



## Committee Report

**Planning Committee South** - 28 March 2023

**Application no** DC/22/4367/FUL

**Location**

Land East Of Bent Hill  
Undercliff Road West  
Felixstowe  
Suffolk

**Expiry date**

**Application type** Full Application

**Applicant** East Suffolk Council

**Parish** Felixstowe

**Proposal** Change of use to allow continuation by local business use of the open space. The land will be used for tables and chairs as in previous applications. N. B. Development of this site for groundworks have temporarily been put on hold because of cost restraints. This may be revisited as part of a future application in due course.

**Case Officer** Grant Heal  
[grant.heal@eastssuffolk.gov.uk](mailto:grant.heal@eastssuffolk.gov.uk)

### 1. Summary

- 1.1 Full planning permission is sought for the continued use of public recreation land for outdoor dining purposes associated with adjacent hospitality businesses on land adjacent Bent Hill, Undercliff Road West, Felixstowe.
- 1.2 Considered against all relevant material planning matters, the application is deemed sustainable and therefore recommended for approval in accordance with the NPPF and relevant policies of the adopted development plan.
- 1.3 Reviewed against the Council's adopted scheme of delegation, the application must proceed to planning committee because East Suffolk Council is the applicant and landowner.

## **2. Site description**

- 2.1 The application site comprises two linear parcels of land laid to grass and separated by a public footway linking the southern side of Undercliff Road West with the promenade and beach.
- 2.2 The Bent Hill junction lies adjacent to the north, while a number of restaurants, bars and cafes front the opposite side of Undercliff Road West.
- 2.3 The site lies within the Felixstowe (South) Conservation Area and the Conservation Area Appraisal (CAA) (2020) identifies the site as 'important open/green space'. Further, the site falls within 'Character Area 1' of the Conservation Area, which is generally described as follows:

*'The Sea Front Gardens and Promenade Character Area has a linear character, running parallel with the shore, with steep road connections to the town centre at Convalescent Hill, Bent Hill, and Bath Hill. Between these are pedestrian connections in the form of steps, integrated into the design of the Sea Front Gardens, which form the backdrop to the character area.'*

*'The Character Area has seen considerable public and private investment in recent years, with the restoration of the Grade II-registered seafront gardens, including repair and reinstatement of shelters and other features, and public realm improvements, including new road and footpath surfaces, new lighting, and removal of street clutter'.*

- 2.4 The CAA subsequently describes the character of the site and its surroundings in more specific terms on page 31, as follows:

*'The wide, straight Undercliff Road West has benefitted from urban realm improvements, with new paving, street lighting and decluttering. The road is lined on the beach side with a series of open lawns, divided by evergreen hedges, some of the lawns planted with simple bedding schemes. Of note here is the War Memorial, a fluted Corinthian stone column surmounted by a dove, unveiled in 1920. Otherwise, built development is on the landward side'.*

## **3. Proposal**

- 3.1 The application seeks full planning permission for the continued use of public recreation land for outdoor dining purposes associated with adjacent hospitality businesses on land adjacent Bent Hill, Undercliff Road West, Felixstowe.
- 3.2 The proposal seeks to use the land for the siting of tables and chairs between the hours of 09:00 and 23:00 (daily) to allow open-air dining and drinking by patrons of adjacent restaurants, cafes and bars (including 'The Alex', 'One 29', 'The Cork' and 'Steak Lobster & Co') that all have existing frontage seating areas onto the northern side of Undercliff Road West.

- 3.3 This application follows the approval of two previous applications which consented the site's use for the purposes here sought, albeit the previous applications were both granted permission on a temporary basis for one calendar year (see below planning history).

#### 4. Consultees

##### Third Party Representations

- 4.1 Forty-one (41) representations of support have been received which recognise the proposal's potential to benefit the local economy and tourism, as well as support the long-term vitality of adjacent hospitality businesses and the wider resort. Supporters also recognise the proposal's benefits for public health and wellbeing from increased opportunities to socialise in an outdoor setting.
- 4.2 One objection and two neutral responses have also been received which raise concerns in relation the proposal's potential to encourage antisocial behaviour.

##### Parish/Town Council

Consultee	Date consulted	Date reply received
Felixstowe Town Council	7 December 2022	30 December 2022
Summary of comments: "Committee recommend approval."		

