

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Planning Officer recommendation:	MP	03/03/25
EIA Development - Notify Planning Casework Unit of Decision	N/A	
Team Leader authorisation / sign off:	ML	06/03/2025
Assistant Planner final checks and despatch:	ER	07/03/25

Application: 25/00030/FUL **Town / Parish:** Clacton Non Parished

Applicant: Mr Victor Bradley

Address: 65 Frinton Road Holland On Sea Clacton On Sea

Development: Change of use of part of ground floor formerly used as a shop to residential use with alterations to front facade.

1. Town / Parish Council

Clacton-on-Sea – non-parished

2. Consultation Responses

ECC Highways Dept
22.01.2025

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.

From a highway and transportation perspective the impact of the proposal is acceptable to 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

3. Planning History

91/01343/FUL	Extension to kitchen	Approved	23.12.1991
24/01484/FULHH	Householder Planning Application - Alterations to front facade to remove former shop front and replace with two windows and new entrance door with associated works.	Withdrawn	03.12.2024

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

National:

National Planning Policy Framework 2024 (NPPF)

National Planning Practice Guidance (NPPG)

Local Planning Guidance

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

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

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

7. Officer Appraisal

Site Description

The application site is 65 Frinton Road, which is a 2.5 storey property that was previously occupied under Class E(a) use at ground floor level with residential (C3) above. However, the shop is currently vacant, with the supporting submission confirming this has been the case since August 2019.

The surrounding area is heavily urbanised, with commercial properties predominantly at the ground floor along this section of Frinton Road, and residential properties above. The site falls within the Settlement Development Boundary for Clacton-on-Sea within the adopted Local Plan 2013-2033, and is also within the Frinton Road Neighbourhood Centre.

Description of Proposal

This application seeks retrospective planning permission for the change of use of the ground floor from Class E(a) as a shop into residential use (Class C3), which in turn will extend the existing dwelling into four bedrooms.

As part of the development, external works to the front elevation are proposed, with the removal of the shop signage, and a revised frontage that re-locates the front door and replaces the larger windows with two smaller windows.

Assessment

1. Principle of Development

The site is located within the Settlement Development Boundary (SDB) for Clacton-on-Sea, as established in 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.

Moreover, adopted Policy PP3 allocates the site within the Frinton Road Neighbourhood Centre, and the supporting text to this policy states proposals for the change of use from retail within a neighbourhood shopping parade or a village with limited shopping provision will not be permitted unless retail use is either no longer viable, no longer needed by the community it serves, or is to be relocated to provide an equivalent or improved facility. Furthermore, the Council will work with its partners, including local businesses, to protect and enhance village and local neighbourhood centres.

On this occasion, Officers have no evidence of a marketing campaign that demonstrates the site has been sufficiently advertised and confirmed to be unviable. Similarly, there is no suggestion that the shop use is to be re-located. That notwithstanding, it is noted that the site has been vacant since August 2019 and the submission confirms a previous use as a newsagents had to cease trading due to competition with the nearby Tesco. That said, there are a host of commercial properties along this section of Frinton Road, and the loss of a shop in Class E use would have a degree of harm to the viability and vitality of the Neighbourhood Centre.

However, Officers acknowledge that under Schedule 2, Part 3, Class MA of the General Permitted Development Order (GPDO), there are permitted development rights to change the use of a shop use such as this into a residential dwelling, subject to adhering with certain criterion. On this occasion all of the criterion contained within this section of the GPDO would have been adhered to had a Prior Approval application instead have been submitted, and this is given significant weight in the overall determination of the principle of development.

Therefore, on balance, at an overarching high level, the principle of residential development on the site is acceptable, subject to the detailed considerations below.

2. Visual Impacts

Paragraph 135 of the NPPF (2024) 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 2013-33 Local Plan seeks high standards of urban and architectural design which responds positively to local character and context, and to protect the district's landscape and the

quality of existing places and their environs. Policy SPL3 and LP4 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 which create a unique sense of place.

The proposal includes some alterations to the external appearance of the building, notably to the front elevation. Such changes would be expected in the conversion of the property to residential use, and it is noted that there are examples of residential properties in the surrounding area. Therefore, whilst the character to this section of Frinton Road is ground floor being in commercial use, the minor nature of the works and other examples of residential properties nearby ensure that the harm would not be so significant that a refusal reason would be warranted.

3. Impact to Neighbouring Amenities

Paragraph 135 of the National Planning Policy Framework (2023) 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.

The site is within a heavily urbanised area, and there are residential properties located out to all sides, although along this section of Frinton Road they are to the first floor and above. Whilst these properties are in close proximity, it is noted that the proposal would only result in an increased dwelling as opposed to a new dwelling. There are limited external alterations, and there is not considered, overall, to be any significant harm as a result.

Adopted Policy LP4(j) states there should be provision for private amenity space of a size and configuration that meets the needs and expectations of residents, and which is commensurate to the size of dwelling and the character of the area. On this occasion Officers are content that the small area to the rear of the property would be sufficient, and do not raise objections on this basis.

