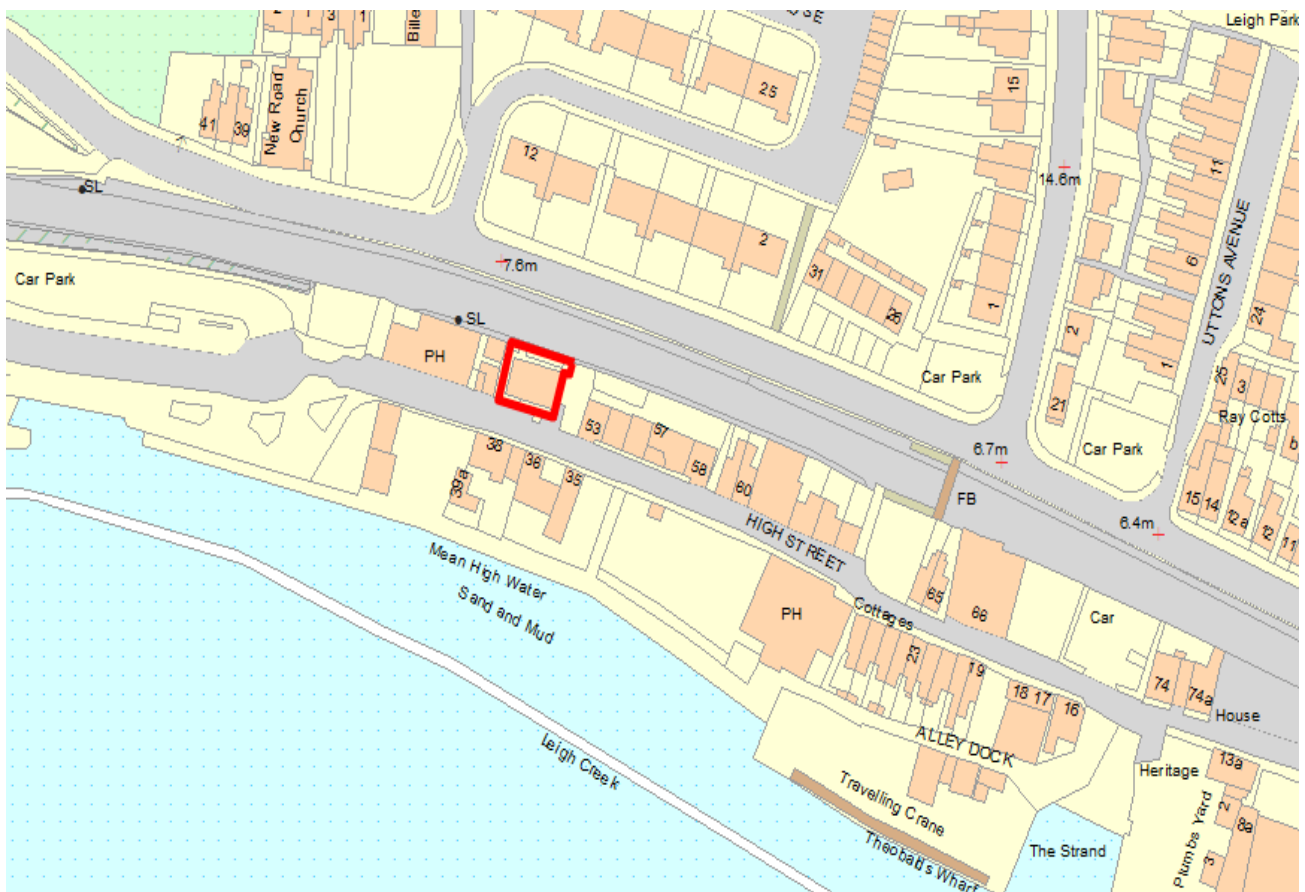


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|-----------------------------|---|--|
| Reference: | 17/02280/FUL | |
| Ward: | Leigh | |
| Proposal: | Change of use from scout hall/gym (class D2) to restaurant (class A3), install extract flue to rear, refuse area to west side and alter front elevation | |
| Address: | Scout Hall 52 High Street, Leigh-on-Sea, Essex SS9 2EP | |
| Applicant: | Paul Alston | |
| Agent: | WJS-Survey & Design | |
| Consultation Expiry: | 19 th March 2018 | |
| Expiry Date: | 9 th April 2018 | |
| Case Officer: | Abbie Greenwood | |
| Plan Nos: | 17-Clarendon-01B, 17-Clarendon-02A, 17-Clarendon-03B, 17-Clarendon – 04A | |
| Recommendation: | GRANT PLANNING PERMISSION | |