##### Non statutory consultees

Consultee	Date consulted	Date reply received
Disability Forum	7 December 2022	None
Summary of comments: No comment received		

Consultee	Date consulted	Date reply received
Economic Development (Internal)	7 December 2022	None
Summary of comments: No comment received		

##### Publicity

The application has been the subject of the following press advertisement:

Category	Published	Expiry	Publication
Conservation Area	15 December 2022	10 January 2023	East Anglian Daily Times

## Site notices

General Site Notice

Reason for site notice: Conservation Area

Date posted: 11 January 2023

Expiry date: 1 February 2023

### 5. Planning policy

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that “where in making any determination under the planning Acts, if regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise”.
- 5.2 The East Suffolk Council – Suffolk Coastal Local Plan was adopted on 23 September 2020 and the following policies are considered relevant:
- SCLP3.3 - Settlement Boundaries (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)
- SCLP3.2 - Settlement Hierarchy (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)
- SCLP12.2 - Strategy for Felixstowe (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)
- SCLP12.14 - Spa Pavilion to Manor End (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)
- SCLP4.9 - Development in Town Centres (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)
- SCLP4.10 - Town Centre Environments (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)
- SCLP8.2 - Open Space (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)
- SCLP11.1 - Design Quality (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)
- SCLP11.3 - Historic Environment (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)
- SCLP11.5 - Conservation Areas (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)
- SCLP7.1 - Sustainable Transport (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)

SCLP7.2 - Parking Proposals and Standards (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)

SCLP9.5 - Flood Risk (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)

SCLP11.2 - Residential Amenity (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)

- 5.3 The National Planning Policy Framework (NPPF) 2021 is also a material consideration in planning decisions.

## **6. Planning considerations**

### Planning history:

- 6.1 DC/22/0266/FUL: Temporary continuation of change of use for further 1 year to allow adjacent business use of open space. ESC will seek a further application for groundworks, but this has not advanced sufficiently. The land will be used for tables and chair as in application DC/21/0808/FUL at Land East Of Bent Hill Undercliff Road West Felixstowe - Permitted for one calendar year from the date of 26 May 2022.
- 6.2 DC/21/0808/FUL: Temporary change of use for one year to allow adjacent businesses use of public open space temporarily whilst ESC seeks further application for planning and ground works. The land will be used for tables and chairs for the consumption of food & drink outside at Land East Of Bent Hill Undercliff Road West Felixstowe – Permitted for one calendar year from the date of 26 May 2021.

### Planning principle:

- 6.3 With relevance to the proposal, the National Planning Policy Framework (NPPF) makes clear that planning decisions should help to create the conditions in which businesses can adapt through an approach that allows each area to build on its strengths, counter any weaknesses and address the challenges of the future.
- 6.4 Further, the NPPF also sets out that decisions should support the role that Town Centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.
- 6.5 It also encourages decisions that ensure the provision of social, recreational and cultural facilities, while providing shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities.
- 6.6 Importantly, the NPPF emphasises the need to guard against the unnecessary loss of valued facilities and services and ensure that established shops, facilities and services are able to develop, modernise, and are retained for the benefit of the community.

- 6.7 Considered within the context of the adopted Local Plan, the site falls within the 'Settlement Boundary' (SCLP3.3) of Felixstowe, which is categorised as a 'Major Centre' within the 'Settlement Hierarchy' (SCLP3.2).
- 6.8 With relevance to the proposal, SCLP12.2 (Strategy for Felixstowe) seeks to ensure that the town retains its role as a thriving coastal resort with a comprehensive range of services and facilities that supports the community through, amongst other things, maintaining successful retail and leisure opportunities and enhancing links between the Town Centre and seaside.
- 6.9 The site is also affected by policy SCLP12.14 (Spa Pavilion to Manor End) which aims to support, amongst other things, high intensity tourist uses and encourages new resort experiences and the retention of commercial frontages. Moreover, SCLP12.14 states that:
- 'Between the Pier and the Spa Pavilion, activities which promote cultural attractions including cafes, restaurants and shops on the ground floor will be supported where they make a positive contribution to the significance of the two Conservation Areas, and respect the Registered Gardens and the Victorian and Edwardian architectural heritage of the resort. Proposals which provide a link between the resort and the town centre will also be supported'.*
- 6.10 The existing restaurant businesses which would utilise the land subject to this application lie on the edge of Felixstowe's Town Centre where Policy SCLP4.9 (Development in Town Centres) requires that town centres develop in ways that support healthy lifestyles, social interaction, overnight stays, culture and the arts.
- 6.11 Further, Policy SCLP4.10 (Town Centre Environments) states that development will encourage people to spend more time, enjoy and participate in town centres. It will achieve this by, amongst other things, supporting opportunities for social interaction.
- 6.12 Following consideration of the above, both national and local planning policy both clearly emphasise the need to support businesses towards equipping them with the means to adapt to a fast-changing economic landscape and/or circumstances that might challenge their future vitality or ability to meet the needs of the communities they serve. As such, due regard must be given to the negative financial impacts that recent geopolitical and socio-economic events continue to have on the viability of the tourism and hospitality sectors, brought about by reduced public spending and inward investment.
- 6.13 While both policies SCLP12.2 and SCLP8.2 (Open Space) principally resist the loss of open space, the use of the proposal site for enjoyment by the public would not be lost and no physical changes to the land would result from this application.
- 6.14 The previous two temporary consents have demonstrated that the site can be utilised for the purposes sought without any demonstrable harm to the land or surrounding environmental receptors. Using similar planning conditions as included on the previous two consented applications, the Case Officer can find no compelling reason why the site's use for the siting of chairs and tables to allow for outdoor dining and socialising should not continue indefinitely.

