is a unit located within a wider development site consisting of 90 commercial units, recently built under planning reference 18/02118/FUL. The application site is located outside of the settlement development boundary of Ardleigh.

### Proposal

This application seeks permission for a change of use of a commercial unit from Class E/B8 to a beauty clinic (sui generis).

### Principle of Development

The site is located outside of any designated settlement development boundary as defined within the adopted Tendring District Local Plan 2013-2033.

Paragraph 85 of the NPPF states that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future.

Policy PP6 (Employment Sites) of the Local Plan 2013 - 2033 states that the Council will seek to protect existing employment sites, as shown on the relevant Policies Maps and Local Maps. Employment sites falling within Use Class E will be retained and will continue to provide for the employment needs for the district. Proposals for employment uses falling outside of use class B2, B8 or other established activities on protected employment sites will be considered on their merits and against other relevant policies within the Local Plan.

The application site is not located within an area that seeks to protect the approved B8 use of the unit – merely to protect existing employment sites. The proposal seeks to provide an alternative employment use in a location that currently includes a variety of uses, but predominantly B8 (storage and distribution on the wider site) and this comparatively small scale change of use would

retain an employment use as a beauty clinic. It is accepted that the proposed use is one that could be classed as a main town centre use however given the small scale nature of the proposed (the unit in question is only 24 square metres) it is not considered necessary, reasonable or proportionate to expect the applicant to undertake a sequential test to ascertain whether there are other sequentially preferable sites available in more sustainable locations for the proposed use. Given all the above, no clear policy conflict can be identified and the principle of development in this location is acceptable, subject to the detailed considerations discussed below.

### Design and Visual Amenities

Paragraph 135 of the National Planning Policy Framework (NPPF) 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.

Policy SP7 of the Tendring District Local Plan seeks high standards of urban and architectural design, which responds positively to local character and context. Policies SPL3 and LP4 of the Local Plan also require 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.

The Planning, Design and Access Statement submitted with this application confirms there are no external changes to be made to the unit, no new signage is proposed on the front elevation beyond the utilisation of the existing uniform sign displaying the business name, located above the front door of the unit.

### Highway Safety

Essex Highway Authority have been consulted on this application. The highway Authority have confirmed the impact of the proposal is acceptable to the highway authority.

The unit benefits from one allocated parking space for its own use, and has access to an area of visitor parking. Parking is considered to be acceptable in this instance.

### Impact on Neighbouring Amenities

Paragraph 135 of the NPPF confirms planning policies and decisions should create places that are safe, inclusive and accessible and which promote health and wellbeing, with a high standard of amenity for existing and future users.

Policy SP7 of the Tendring District Local Plan requires that the amenity of existing and future residents is protected. Policy SPL3 seeks to ensure that development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

The proposed use will be open Monday – Saturday between the hours of 10 am – 6 pm. The business will be closed on Sundays and bank holidays. The proposed beauty clinic is located amongst other commercial uses which have similar opening hours and days to the proposed use. It is therefore considered that the proposed use will not cause impact upon residential amenities.

### Neighbourhood Plan

Ardleigh Parish Council is working on a Neighbourhood Plan (NP, the plan is in its very early stages and only in draft form and is therefore only of very limited weight in the assessment of this application. Furthermore, there appear to be a number of unresolved issues from the Planning Inspector so this gives it further reduced weight at this time.

### Other Considerations

Ardleigh Parish Council have not submitted any comments on this application.

The Council's Environmental Protection Team have been consulted on this application and confirmed they have no comments to submit.

No other letters of representation have been received.

### Conclusion

The proposal is considered to comply with the above mentioned national and local planning policies. In the absence of material harm the proposal is recommended for approval.

## **8. Recommendation**

Approval – Full

## **9. Conditions / Reasons for Refusal**

### 1 COMPLIANCE REQUIRED: COMMENCEMENT TIME LIMIT

CONDITION: The development hereby permitted shall be begun not later 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 Section 51 of the Planning and Compulsory Purchase Act 2004.

NOTE/S FOR CONDITION:

The development needs to commence within the timeframe provided. Failure to comply with this condition will result in the permission becoming lapsed and unable to be carried out. If commencement takes place after the time lapses this may result in unlawful works at risk Enforcement Action proceedings. You should only commence works when all other conditions requiring agreement prior to commencement have been complied with.

### 2 APPROVED PLANS & DOCUMENTS

CONDITION: The development hereby permitted shall be carried out in accordance with the drawings/documents listed below 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 subsequently be approved in writing by the Local Planning Authority as a non-material amendment following an application in that regard (except for Listed Building Consents). Such development hereby permitted shall be carried out in accordance with any Phasing Plan approved, or as necessary in accordance with any successive Phasing Plan as may subsequently be approved in writing by the Local Planning Authority prior to the commencement of development pursuant to this condition.

Drawing No. 01 1

Planning Design and Access Statement - Received 15.12.2023

REASON: For the avoidance of doubt and in the interests of proper phased planning of the development.

NOTE/S FOR CONDITION:

The primary role of this condition is to confirm the approved plans and documents that form the planning decision. Any document or plan not listed in this condition is not approved, unless otherwise separately referenced in other conditions that also form this decision. The second role of this condition is to allow the potential process of Non Material Amendment if found necessary and such future applications shall be considered on their merits. Lastly, this condition also allows for a phasing plan to be submitted for consideration as a discharge of condition application should phasing be needed by the developer/s if not otherwise already

approved as part of this permission. A phasing plan submission via this condition is optional and not a requirement.

Please note in the latest revision of the National Planning Policy Framework (NPPF) it provides that Local Planning Authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used). Accordingly, any future amendment of any kind will be considered in line with this paragraph, alongside the Development Plan and all other material considerations.

Any indication found on the approved plans and documents to describe the plans as approximate and/or not to be scaled and/or measurements to be checked on site or similar, will not be considered applicable and the scale and measurements shown shall be the approved details and used as necessary for compliance purposes and/or enforcement action.

### 3 HOURS OF USE

The use hereby permitted shall not operate except between the hours of 10.00am to 6.00pm Mondays to Saturdays and at no times on Sundays, Bank or Public Holidays.

REASON: On the basis of the submission and the opening hours proposed by the applicant and in the interests of general amenity.

## 10. 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

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## 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**

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