1 The Proposal

- 1.1 Planning permission is sought to change the use of the existing building from a Scout / community hall (class D2) to a restaurant (class A3). The proposal includes a number of external alterations to the building which can be summarised as:
- Installation of a new balustrade to the terrace area to replicate original design
 - Install traditional timber framed windows to the blank dormers to replicate original design
 - Replace existing felt roof with natural slate
 - Installation of new timber doors to match existing
 - Install extract duct and flue to rear elevation
 - Install external staircase from side terrace to proposed refuse area
- 1.2 The application form confirms that the proposal would support 4 full time and 6 part time jobs. The drawings show the number of covers to be 48. The proposed opening hours are 9am to 12 midnight Monday to Sunday including bank holidays from May to September and 12 noon to 12 midnight Monday to Sunday from October to April. The supporting documents submitted with this application include a Design and Access Statement including a flood risk assessment and information to support the proposed change of use.

2 Site and Surroundings

- 2.1 The existing building dates from the early twentieth century and was originally built as the Fisherman's Chapel but is now owned by Southend West Scouts. It is understood that the building has not been used by the scouts from some time although it was, until recently, used by a local keep fit class. The building is currently vacant.
- 2.2 The building is sited on a raised concrete plinth which affords it additional presence in the streetscene. It is a simple gabled form, clad with feather edged weather boarding which was originally stained black, but this has since worn off to give a more natural wood finish. The building has tall, delicate, sash windows to the front which originally extended into the roof. The original sashes in the lower section of the windows still remain. The top sections, which still extend into the roof have been over clad with weatherboarding. The roof is modern felt which is considered to have a negative impact on the historic character of the building, particularly when viewed from Leigh Conservation Area to the north where it is very prominent. The original wrought iron railings to the raised terrace have also been lost. Nevertheless the building is still very distinctive and makes a positive contribution to the character of the conservation area. There is, however, potential for enhancement through the reinstatement of the lost features and materials.
- 2.3 The site is located at the western end of Leigh Old Town Conservation Area adjacent to the Crooked Billet Public House. The pub is grade II listed and one of the oldest buildings in the conservation area. The Billet marks the entrance to the Old Town from the west. The rest of the conservation area to the east contains some traditional and modern housing of modest scale, three other pubs and a few retail outlets.

- 2.4 In addition to the heritage designations, the Old Town is located within Development Management Document Policy DM6 Seafront Character Zone 2 and Floodzone 2. The mudflats to the south are covered by local, national and international nature designations.

3 Planning Considerations

- 3.1 The main considerations in relation to this application are the principle of development, design and impact on the character and significance of the historic building and the wider Leigh Old Town Conservation Area, any highways implications and any impact on residential amenity. The contribution that the proposal makes to the enhancement of tourism facilities on the seafront is also a consideration.

4 Appraisal

Principle of Development

National Planning Policy Framework (NPPF) (2012); Core Strategy (2007) policies KP1, KP2, CP2, CP3, CP4, CP6 and CP7, Development Management Document (2015) Policies DM1, DM3, DM5, DM6 and DM15 and the Southend Design and Townscape Guide (2009).

- 4.1 The main issue of principle in relation to this application is the proposed change of use from a community facility to a restaurant. The loss of the community facility needs to be weighed against the benefits of the proposal in relation to the provision of additional tourist and leisure facilities and any benefits for the conservation area.

- 4.2 The overriding aim of the NPPF is to promote sustainable development and in relation to this issue it states that: *'to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system.'*

- 4.3 In relation to the loss of community facilities policy CP6 of the Core Strategy states that *'New development should demonstrate that it will not jeopardise the Borough's ability to improve the education attainment, health and wellbeing of local residents and visitors to Southend. This will be achieved by ...safeguarding existing and providing for new leisure, cultural, recreation and community facilities'*

- 4.4 In relation to development affecting recreational facilities Policy CP7 states:

'All existing and proposed sport, recreation and green space facilities (including the Southend foreshore and small areas of important local amenity, community resource or biodiversity value) will be safeguarded from loss or displacement to other uses, except where it can clearly be demonstrated that alternative facilities of a higher standard are being provided in at least an equally convenient and accessible location to serve the same local community, and there would be no loss of amenity or environmental quality to that community.'