- 6.15 Indeed, continuing to use the site in way proposed would provide a significant benefit to local businesses, the vitality of the Town Centre and the wider seaside resort more generally. Fundamentally, the nature of the proposal would not result in the loss of open space since the land will still be enjoyed by the public. Therefore, SCLP12.2 and SCLP8.2 would not be undermined.
- 6.16 In-line with the above assessment, it is therefore judged that, on balance, the planning principle could be considered acceptable, subject to a satisfactory assessment of other material planning matters, as set out below.

Visual amenity and heritage:

- 6.17 The proposal includes the temporary placement of chairs, tables and parasols across the site for use during the opening hours of adjacent hospitality businesses. It is understood that all furniture would be removed between the hours of 23:00 and 09:00 for security purposes while businesses are closed.
- 6.18 Given that no permanent development would be erected on the site, the application is considered to represent a low impact on the prevailing street scene and character of the Felixstowe Conservation Area.
- 6.19 As such, the proposal would not undermine the relevant provisions of the NPPF, nor policies SCLP11.1 (Design quality), SCLP11.3 (Historic environment) and SCLP11.5 (Conservation Areas) of the adopted development plan.

Highway safety and parking:

- 6.20 While no additional vehicular parking provision is proposed as part of this application, the site is sustainably located close to Felixstowe's Town Centre and within its seaside resort where there are a number of dedicated public car parks. The site also has good access to alternative transport links, including bus and train services. On-street parking is also available within the streets surrounding the development.
- 6.21 The nature of the proposal is otherwise unlikely to present the potential to impact negatively upon existing highway safety or restrict parking provision unduly, when judged against the provisions of the NPPF, or policies SCLP7.1 (Sustainable Transport) and SCLP7.2 (Parking proposals and Standards) of the adopted development plan.
- 6.22 No highway safety incidents were evident on crashmap.co.uk within 180 metres of the site at the time this report was compiled.

Flood risk:

- 6.23 Notwithstanding the proposal site's susceptibility to the risks of tidal flooding, given the site's established recreational use, the controlled nature of development and the existence of protective seawall flood defences, this application is not considered to hold the potential to undermine the provisions the NPPF or policy SCLP9.5 (Flood Risk) of the adopted development plan.

### Residential amenity:

- 6.24 In essence, this application seeks to provide an area of overspill for external seating areas already present on the opposite side of Undercliff Road West. While it is appreciated that the proposal would effectively increase the seating capacity over a greater area and, as a result, the potential for increased noise, the increased distance and separation between the application site and residential properties along Undercliff Road West provides a suitable buffer towards mitigating any perceived increase in noise that may arise.
- 6.25 As licence holders, the hospitality businesses - whose patrons would occupy the site during its use - would also be responsible for upholding a duty of care towards managing any excess noise and antisocial behaviour. It is also the responsibility of the license holders to ensure that the site is kept in a clean and tidy state.
- 6.26 The Council's records indicate that no noise complaints have been received within the past two-year period. Nevertheless, suitably worded planning conditions would also be used to ensure appropriate conduct is enforceable.
- 6.27 Taken together, this application is not considered to hold the potential to undermine the relevant provisions of the NPPF or SCLP11.2 (Residential amenity) to a level that could be considered unacceptable.

## **7. Conclusion**

- 7.1 As per the above assessment, this application accords with the NPPF and all relevant policies of the adopted development plan.

## **8. Recommendation**

- 8.1 The application is recommended for approval with appropriate conditions and there are no contrary views from statutory consultees.

### **Conditions:**

1. The development hereby permitted shall be begun not later than the expiration of three years from the date of this permission.

Reason: This condition is imposed in accordance with Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted relates to the land identified within the submitted site location plan received on 4 November 2022.

Reason: For avoidance of doubt as to what has been considered and approved.

3. The hereby approved development permits the use of the subject land for the siting of chairs, tables and parasols associated with adjacent hospitality business only. No other furniture or apparatus shall be placed or erected on the site at any time unless otherwise agreed by the Local Planning Authority.



