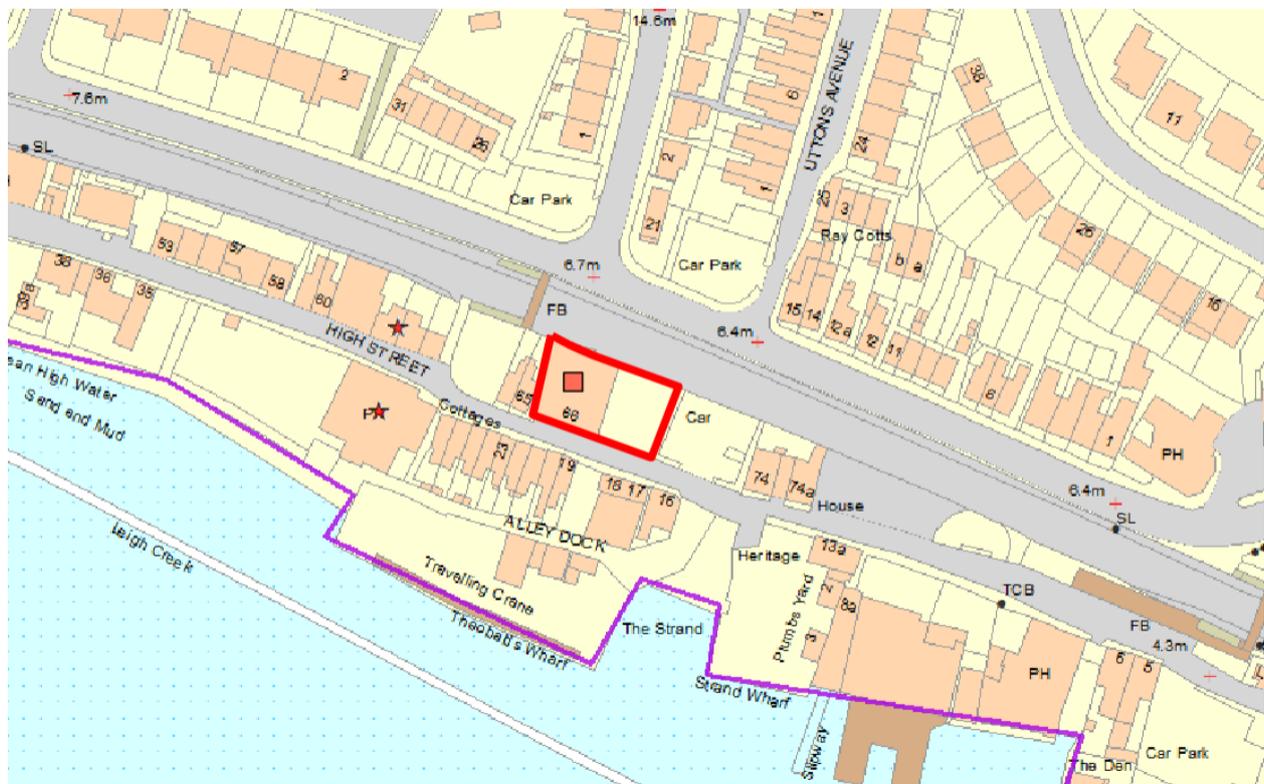


Reference:	18/01001/FUL
Ward:	Leigh
Proposal:	Alterations to east elevation and install bi-folding serving hatch with sliding shutter doors
Address:	66 High Street, Leigh-on-Sea
Applicant:	Mr Ralph Tait
Agent:	Baines Surveying Services Ltd
Consultation Expiry:	19.07.2018
Expiry Date:	14.09.2018
Case Officer:	Kara Elliott
Plan Nos:	01, 02
Recommendation:	GRANT PLANNING PERMISSION



1 The Proposal

- 1.1 Planning permission is sought to replace an existing window to the east of the building with a 1.5 metre wide serving hatch. Sliding timber doors are also proposed which will conceal the serving hatch when outside of business hours.
- 1.2 The serving hatch will enable passing customers to purchase refreshments i.e. ice creams and hot and cold drinks. No internal or external dining areas area proposed. No change of use of the existing gallery and shop is proposed. Refreshment preparations and servery are proposed to be located within the existing building and operated as an ancillary use to the existing operations of the gallery/shop.
- 1.3 It is noted that during consideration of the application, the development has been undertaken on site and therefore the application is retrospective in nature.
- 1.4 Cllr Mulroney has requested the application be decided by the Development Control Committee.

2 Site and Surroundings

- 2.1 The application site relates to the existing shop/gallery known as the Lynn Tait Gallery, located on the north side of High Street, in Leigh-on-Sea's Old Town. The brick building with large pitched roofs and glazing to the first floor of the principal elevation dates back to 1908.
- 2.2 The application specifically relates to the eastern side wall which contains a traditional timber window, which will be replaced by the proposed serving hatch. To the east of the side elevation, within the application site boundaries, is a small parking area. This is for the use of staff only and is not open to the public.
- 2.3 The building subject of the application is not a listed building. However, the application site sits within the Leigh Conservation Area.
- 2.4 The Old Town is located within Development Management Document Policy DM6 Seafront Character Zone 2 and flood zone 2.