- 4.5 Furthermore, the Core Strategy commentary relating to policy CP7 comments that:

'Existing facilities should not be built on unless they have clearly been shown to be surplus to requirements. Facilities of high quality or particular value should be given protection.'

- 4.6 Policy DM6 of the Development Management Document relates to development on the seafront. In relation to development on the seafront it states that:

'3. Existing buildings along the Seafront that form a cohesive frontage, have a historic context or are recognised as key landmarks and/or contribute to a distinctive Southend sense of place will be retained and protected from development that would adversely affect their character, appearance, setting and the importance of the Seafront.'

'5. The provision of new and improved facilities for water recreation and other leisure and tourism facilities will generally be supported in appropriate locations along the Seafront' and

6. All development within the Seafront Area must accord with the development principles set out in Policy Table 1.'

- 4.7 Policy Table 1 sets out the key principles for development in each of the seafront character zones. The development principles for Leigh Port and Old Town (Character Zone 2) include:

'(i) To maintain a thriving fisheries and working port by resisting the loss of existing marine industrial activities.'

(ii) To enhance the leisure and tourism offer, but in a manner that does not compromise the marine industrial activities and character of Leigh Old Town.'

(iii) To preserve and enhance the special character of Leigh Old Town Conservation Area.'

(iv) Measures that maintain an appropriate balance between the working port and leisure and tourism activities, when considered in conjunction with points 2(i), 2(ii) and 2(iii) will be supported.'

- 4.8 The building is currently owned by Southend West Scouts, however, they have confirmed in writing to the applicant, which has been shared with the Council that the building is surplus to their requirements and is no longer used by the scouts. Their letter states that:

'the previous Scout usage [of the building] has displaced elsewhere in the District and the building was being used only on an ad hoc basis by various external users who paid very little towards the overall running expenses of the building. As an Executive Committee with Trustee responsibility for ensuring that the assets of the District (including available funds) are used to benefit our membership, we concluded that the essential subsidising of external organisations did not fit within that legal requirement. Following lengthy discussions and consultation with our membership (via the District Scout Council), we have established that the leasing of the premises will provide a steady and constant income which can be used for the direct benefit of the young people. At the same time, we would retain the freehold of the building and thus the opportunity for future income from an appreciating asset.'

- 4.9 Indeed their website confirms that this Scout Group operates from 11 other venues, mainly church halls, in the Leigh area.
- 4.10 The building has more recently been used by Rebel Fitness which operates 14 fitness classes a week. The Scouts letting agent has also confirmed to the applicant that the Rebel Fitness classes have relocated to the Coal Hole, 35-36 High Street, Leigh opposite the site, which is the other premises owned by Southend West Scouts in this area. The agent has also confirmed that the climbing wall within the existing building has also been replaced within an alternative scout venue nearby.
- 4.11 It is evident that the existing building is under used. It is also in need of renovation. As part of the conversion it is proposed to reinstate of a number of historic features which have been lost including the roof materials, dormer windows and railings. This would be of significant benefit to the conservation area and the details of these reinstatement works and other alterations are discussed in more detail below. It is also noted that these works will also help secure the future of the building.
- 4.12 The site is located in floodzone 2, however, no extensions are proposed and the building is situated above ground level on a substantial raised plinth. The proposed commercial use is classed as a less vulnerable use and as such the restaurant use is considered acceptable in flood risk terms in this location.
- 4.13 On balance it is considered that, in this instance, given the uncertain future of the building and its current state of repair, the opportunity to secure significant enhancements for the historic building and for the wider Leigh Old Town Conservation Area, the fact that the building is currently underused and that the previous users have relocated in the vicinity, the enhanced tourist offer for the Old Town and the fact that that the increased rent from the building will support the continued operation of the Scouts and their facilities in the local area, the change of use away from the existing community facility can be justified as compliant with the objectives of development plan policies.
- 4.14 The principle of the proposed change of use is therefore acceptable subject to other material considerations which are discussed below.

Design and impact on the character of the Historic Building and wider Leigh Old Town Conservation Area

National Planning Policy Framework (2012); Core Strategy (2007) policies KP1, KP2, and CP4, Development Management Document (2015) Policies DM1, DM3, DM5, DM6 and DM15 and the Southend Design and Townscape Guide (2009).

