



## Committee Report

**Planning Committee South** - 25 May 2021

**Application no** DC/21/0808/FUL

**Location**

Land East of Bent Hill  
Undercliff Road West  
Felixstowe  
Suffolk

**Expiry date** 28 May 2021  
**Application type** Full Application  
**Applicant** East Suffolk Council

**Parish** Felixstowe

**Proposal** 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.

**Case Officer** Grant Heal  
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### 1. Summary

- 1.1 Full planning permission is sought for the temporary use (one calendar year) of public recreation land for 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 however 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 Under Cliff 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 Under Cliff 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 temporary use (one calendar year) of public recreation land for 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'); all with existing frontage seating area's onto the northern side of Undercliff Road West.

#### 4. Consultations/comments

- 4.1 Three third-party representations of objection have been received which raise concerns relating to anti-social behaviour, noise, litter, vermin infestation and heritage impact.
- 4.2 Two neutral third-party representations have been received which raise concerns relating to anti-social behaviour, noise, litter, vermin infestation and heritage impact.
- 4.3 118 third-party representations of support have been received which recognise the proposal's potential to benefit the local economy, as well as support the long-term vitality of adjacent hospitality businesses and the wider resort during a period of unforeseen economic downturn resulting from the global pandemic. Supporters also recognised the proposal's positive benefit for public health and wellbeing from increased opportunities to socialise safely in-light of current social distancing restrictions.

#### 5. Consultees

##### Parish/Town Council

Consultee	Date consulted	Date reply received
Felixstowe Town Council	2 March 2021	12 March 2021
<i>"Committee support the temporary use of this site as proposed and recommended APPROVAL, subject to; the hours of operation being limited to 10pm; retention of the green area and Phormium plant; appropriate enhancement of the area to mitigate the loss of the flower bed; and public access to the site being preserved."</i>		

##### Non statutory consultees

Consultee	Date consulted	Date reply received
Disability Forum	N/A	15 March 2021
Summary of comments: Concerns raised regarding accessibility to mobility and sight impaired users.		

Consultee	Date consulted	Date reply received
Economic Development (Internal)	N/A	23 March 2021
Summary of comments: The Economic Development team is supportive of this application.  The proposals will enable local businesses to maximise their use of outside space to support social distancing during the holiday season, and allow businesses to maximise their opportunity to trade.		

## Publicity

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

Category	Published	Expiry	Publication
Conservation Area	4 March 2021	25 March 2021	East Anglian Daily Times

## Site notices

General Site Notice	Reason for site notice: Conservation Area Date posted: 5 March 2021 Expiry date: 26 March 2021
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## 6. Planning policy

6.1 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”.

6.2 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)

## **7. Planning considerations**

### Planning principle:

- 7.1 With relevance to the proposal, The NPPF (paragraph 80-81) 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.
- 7.2 Further, paragraph 85 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.
- 7.3 Paragraph 92 also encourages decisions to 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.
- 7.4 Importantly, paragraph 92 c) and d) 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.
- 7.5 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).
- 7.6 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.

- 7.7 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'.*
- 7.8 The existing restaurant business's 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.
- 7.9 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.
- 7.10 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 impact that recent events have had on the viability of the hospitality sector, including social distancing measures which have restricted premises capacity and constrained turnover/investment.
- 7.11 While both policies SCLP12.2 and SCLP8.2 (Open Space) principally resist the loss of open space, it is otherwise judged that circumstances imposed by the global pandemic represent exceptional circumstances which attracts moderate weight in the determination of this application. Indeed, the proposal would provide a significant benefit to local businesses and the vitality of the Town Centre and seaside resort more generally. Fundamentally, the temporary nature of the proposal would not result in the loss of open space and thus SCLP12.2 and SCLP8.2 would not be undermined.
- 7.12 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:

- 7.13 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 23:00 and 09:00 for security purposes while businesses are closed.

- 7.14 Given the temporary nature of the proposal and the fact 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.
- 7.15 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:

- 7.16 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.
- 7.17 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.

