

DELEGATED DECISION OFFICER REPORT

AUTHORISATION		INITIALS	DATE
Planning Officer recommendation:		OA	19.08.24
EIA Development - Notify Planning Casework Unit of Decision:	NO		
Team Leader authorisation / sign off:		AN	19/08/24
Assistant Planner final checks and despatch:		JJ	19/08/24

Application: 24/00888/FUL **Town / Parish:** Clacton Non Parished

Applicant: Mr Burns - Dura Composites Ltd

Address: Land North of Milk Distribution Centre Telford Road Clacton On Sea

Development: Retrospective change of use from 'Land used for parking of vehicles and trailers' to Class B8 'Storage of Materials' in association with existing employment use.

1. Town / Parish Council

Clacton Non-Parished N/A

2. Consultation Responses

ECC Highways Dept
03.07.2024

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 and google earth image.

Having considered the information submitted with the planning application from a Highways and Transportation perspective the Highway Authority has no comments to make on this proposal.

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

3. Planning History

99/00791/FUL	Land to be used for parking of vehicles/trailers and storage purposes	Approved	26.07.1999
00/01047/FUL	Extension to existing building	Approved	28.07.2000
20/01288/FUL	Proposed new storage unit for goods that require shelter from the weather. Demolition of existing flat roof structure.	Approved	08.02.2021

22/00606/FUL	Proposed replacement fixings centre building.	Approved	14.06.2022
24/00888/FUL	Retrospective change of use from 'Land used for parking of vehicles and trailers' to Class B8 'Storage of Materials' in association with existing employment use.	Current	

4. **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 Local Plan 2013-33 and Beyond (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 made and the Minerals and Waste Local Plans adopted by Essex County Council.

5. **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>

6. **Relevant Policies / Government Guidance**

National:

National Planning Policy Framework December 2023 ([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

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

PP6 Employment Sites

PPL4 Biodiversity and Geodiversity

PPL5 Water Conservation, Drainage and Sewerage

CP1 Sustainable Transport and Accessibility

CP2 Improving the Transport Network

Supplementary Planning Documents

[Essex Design Guide](#)

Biodiversity Net Gain Supplementary Planning Document June 2023 (DRAFT)

7. Officer Appraisal (including Site Description and Proposal)

Site Description

Site & Surroundings

The application relates to the site known as Land to the North of the former milk distribution centre, Telford Road, Clacton-on-sea. The site forms part of the Gorse Lane Industrial Estate Employment Area. The site amounts to approximately 0.3 hectares in size.

The site is currently occupied by Dura Composites a building materials supplier. The land was formerly a car park and is now used for the storage of materials (Use Class B8). It forms an area of hardstanding. The application was invited following an Enforcement enquiry and is fully retrospective.

The confines of the application site incorporate a 1.8m steel mesh fence on the western boundary with metal fencing to the north. To the east is the railway line and the south of the main operations building associated with the storage materials. To the west of the site is a dropped kerb entrance onto Telford Road with the junction with Stephenson Road approximately 30m south-west of the site.

The application site is situated within the defined settlement boundary of Clacton-on-Sea. There are no designated heritage assets within the vicinity of the application site. The site is at low risk of fluvial flooding and at very low risk of pluvial flooding.

The subject site is not subject to any special ecological or landscape designation.

Planning History

Planning permission 99/00791/FUL was granted for the parking of vehicles/trailers and storage purposes on 22nd July 1999. Condition 2 states that the use hereby approved shall be solely for the parking and storage of vehicles/trailers and there shall be no servicing or repairs whatsoever carried out at the site.

Proposal

The application seeks planning permission for the Retrospective change of use from 'Land used for parking of vehicles and trailers' to Class B8 'Storage of Materials' in association with existing employment use.

The parking area covers an area of approximately 0.3ha to the north of the existing building.

Appraisal

The material considerations relevant to an application of this nature can be summarised and addressed as follows:

1. Principle of Development
2. Visual Impact
3. Parking, Accessibility, and Highway Safety
4. Flood Risk, Foul Sewage Disposal & Sustainable Drainage
5. Habitats, Protected Species and Biodiversity Mitigation and Enhancement
6. Representations and Objections
7. Conclusions and Recommendation

1. Principle of Development

The site is located within the designated settlement development boundary as defined within the adopted Tendring District Local Plan 2013-2033 and Beyond (TDLP) and is also located within the designated employment area of Gorse Lane Industrial Estate.

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. Paragraph 86 goes on to say, amongst other things, that planning policies should set out a clear economic vision and strategy which positively and proactively encourages sustainable economic growth and be flexible enough to accommodate needs not anticipated in the plan. Paragraph 83 states that planning policies and decisions should recognise and address the specific locational requirements of different sectors.