- 4.15 Section 69 of the Planning (Listed Building and Conservation Areas) Act 1990 defines conservation areas as *'areas of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance'*.
- 4.16 The National Planning Policy Framework (NPPF) states that in determining

planning applications, local authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets (paragraph 131). As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification (paragraph 132). Planning authorities should look for opportunities for new development within conservation areas and within the setting of heritage assets to enhance or better reveal their significance. Proposals that best preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favorably (paragraph 139).

4.17 Policy KP2 of the Core Strategy advocates the need for all new development to respect the character of the existing neighbourhood where appropriate and secure urban improvements through quality design. Policy CP4 of the Core Strategy states that development proposals will be expected to contribute to the creation of a high quality, sustainable, urban environment which enhances and complements the natural and built assets of Southend by maintaining and enhancing the amenities and character of residential areas, securing good relationships with existing development, and respecting the scale and nature of that development.

4.18 Policy DM1 of the Development Management Document advocates the need for the Council to support proposals that add to the overall quality of an area, respect the character of the site, its local context and surroundings giving appropriate weight to the protection of heritage assets.

4.19 Policy DM5 of the Development Management Document seeks to protect the special character of the Boroughs Conservation Areas. In relation to this the preamble to Policy DM5 of the Development Management Document states that:

'To conserve and enhance the character and quality of the Conservation Areas, development proposals, both traditional and modern, will have to be carefully considered and demonstrate a high quality design that not only integrates with the surroundings but also conserves and enhances its intrinsic character and distinctiveness.'

4.20 As noted above Policy DM6 of the Development Management Document also seeks to protect the unique character of the seafront including Leigh Old Town.

4.21 The problems and pressures facing the conservation area are identified in the Leigh Old Town Conservation Area Appraisal which states that:

'6.1.1 The primary pressure on the Conservation Area is the need for the businesses to operate in a modern and profitable manner. This is resulting in loss of character owing to increasingly inappropriate advertising and signage, cheap and ugly additions to buildings and inappropriate boundary treatments among other problems.'

'6.6.6 The number of tourists visiting in fine weather puts pressure on the town in the same way as it does in most resorts. This has an impact on car parking and traffic levels as well as pubs and cafes which must stretch to accommodate these.'

4.22 The policies above therefore support improvements to the leisure offer in the Old

Town provided these are not at the expense of its heritage assets including the special character of historic buildings in the conservation area.

- 4.23 The proposal includes a variety of alterations to the building, the merits of which are discussed below:

Installation of a new balustrade to the terrace area to replicate original design

- 4.24 Historic photos show that the building originally had vertical cast iron railings. The current terrace has modern metal post with a timber rail which appears rather at odds with the building and which appear unsafe. The proposal is to reinstate the original design and materials of the balustrade. This will enhance the character of the building and the wider conservation area and is welcomed.

Install traditional timber framed windows to the blank dormers to replicate original design

- 4.25 The historic photos also confirm that the dormer sections to the roof were originally glazed with matching windows that had a pivot opening mechanism. The application seeks to remove the cladding which has been installed here and replicate this lost feature. This is also considered to be an enhancement to the historic character of the building and wider conservation area.

- 4.26 With regard to the existing windows the applicant has confirmed that it is his intention to restore the existing windows and install secondary glazing behind to help mitigate noise escaping from the premises. This is considered an acceptable design solution.

Replace existing felt roof with natural slate

- 4.27 It is proposed to replace the existing felt roof with natural slate. This will be a significant enhancement for the property and the wider conservation area and is again welcomed.

Installation of new timber doors to match existing

- 4.28 The proposal seeks to replicate the existing doors in timber. This is considered to be acceptable.

Install extract flue and duct to rear elevation

- 4.29 As a restaurant the proposal will require a commercial kitchen and associated extraction plant. This was initially proposed as a conventional stainless steel flue on the west gable rising from ceiling height to ridge level but the visual impact of this was considered to be incompatible with the historic character of the conservation area. The Council's Environmental Health Officer has advised that the discharge needs to be above eaves level and off the slope of the roof for the discharged air to disperse and it has been suggested that this could be achieved within a small false chimney stack to the rear roofslope and the plans have been amended to reflect this. This could be detailed with brick slips so that it did not appear out of place. It is therefore considered that the flue can be accommodated in an acceptable manner and the final details of this extract could be agreed by

condition. The applicant has also confirmed that the fresh air intake to the rear elevation would be a grille which is powder coated to match the existing building. This is acceptable on design and heritage grounds.