4. Highway Safety

Paragraph 116 of the National Planning Policy Framework (2024) states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, whilst Paragraph 110 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) states proposals for new development must be sustainable in terms of transport and accessibility and therefore should include and encourage opportunities for access to sustainable modes of transport, including walking, cycling and public transport.

ECC Highways have been consulted on the application and have confirmed that from a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority.

Furthermore, Essex Parking Standards state that for a dwelling with two or more bedrooms, there should be minimum provision for two parking spaces measuring 5.5m x 2.9m. On this occasion there is an area to the front of the property for the parking of vehicles. Whilst the size falls short of the necessary measurements, it is noted that the proposal does not increase the parking requirements, and therefore it would not be reasonable to raise an objection on this basis.

5. Renewable Energy

Paragraph 117 of the Framework (2024) states that applications for development should be designed to enable charging of plug-in and other ultra-low emission vehicles (ULEV) in safe, accessible and

convenient locations. However, recent UK Government announcements that ULEV charging points will become mandatory for new development have yet to be published.

Policies PPL10 and SPL3, together, require consideration be given to renewable energy generation and conservation measures. Proposals for new development of any type should consider the potential for a range of renewable energy generation solutions, appropriate to the building(s), site and its location, and be designed to facilitate the retro-fitting of renewable energy installations.

The proposal includes for a development that has the potential to incorporate renewable energy features. There are no details that accompany the planning application that demonstrate the water, energy and resource efficiency measures that the scheme will incorporate, however given that the building is existing, there are minimal alterations, and the proposal would not increase the number of dwellings, on balance it is not considered reasonable to request a condition for such details on this occasion.

6. Ecology and Biodiversity

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. TDLP 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.

This report addresses the distinct legal requirements, ensuring a comprehensive analysis of the ecology and biodiversity impacts of the proposal in line with regulatory standards.

General duty on all authorities

The 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: "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." Section 40 states authorities must consider what actions they can take to further the general biodiversity objective and determine policies and specific objectives to achieve this goal. The actions mentioned include conserving, restoring, or enhancing populations of particular species and habitats. In conclusion for decision making, it is considered that the Local Planning Authority must be satisfied that the development would conserve and enhance.

This development is subject to the general duty outlined above. The proposal is for the change of use from Class E to C3 residential and would only result in limited external alterations to the building.

Therefore, the development on balance and with consideration of the impact of the development and baseline situation on site, does conserve and enhance biodiversity interests.

Biodiversity Net Gain

Biodiversity net gain (BNG) is an approach that aims to leave the natural environment in a measurably better state than it was beforehand. This excludes applications for types of applications which are below the threshold i.e. does not impact a priority habitat and impacts less than 25 sqm of habitat, or 5m of linear habitats such as hedgerow), and therefore this development is not applicable for Biodiversity Net Gain.

Protected Species

In accordance with Natural England's standing advice the application site and surrounding habitat have been assessed for potential impacts on protected species. The proposal is for the change of

use from Class E to C3 residential and is not considered likely to be a habitat for protected species. It is considered that the proposal is unlikely to adversely impact upon protected species or habitats.

Conclusion

In accordance with the overarching duty outlined above, this development is considered to accord to best practice, policy, and legislation requirements in consideration of the impacts on ecology interests.

Other Considerations

On this occasion there is no requirement for a financial contribution towards RAMS on the basis that the proposal will not result in any additional dwellings and is instead an extension of the existing dwelling.

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

There have been no other letters of representation received.

Conclusion

The application proposes the change of use of the ground floor from Class E to C3 for residential use and would see the extension of the existing residential unit. The site falls within a recognised Settlement Development Boundary, and whilst there would be a loss of a commercial use within a Neighbourhood Centre, it is noted that a similar permission would be accepted under a Prior Approval application, which is given significant weight. In addition, ECC Highways raise no objections, there will be no harm to neighbouring amenities, and the external alterations are to a minor level that will not be harmful to the character and appearance of the area.

Taking all of the above into consideration, the application is considered compliant with local and national planning policies and is therefore recommended for approval.

8. Recommendation

Approval.

9. Conditions

- 1 **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 Numbers 1039/BRA/1A, 1039/BRA/2A and the document titled 'Design and Access Statement'.

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

- 2 **CONDITION:** Notwithstanding Section 55 (2)(a)(ii) of the Town and Country Planning Act 1990 as amended and the provisions of the Town and Country Planning (General Permitted Development) Order 2015, (or any Order revoking and re-enacting that Order with or without modification):-no enlargement, improvement, insertion of new openings or other alteration of

the dwelling house shall be carried out, except pursuant to the grant of planning permission on an application made in that regard.

REASON: To enable the Local Planning Authority to retain control over the development in the interests of the amenity of the locality and to safeguard local distinctiveness.

- 3 CONDITION: The areas for purposes of manoeuvring and parking of vehicles shall be retained and remain free of obstruction at all times.

REASON: To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking and layout is provided.

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.

Biodiversity Enhancements Informative:

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>

Highways Informative:

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

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:		NO
Are there any third parties to be informed of the decision? If so, please specify:		NO
Has there been a declaration of interest made on this application?		NO