The site is considered to represent a sustainable location for the development proposal, which benefits from a comparable established use where the re-development of the site will contribute positively to economic growth in the district and result in a positive impact on the local economy in compliance with the relevant part of policy PP7 of the Local Plan.

With regards to the social impact, the site is situated within the Gorse Lane Industrial Area with easy access to the A133 and with regular bus stops in the nearby area which are easily accessible from the application site.

The environmental role is about contributing to, protecting and enhancing the natural built and historic environment. The existing site is used for commercial purposes and the surrounding area is part of the Industrial Estate. The development would therefore assimilate well into its surroundings and generally improve the overall appearance and condition of the site.

In this instance, given the character of the area, the established use on site and the proximity to transport links, the development proposal is considered capable of meeting the aims and aspirations of the national and local plan policies mentioned above. As such, the development is considered to represent sustainable development and is considered to be acceptable in principle.

2. Visual Impact

Section 1 Policy SP7 of the Tendring Local Plan 2013-2033 seeks high standards of urban and architectural design which respond positively to local character and context.

Paragraph 135 of the NPPF states that planning policies and decisions should ensure that developments are visually attractive as a result of good architecture, layout and appropriate and effective landscaping and are sympathetic to local character and landscape setting.

Local Plan Policy SPL3 requires that all new development (including changes of use) make a positive contribution to the quality of the local environment and protect or enhance local character, and that development respects or enhances local landscape character, and maintains or enhances important existing site features of landscape or amenity value.

The site is currently in business use, with existing mixed uses close or near to the site. The change of use of the land for commercial storage will not materially alter its commercial appearance in a predominantly commercial and industrial area that is evolving. The site does include some storage stacking shelves and floodlights which will be subject to a separate planning application. Neither benefit from planning permission and appropriate conditions will be necessary on this application should permission be granted to avoid unrestricted use of the site.

3. Parking, Accessibility, and Highway Safety

Policy CP1 in the Local Plan states that developments will only be acceptable if the additional vehicular movements likely to result from the development can be accommodated within the capacity of the existing or improved highway network or would not lead to an unacceptable increase in congestion. Policy CP2 states that planning permission will not be granted where there would be unacceptable impact on highway safety, or the residual cumulative impact on the road network would be severe. Policy SPL3 seeks to ensure that access to a new development site is practical and safe.

The vehicular movements associated with the proposed commercial development will be facilitated using the same vehicular access point with Essex County Council Highways raising no objections in this regard. The application satisfactorily demonstrates compliance with the above-mentioned policy requirements and The Highway Authority raise no objection, subject to conditions. Conditions that are necessary and meet all other requirements of the NPPF / NPPG tests will be imposed.

4. Flood Risk, Foul Sewage Disposal & Sustainable Drainage

Paragraph 170 b) of the NPPF states that, when determining planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. It goes on to say that developments should incorporate sustainable drainage systems. The systems used should, amongst other things, take account of advice from the lead local flood authority and have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development.

Policy SP7 of the Local Plan sets the strategic objective of ensuring schemes provide appropriate flood mitigation measures. Policy PPL1 requires that all development proposals should be incorporated a Flood Risk Assessment, incorporating appropriate measures to respond to the risk of flooding. Adopted Local Plan Policy PPL5 requires that all new development must make adequate provision for drainage and sewage treatment and should include sustainable drainage systems (SuDS). Policy SPL3, Part B criterion g), requires that development reduces flood risk and integrates sustainable drainage within development.

The site is located within Flood Zone 1, and therefore is considered to be at low risk of flooding. With the site at low risk of flooding from all surveyed sources, and no further hardstanding proposed, it is considered that the scheme complies with the aforementioned policies

5. Habitats, Protected Species and Biodiversity Mitigation and Enhancement

Natural Environment and Rural Communities Act 2006 amended by the Environment Act 2021 provides under Section 40 the general duty to conserve and enhance biodiversity. Section 40 A1 states "For the purposes of this section "the general biodiversity objective" is the conservation and enhancement of biodiversity in England through the exercise of functions in relation to England".

The duty to conserve and enhance biodiversity is placed on public authorities with functions exercisable in relation to England, this includes local authorities, which encompass local planning authorities. Section 40 provides authorities must consider what actions they can take to further the general biodiversity objective and, after consideration, determine policies and specific objectives to achieve this goal. The actions mentioned include conserving, restoring, or enhancing populations of particular species and habitats. While the Section doesn't explicitly state that planning decisions must contribute to biodiversity conservation, it's essential to consider the broader context of planning functions within the authority. Typically, local planning authorities play a crucial role in land use decisions, and decisions related to development and land management can have significant implications for biodiversity. In conclusion for decision making, it is considered that the LPA must be satisfied that the development would conserve and enhance.