Install external staircase from side terrace to proposed bin area

- 4.30 Finally, it is proposed to construct a small external staircase to and from the terrace on the west side of the building to the area of land on between the application building and the Crooked Billet, which is the intended location for the waste storage. This area is set at ground level with a tall timber gate to the street which will screen the bins from view. The waste storage was relocated to this area from its original position to the rear of the building following concerns raised regarding access (the original location could only be serviced over land belonging to the neighbouring flats). The amended location is more accessible and suitable for waste storage and public views of the bins will be screened by the existing gate. There is therefore no objection to a new access staircase to this area.
- 4.31 Overall the scheme proposes the reinstatement of a number of key historic features including the roof materials, lost windows to the dormers and railings which have been lost over the years these elements of the proposal are particularly beneficial to the conservation area. The rest of the building will remain relatively unchanged. The proposal is therefore considered to enhance the historic character of the building and that of the wider conservation area. The design of the proposal is therefore acceptable and policy compliant subject to the agreements of detailing which can be achieved via conditions.
- 4.32 With regard to the impact of the change of use on the character of the conservation area it is considered that the proposed restaurant use is compatible with the existing character of the area which includes a number of other similar uses nearby.

Traffic and Transportation

National Planning Policy Framework (2012); Core Strategy (2007) policies KP2, CP3 and CP4; Development Management Document (2015) policy DM15, and the Design and Townscape Guide (2009).

- 4.33 The proposal does not involve any extensions to the building itself but will be changing its use from class D2 to Class A3. There is no existing or proposed parking for the site, however, there are a variety of public car parks nearby as well as access to public transport and visitor cycle parking. Furthermore this is a sustainable location and users are likely to make linked trips to the area. Given the existing use and sustainable location, it is not considered that the lack of parking is an impact which would justify the refusal of planning permission. The Council's Highways Officer has not raised any objection to the absence of parking.
- 4.34 Whilst there are some visitor cycle parking stands in the vicinity of the site, no staff cycle parking has been proposed as part of the application. It is however noted, that there is space for cycle parking to be accommodated to the side or rear of the building and this could be secured via a planning condition.
- 4.35 As noted above the refuse area is proposed to the west of the building behind the

existing gates. No objections are raised with regard to this location which seems to be of a reasonable size and accessible location. No details have been provided on the exact provision of waste and recycling storage but it is considered that the details of the waste storage facilities could be agreed by condition. The Council's Highways Officer has commented that this needs to take account of the Council's Waste Management Guidelines.

Impact on Neighbour Amenity

National Planning Policy Framework (2012); Core Strategy (2007) policies KP2 and CP4; Development Management Document (2015) policies DM1 and DM3 and the Southend Design and Townscape Guide (2009).

- 4.36 Policy DM1 of the Development Management DPD states that development should, *“protect the amenity of the site, immediate neighbours and surrounding area, having regard for privacy, overlooking, outlook, noise and disturbance, visual enclosure, pollution and daylight and sunlight.”*
- 4.37 The proposal is seeking a change of use from D2 (leisure and community use) to A3 (restaurant). The proposed hours of operation are 9am - 12 midnight Monday to Sunday including bank holidays from May to September, reducing to 12 noon to 12 midnight Monday to Sunday including bank holidays from October to April. The existing use has no restriction on its opening hours. The terrace to the front of the property is proposed for use as outside dining. It is noted that the proposed opening hours are consistent with those of the Peter Boat and the Crooked Billet.
- 4.38 There are a number of residential properties surrounding the site. The modern flats to the east are 6m from the building; the dwellings opposite are 9m from the building and the managers flat at the Crooked Billet is 9m from the building. In addition to residential properties there are two busy public houses close to the site, a railway and a busy road. It is likely that, in the summer particularly, the background noise levels are already quite significant.
- 4.39 The applicant has been made aware of Environmental Health requirements in terms of noise and disturbance and odours mitigation measures. The applicant has indicated that these measures will include items such as the installation of secondary glazing to the windows and acoustic wall insulation and designing the extract to meet noise restrictions.
- 4.40 Several objections have been received raising concerns about the potential for noise and disturbance resulting from the proposed change of use including the plant equipment and use of the terrace for outside dining.
- 4.41 It is considered that mitigation measures can be undertaken to reduce noise nuisance from the plant, the dining area and more generally and that these could be controlled by suitable planning conditions. This is also the case for odour impact. It is also considered that a condition could be imposed to restrict the use of the front terrace for outside dining later in the evenings to prevent noise nuisance from this element of the proposal.
- 4.42 Environmental Health have commented that, in order for the fumes to dissipate

properly, the flue to the rear needs to be raised above eaves and suggest that this could be achieved within a false chimney. The plans have been amended to reflect this. It is considered that, subject to using appropriate materials and detailing, this can be achieved in a manner which is compatible with the building. This arrangement is therefore acceptable in principle and the detailed design can be agreed by condition.

