

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Planning Officer recommendation:	OA	18.11.2024
EIA Development - Notify Planning Casework Unit of Decision:	N/A	N/A
Team Leader authorisation / sign off:	JJJ	20/11/2024
Assistant Planner final checks and despatch:	ER	21/11/2024

Application: 24/01637/NMA **Town / Parish:** Clacton Non Parished

Applicant: Mr Ari Birnbaum - LB Land Holdings Ltd

Address: 9 Hayes Road Clacton On Sea Essex

Development: Non Material Amendment to 24/00373/FUL – Change of approved description to “Conversion of semi-detached property into 1no 2-bedroom flat, and 2no. 1-bedroom flats.”

1. Town / Parish Council

N/A

2. Consultation Responses

N/A

3. Planning History

94/01345/FUL	(7-9 Hayes Road, Clacton on Sea) Lift shaft and internal works	Approved	21.12.1994
24/00373/FUL	Planning Application - Conversion of a semi-detached property into 1no 2-bedroom flat and 2no 1-bedroom flats	Approved	31.05.2024
24/00827/S106	Legal Agreement in relation to RAMS for application reference 24/00373/FUL.		18.06.2024
24/01063/DISCON	Discharge of conditions application for planning approval reference 24/00373/FUL - Condition 4 (Cycle parking facilities), Condition 6 (Scheme for the provision and implementation of water, energy and resource efficiency measures), Condition 7 (Details of secure refuse/recycling bins), Condition 8 (Obscure glazed windows), and Condition 9 (Detailed proposals addressing the mitigation of the development's impact on protected Essex Habitats Sites).	Approved	05.09.2024

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>

At the time of writing, there are no draft or adopted neighbourhood plans relevant to this site.

6. Relevant Policies / Government Guidance

Not applicable.

7. Officer Appraisal (including Site Description and Proposal)

This is an application for a Non-Material Amendment (NMA). Section 96A of the Town and County Planning Act 1990 says in deciding whether a change is material, a Local Planning Authority must have regard to the effect of the change on the planning permission as originally granted. The Planning Practice Guidance confirms there is no statutory definition of 'non-material'. It will be dependent on the context of the overall scheme - an amendment that is non-material in one context may be material in another. The local planning authority must be satisfied that the amendment sought is non-material in order to grant an application.

The key test as to the acceptability of an NMA application is whether the change is material to any development plan policy. The changes proposed are minor and not material to any development plan policy. Then three further tests should be applied:

1. Is the proposed change significant in terms of its scale, in relation to the original approval?
1. Would the proposed change result in a detrimental impact either visually or in terms of amenity?
2. Would the interests of any third party or body who participated in, or were informed of, the original decision be disadvantaged in any way?

Proposal

This application seeks a change in the approved description on the decision note of application reference 24/00373/FUL from:

Conversion of a semi-detached property into 1no 2-bedroom flat, 1no 1-bedroom flat and 1no studio flat.

TO:

Conversion of semi-detached property into 1no 2-bedroom flat, and 2no. 1-bedroom flats

It is stated this is for commercial purposes.

Assessment

The proposed change in description is not considered to represent a material change when viewed against the key test above. A 1-bedroom flat is a single residential unit as is a studio flat, the only

change is the marketability which is not a planning matter. The approved layout also shows a 2 x 1 bedroom flats. There are no other changes to the application proposed.

There have been no letters received regarding this proposed amendment. The letter addressed from the neighbour has been received directly from the applicant, however as detailed above the proposal is considered non-material and has been approved accordingly.

8. Recommendation

Approval – Non Material Amendment

9. Conditions

No Conditions.

10. Informatives

Non-Material Amendment Informative

You are advised that this decision relates to the non-material amendments only and should be read in conjunction with the decision notice for planning approval reference 24/00373/FUL which will contain a number of conditions and informatives that still apply. Any original conditions that refer to previously approved plans should be read in conjunction with the corresponding updated plans and information forming part of this Non-Material Amendment Decision Notice.

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
Has there been a declaration of interest made on this application?	YES	NO