This development is subject to the general duty outlined in the Natural Environment and Rural Communities Act 2006, as amended by the Environment Act 2021 and is designed to actively contribute to the enhancement and conservation of local ecosystems. Under the same Act

(Environment Act 2021) mandatory Biodiversity Net Gain came into force for major applications submitted on or after 12th February 2024. This application site is not applicable for Biodiversity Net Gain as it does not contain in excess of 25sqm of habitat as a change of use application for existing hardstanding.

Paragraph 186 of the NPPF states that, when making planning decisions local planning authorities need to assess whether significant harm to biodiversity could result from the development. The NPPF goes on to state the hierarchy that should be applied to mitigate any harm to ecology that is identified. Paragraph 180 of the NPPF requires that Local Planning Authorities contribute to and enhance sites of biodiversity or geological value whilst Paragraph 179 requires local planning authorities to safeguard components of local wildlife-rich habitats.

Policy SP7 of the Local Plan requires that development proposals incorporate biodiversity creation and enhancement measures. Policy PPL4 states that proposals for new development should be supported by appropriate ecological assessments and, where relevant, provide appropriate mitigation and biodiversity enhancements to ensure a net gain. Policy SPL3 requires that the design and layout of schemes should maintain or enhance existing site features of ecological value.

The site and its surrounds are heavily industrialised with no soft landscaping currently present. It is not considered reasonable or proportionate to place a soft landscaping/biodiversity enhancement condition should the application be approved. An informative has been imposed to encourage the applicant to enhance the biodiversity of the site. In addition a condition has been imposed to ensure no external illumination and the existing unauthorised lighting will be dealt with via a separate application. Therefore, the LPA are satisfied that the application can deliver a development in compliance with the above duties and aims.

6. Environmental Protection – Contamination, Construction Management & Drainage

Policy SPL3 states that the health, safety or amenity of any occupants or users of the proposed development should not be materially harmed by any pollution from an existing or committed use.

The proposed COU is considered to be suitable with regards to the surrounding occupiers and will not result in any material harm.

7. Representations and Objections

There have been no letters of representation received on the application. The site is isolated from any residential properties and lies within an allocated employment site, no amenity concerns therefore arise which would justify restricting the hours of operation (which are stated to be 08:30-17:00 Monday to Friday).

8. Conclusions & Recommendation

The proposal is therefore considered to be compliant with national and local policy as assessed in the above report. In the absence of material harm resulting from the proposed development the application is recommended for approval.

8. Recommendation

Approval - Full

9. Conditions / Reasons for Refusal

1. COMPLIANCE: APPROVED PLANS AND 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.

- 1170_A_SC_01 – Site Plan – Received 14.06.24
- 1170_A_SC_02 – Block Plan – Received 14.06.24
- 006762-002-018-D-003-R26 – Ops Centre Site Plan – Received 14.06.24

2. SPECIFIC RESTRICTION OF DEVELOPMENT - ILLUMINATION RESTRICTION

CONDITION: There shall be no means of external illumination installed and/or operated on/at the site except pursuant to the prior grant of a planning permission on an application made in that regard.

REASON: In the interests of amenity to reduce the impact of night time illumination on the character of the area and in the interests of biodiversity.

3. ONGOING REQUIREMENT IMPOSED - RESTRICTION ON HEIGHT OF STORAGE

CONDITION: Goods, products, raw materials, scrap material or other materials of any other sort shall not be deposited, stacked or stored on site (defined by the red line plan of this permission) to a height exceeding 8 metres outside the confines of any building.

REASON: The external storage of these items over the stated height would be harmful to the local amenity, character and appearance of the area.

NOTE/S FOR CONDITION:

1) This condition shall engage and restricts the operation of the development from the date of this planning permission. This condition is imposed to ensure the development avoids unreasonable impact on the prevailing character and amenity currently enjoyed in this location. Without the imposing of this condition, the development would be refused due to the risk of harm and this condition is considered necessary, enforceable and reasonable in all other respects.

2) Buildings do not include any temporary and/or movable structure/building. Storage inside buildings is unaffected by this condition.

10. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

In accordance with the Council's general duty to conserve and enhance biodiversity, you are strongly encouraged to improve the biodiversity of the application site through appropriate additional planting and wildlife friendly features. Suggested enhancements could include: <https://www.rhs.org.uk/wildlife/in-the-garden/encourage-wildlife-to-your-garden>

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