- 4.43 The proposal has also been assessed in relation to other amenity issues including light, outlook, visual impact, sense of enclosure, overlooking and privacy and is considered to be acceptable and policy compliant in these regards. Overall therefore, it is considered that, subject to the imposition of planning conditions relating to noise mitigation and odour control from the building and the terrace area, design details of the flue and hours of opening for the building itself and the terrace, the impact on neighbours can be satisfactory controlled.

Flood Risk

- 4.44 As noted in paragraph 4.11 above it is not considered that the proposal would be vulnerable to flooding or give rise to any increased risk in the area.

CIL

- 4.45 The proposed development is for a commercial to commercial change of use with no increase in floorspace. The proposal is therefore not CIL liable as it benefits from a Minor Development Exemption under the Community Infrastructure Levy Regulations 2010 (as amended) and as such no charge is payable.

Conclusion

- 4.46 Having taken all material planning considerations into account, it is found that subject to compliance with the attached conditions, the proposed development would be acceptable and compliant with the objectives of the relevant development plan policies and guidance. The proposed use would enhance existing tourist facilities and would provide significant enhancement of the conservation area and this, on balance, would mitigate for the loss of an underused community facility and is therefore acceptable in principle. It is also considered that subject to appropriate planning conditions the proposal would have an acceptable impact on the amenities of neighbouring occupiers. The highways impacts of the proposal are acceptable. This application is therefore recommended for approval subject to conditions.

5 Planning Policy Summary

- 5.1 National Planning Policy Framework (2012)

- 5.2 Core Strategy Policies KP1(Spatial Strategy), KP2 (Development Principles), CP2 (Town Centre and Retail Development), CP3 (Transport and Accessibility) CP4 (The Environment and Urban Renaissance), CP6 (Community Infrastructure) and CP7 (Sport, Recreation and Green Space)

- 5.3 Development Management Document (2015) policies DM1 (Design Quality), DM2

(Low Carbon and Development and Efficient Use of Resources) DM3 (Efficient and effective use of land), DM5 (Southend-on-Sea's Historic Environment), DM6 (The Seafront) and DM15 (Sustainable Transport Management)

5.4 Leigh Old Town Conservation Area Appraisal (2010)

5.5 Southend Design & Townscape Guide (2009)

5.6 Community Infrastructure Levy

6 Representation Summary

Environmental Health

6.1 The applicant is proposing to change of use from a Scout Hut/ gym to a restaurant.

The revised plan for the planning application proposed to install an air intake vent grill on North facing rear extension external wall and kitchen extract ducting will exit via a fake chimney on the rear section of the roof. The revised position of the extract discharge point would be more suitable than the previously proposed low level discharge. The applicant did not indicate the level of cooking or cooking processes at 52 High Street, Old Leigh, Leigh-on-Sea and also there is no detail on any de-odourising system to the kitchen extract. Therefore, it is not possible to provide more constructive comments on this matter. Controls must be in place to prevent nuisance from cooking smell/ particulates/ vapour from the activities within the premises.

According to the Warren Sharp's email dated 11th March 2018, the applicant proposed to retain most of the single glazed sash windows at 52 High Street, Old Leigh, Leigh-on-Sea and the very top ones will also be single glazed. There is no indication that these single glazed windows are acoustic windows. Controls must be in place to prevent noise escapes from the activities within the premises through these single glazed windows and the timber structure.

[Officer Comment: It is considered that the details of the final flue design can be agreed by condition to ensure that it does not appear out of place on this historic building. A noise report will be conditioned to ensure satisfactory mitigating measures to prevent noise escaping from the building including via the windows. It is understood that secondary glazing is being considered in this case to preserve the character of the conservation area. Full details of the odour control plant can also be conditioned to ensure that this will not cause a nuisance to neighbours.]