Flood risk:

- 7.18 Notwithstanding the proposal site's susceptibility to the risks of tidal flooding, given its established recreational use, the temporary nature of development and the existence of protective 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:

- 7.19 In essence, this application seeks to provide an area of overspill from external seating areas already present on the opposite side of Undercliff Road West. While it is appreciated that the proposal would effectively increase seating capacity and, as a result, the potential for increased noise, it is otherwise considered that the increased distance and separation between the site and neighbouring residential properties could provide a suitable buffer towards mitigating any perceived increase in noise that may arise.
- 7.20 As licence holders, the hospitality businesses, whose patrons would occupy the site during its use, would also be responsible for upholding a duty care towards managing any excess noise and antisocial behaviour. It is also the responsibly of the license holders to ensure that the site is kept in a clean and tidy state. Nevertheless, suitably worded planning conditions could also be used to ensure appropriate conduct is enforceable.
- 7.21 As such, 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.

## **8. Conclusion**

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

## **9. Recommendation**

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

### **Conditions:**

1. The hereby permitted use shall expire on the first day following one calendar year from the date of this consent, following which the land shall be reinstated to its former condition unless prior to that date planning permission is renewed.

Reason: The development is unsuitable for permanent consent by virtue of its character/impact upon the locality.

2. The development hereby permitted relates to the land identified within the submitted 'Site location plan' received by application on 22 February 2021.

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.



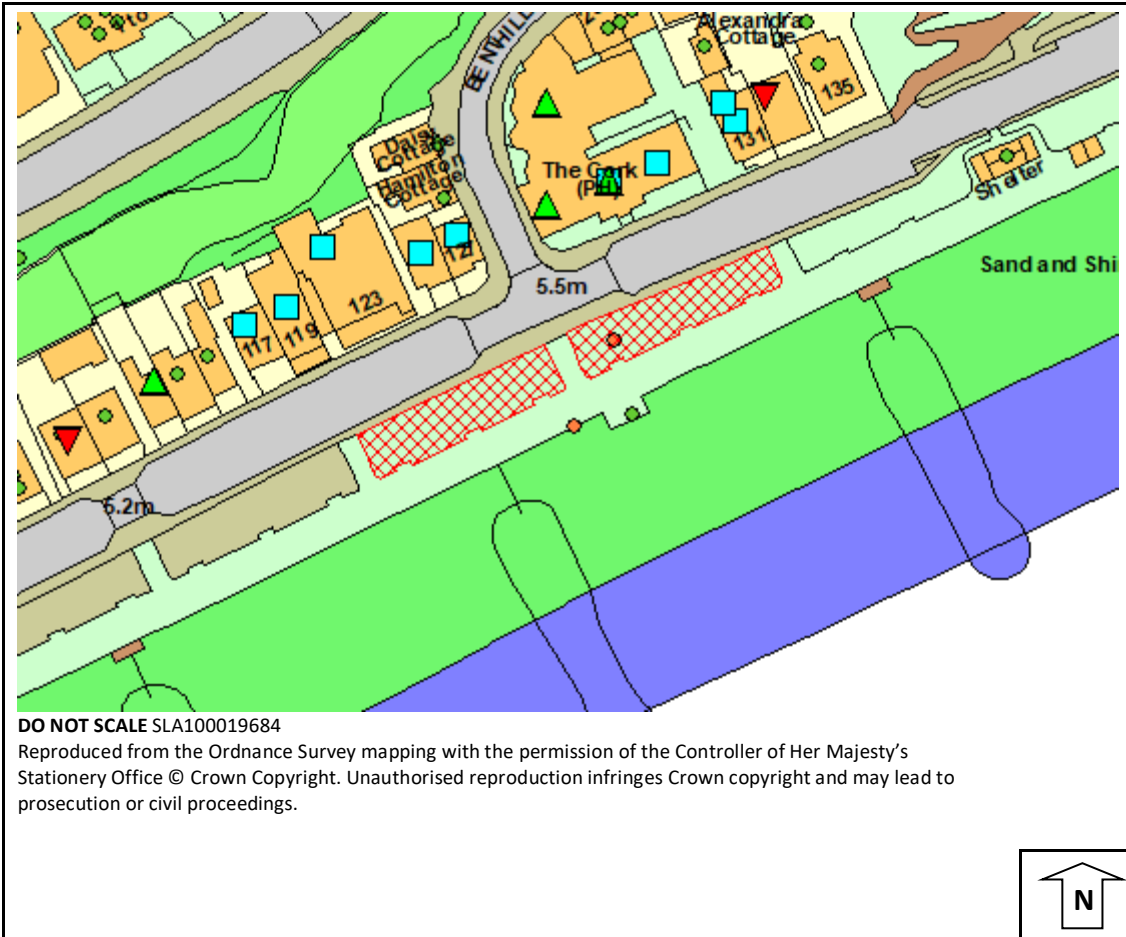
**Informatives:**

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