Reason: To ensure the satisfactory appearance of the development in the interests of visual amenity.

4. The hereby approved development site shall at all times be maintained in a clean and tidy state as free from litter and waste.

Reason: In the interest of public health and visual amenity.

5. At no time shall there be allowed any display of recorded or live music or performances on the hereby approved development site.

Reason: In the interests of amenity and protection of the local environment.

6. The hereby approved development site shall only be open to the public for dining and drinking purposes between the hours of 09:00 and 23:00 Monday to Sunday.

Reason: In the interests of amenity and protection of the local environment.

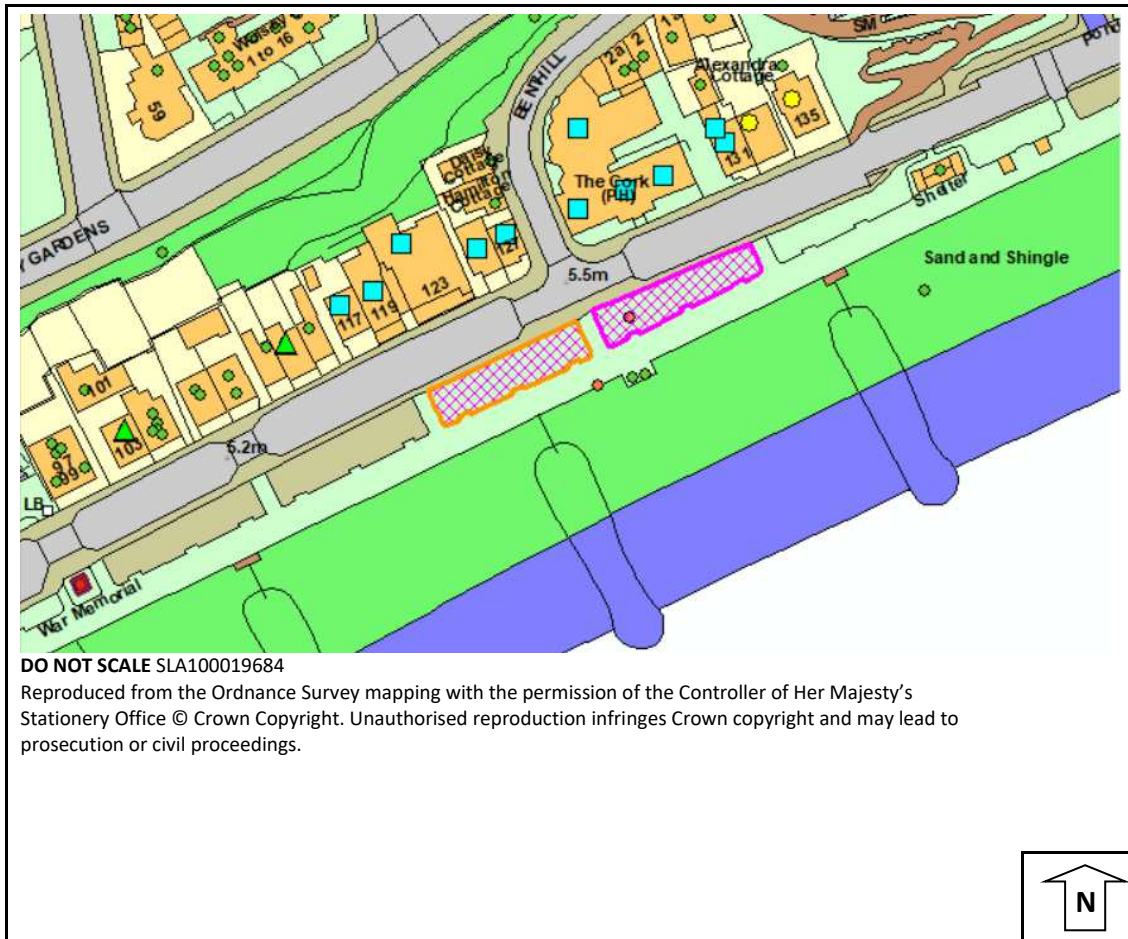
**Informatives:**

1. The Local Planning Authority has assessed the proposal against all material considerations including planning policies and any comments that may have been received. The planning application has been approved in accordance with the objectives of the National Planning Policy Framework and local plan to promote the delivery of sustainable development and to approach decision taking in a positive way.





**Background information**

See application reference DC/21/0808/FUL on [Public Access](#)

## Map



### Key

- |   |                                |
|---|--------------------------------|
|  | Notified, no comments received |
|  | Objection                      |
|  | Representation                 |
|  | Support                        |