Conditions and informatives should be sought in relation to the following:

Conditions

- Extractor Ventilation System/ Plant including odour control
- Noise report to ensure that the proposal does not give rise to noise nuisance from the plant and from the use and terrace.
- Control of delivery times

Informatives

- Removal of asbestos
- Compliance with Environmental Protection Act 1990 (as amended)
- compliance with the Food Safety and Hygiene (England) Regulations 2014

Highways

- 6.2 The applicant will need to ensure that the waste policy provision at the site and the collection arrangements are compliant with the Councils Waste Management Guide. It is not considered that the proposal will have a detrimental impact upon the public highway. Council operated car parks are in close proximity. There are therefore no highway objections.

Parks

- 6.3 No comments received.

Network Rail

- 6.4 No comments received.

Leigh Town Council

- 6.5 No objection to amended plans.

Leigh Society

- 6.6 No comments received.

Public Consultation

- 6.7 A site notice was displayed, a press notice published and 7 neighbours were notified of the proposal. 11 responses were received raising the following issues:

- Noise and disturbance from the restaurant and terrace
- Odour from flue extract and waste storage
- Loss of leisure/ community use
- Traffic and taxi noise
- There are enough eateries in this area
- Lack of parking and obstruction of residents driveways
- Opening until 12 midnight is too late
- Construction related impacts
- Harm to neighbour amenity

[Officer Comment: These concerns are noted and they have been taken into account in the assessment of the application. However, they are not found to represent a reasonable basis to refuse planning permission in the circumstances of this case. It should be noted that since these comments have been received, the Council has been informed that the fitness classes have relocated to the building opposite.]

6.8 This application was called to committee by Cllr Mulroney.

7 Relevant Planning History

7.1 There is no planning history for this site.

8 Recommendation

GRANT PLANNING PERMISSION subject to the following reasons:

01 The development hereby permitted shall begin not later than three years of the date of this decision

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990

02 The development hereby permitted shall be carried out in accordance with the following approved plans 17-Clarendon-01B, 17-Clarendon-02A, 17-Clarendon-03B, 17-Clarendon – 04A

Reason: To ensure that the development is carried out in accordance with the Development Plan.

03 No development shall take place until details of the materials to be used on the external elevations including a sample of the natural state, details of the materials for the dormer cheeks and any new guttering, product details for the staining of the existing weatherboarding, materials including glazing for the new dormer windows and doors, materials for the balustrading and any new flooring to the terrace and any other new external materials including boundary materials have been submitted to and approved by the local planning authority. The development shall only be carried out in accordance with the approved details.

Reason: To safeguard character and appearance of the historic building and the surrounding Leigh Old Town Conservation Area in accordance with Policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1, DM3, DM5 and DM6 of the Development Management Document (2015) and advise contained within the Southend Design and Townscape Guide (2009).

04 Prior to the commencement of development, detailed design drawings of the new doors, new dormer windows and terrace balustrades/railings at scales of 1:20, 1:10 or 1:1 as appropriate shall be submitted to and agreed in writing by the local planning authority. The development shall be carried out and in accordance with the approved details before it is brought into use.

Reason: A pre commencement condition is needed to safeguard character and appearance of the historic building and the surrounding Leigh Old Town Conservation Area in accordance with Policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1, DM3, DM5 and DM6 of the Development Management Document (2015) and advise contained within the Southend Design and Townscape Guide (2009).

05 Prior to the first occupation of the building for A3 purposes details of the

proposed waste storage and an associated waste management plan shall be submitted to and approved by the local planning authority. The development shall only be implemented in accordance with the approved details from first occupation for the proposed use and be maintained as such in perpetuity.

Reason: To ensure that the development is satisfactorily serviced and that satisfactory waste management is undertaken in the interests of highway safety and visual amenity and to protect the character of the surrounding conservation area, in accordance with Policies KP2, CP3 and CP4 of the Core Strategy (2007) and Policies DM1, DM5 and DM15 of the Development Management Document (2015).

- 06 Prior to the first occupation of the building for A3 purposes details of the staff cycle storage shall be submitted to and approved by the local planning authority. The development shall be implemented in accordance with the approved details before it is first occupied for the approved use.**

Reason: To ensure the provision of adequate cycle parking in accordance with policies DM8 and DM15 of The Development Management Document (2015).

- 07 Prior to the commencement of the development the design details and materials of the proposed extraction flue chimney and fresh air grille at scales of 1:20, 1:10 or 1:1 as appropriate shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details before it is brought into use.**

Reason: A pre commencement condition is needed in order to protect the amenities of occupiers of the development surrounding occupiers and to protect the character and visual amenities of the conservation area in accordance with policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1, DM3, DM5 and DM6 of the Development Management Document 2015.

- 08 Prior to commencement of the proposed use details of the proposed extraction and ventilation equipment together with a report detailing any mitigation measures proposed in respect of noise and odour impacts shall be submitted to, and approved by, the Local Planning Authority. The installation of extraction equipment shall be carried out in full accordance with the approved details and any noise and odour mitigation measures undertaken in association with the agreed details before the use hereby approved is commenced. With reference to BS4142 the noise rating level arising from all plant and extraction/ventilation equipment shall be at least 5dB(A) below the prevailing background at 3.5 metres from the ground floor facades and 1m from all other facades of the nearest noise sensitive property with no tonal or impulsive character. The rating level of noise for all activities (including amplified and unamplified music and human voices) shall be at least 10dB(A) below the background noise (with no tonal elements) to ensure inaudibility in noise sensitive premises.**

Reason: In order to protect the amenities of the surrounding occupiers in

accordance with policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).

- 09 The class A3 (restaurant) use hereby permitted shall not be open to customers outside the following times: 09:00 until 24:00 hours on Monday to Sundays including Bank Holidays from May through to and including September and 12:00 until 24:00 hours Mondays to Sundays including bank holidays from October through to and including April.

Reason: In order to protect the amenities of occupiers of surrounding occupiers in accordance with policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).

- 10 The entire raised terrace area shall not be use by customers for the consumption of food or drink or for smoking from 22:00 hours until the close of business on all days.

Reason: In order to protect the amenities of surrounding occupiers in accordance with policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).

- 11 No deliveries or refuse collection shall be taken at or despatched from the A3 use hereby permitted outside the hours of 07:00 to 18:00hours Mondays to Fridays and 08:00 to 13:00hours on Saturdays nor at any time on Sundays, Bank or Public Holidays.

Reason: In order to protect the amenities of occupiers of the development surrounding occupiers in accordance with policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015)

- 12 Construction works associated with this permission shall not take place outside 08:00 hours to 18:00 hours Mondays to Fridays and 08:00 hours to 13:00 hours on Saturdays and at no time Sundays or Bank Holidays.

Reason: In order to protect the amenities surrounding occupiers and to protect the character the area in accordance with policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).

Informatives

- 01 You are advised that as the proposed development equates to less than 100 sqm of additional floorspace so the development benefits from a Minor Development Exemption under the Community Infrastructure Levy Regulations 2010 (as amended) and as such no charge is payable. See www.southend.gov.uk/cil for further details about CIL.

- 02 The applicant is advised that if noise modelling software is used to calculate

the likely levels or impact of the noise then any actual measurement taken such as LA90 must be taken in accordance with BS7445. The assessment should be carried out by a suitably qualified and experienced acoustic consultant who would normally be a member of the Institute of Acoustics. For further guidance on the control of odour and noise from ventilation systems you are advised to have regard to – Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems published by DEFRA. This can be downloaded free from www.DEFRA.Gov.UK

- 03 The applicant is advised that according to this Department's record, asbestos containing materials may be present within the structure of walls at 52 High Street, Leigh-on-Sea, Essex. An asbestos survey at this address should therefore be carried out by a suitably qualified person before any structural work being carried out at the premises. Any asbestos containing material (ACM) must be removed and disposed off site to a facility licenced by the Environment Agency. A waste transfer certificate should be made available for inspection by authorised officer from this Authority on request.
- 04 The applicant is advised that compliance with this decision notice does not bestow compliance with other regulatory frameworks. In particular your attention is drawn to the statutory nuisance provisions within the Environmental Protection Act 1990 (as amended) and also to the relevant sections of the Control of Pollution Act 1974. Contact 01702 215005 for more information
- 05 The applicant is reminded that this permission does not bestow compliance with the Food Safety and Hygiene (England) Regulations 2014 or any other provision so enacted, such as those located within the Food Safety Act 1990. Applicants should contact the Council's Environmental Health Officer for more advice on 01702 215005 or at Regulatory Services Department, Southend-on-Sea Borough Council, Civic Centre, Victoria Avenue, Southend SS2 6ZG The applicant is advised that any waste food collection must be undertaken by a licenced operator

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The detailed analysis is set out in a report prepared by officers. In the circumstances the proposal is not considered to be sustainable development. The Local Planning Authority is willing to discuss the best course of action.