3 Planning Considerations

- 3.1 The key considerations in relation to this application are the principle of the development, design and impact on the character of the area and the special character of the conservation area, impact on residential amenity, traffic and transportation and CIL contributions.

4 Appraisal

Principle of Development

National Planning Policy Framework (NPPF) (2018); Core Strategy (2007) policies KP1, KP2, CP2, CP3, CP4, Development Management Document (2015) Policies DM1, DM3, DM5, DM6 and DM15 and the Southend Design and Townscape Guide (2009).

- 4.1 Policies KP1, KP2 and CP4 of the Core Strategy seek development that makes the best use of land is sustainably located. Policy DM1 of the Development Management Document seeks to promote successful places.
- 4.2 The proposed serving hatch would operate a small refreshment offering to passing trade which would be ancillary to the existing use of the shop/gallery business.
- 4.3 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.'*
- 4.4 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.'*
- 4.5 The site is located in flood zone 2, however, no extensions are proposed and the proposed development would not result in a change of use. The existing commercial use is classed as a less vulnerable use and as such the development is considered acceptable in flood risk terms.
- 4.6 The enhanced tourist offer for the Old Town, whilst small, is considered to be a positive contribution and is compliant with the objectives of development plan policies. The proposed development would not result in the loss of marine industrial activities nor would it result in a significant disproportion of leisure and tourism activities within Leigh Old Town.
- 4.7 It is considered that in principle, the provision of facilities complementary to the existing commercial function of the site is acceptable. The other relevant material considerations are discussed below.

Design and Impact on the Character of the Area & Conservation Area

National Planning Policy Framework (2018); Core Strategy (2007) Policies KP2 and CP4; Development Management Document (2015) Policies DM1, DM3, DM5 and DM6; The Design & Townscape Guide (2009)

- 4.8 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'*.
- 4.9 The National Planning Policy Framework (NPPF) (2018) at paragraph 195, states that in determining planning applications, local planning authorities should take account of;
- a) The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
 - b) The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
 - c) The desirability of new development making a positive contribution to local character and distinctiveness.
- 4.10 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.
- 4.11 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.
- 4.12 Policy DM5 of the Development Management Document seeks to protect the special character of 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.'*
- 4.13 As noted above, Policy DM6 of the Development Management Document also seeks to protect the unique character of the seafront including Leigh Old Town.

4.14 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.”

4.15 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 the conservation area.

4.16 The proposed serving hatch would replace an existing window, is located discreetly at the side of the building and would be concealed by timber doors when not in use. It is considered that the proposed development would not on balance compromise the objective to preserve or enhance the special character and appearance of the conservation area.

4.17 The proposal is therefore acceptable and policy compliant, subject to the agreements of detailing and materials which can be achieved via appropriate conditions.

Traffic and Transportation

National Planning Policy Framework (2018); Core Strategy (2007) policies KP2, CP3 and CP4; Development Management Document (2015) policy DM15, and the Design and Townscape Guide (2009).

4.18 There is no existing or proposed off-street parking for customers at the application site. However, there are a variety of public car parks nearby as well as access to public transport and visitor cycle parking. Furthermore the application site is located within a sustainable location and users are likely to make linked trips to the area.

4.19 As the ancillary operation of the proposed serving hatch is minor and would not result in a change of use of the existing site and due to its sustainable location, it is not considered that the proposed development would result in demonstrable harm by way of parking impacts, highway or pedestrian safety or the free-flow of traffic.

4.20 The serving hatch would be located at the side of the building where customers would not need to wait on the highway and therefore would not be in conflict with the NPPF (2018), where it states that development should create places that are safe, secure and attractive, which minimise the scope for conflicts between pedestrians, cyclists and vehicles.

4.21 The proposal is therefore acceptable and policy compliant in regard to highway and pedestrian safety, parking and the free-flow of traffic.

Impact on Neighbour Amenity

National Planning Policy Framework (2018); Core Strategy (2007) policies KP2 and CP4; Development Management Document (2015) policies DM1 and DM3 and the Southend Design and Townscape Guide (2009).

- 4.22 Policy DM1 of the Development Management Document 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.”*
- 4.23 The nearest residential properties are the cottages located opposite the site. However, due to the minor scale of the proposed development and due to the existing tourist operations and character of Old Leigh, as well as the lack of proposed built form extending from the building, it is not considered that the proposed development results in any demonstrable harm upon nearby residential occupiers from visual disturbance or noise impacts.
- 4.24 The serving hatch would serve refreshments such as ice creams and hot and cold beverages. No extraction equipment is proposed or required.
- 4.25 Therefore, it is not considered that the proposed development results in demonstrable harm upon the amenity of nearby residential occupiers in accordance with Policy DM1 of the Development Management Document, Core Strategy (2007) policies KP2, CP4 and guidance contained with the Design and Townscape Guide (2009).

Flood Risk

National Planning Policy Framework (2018); Core Strategy (2007) Policies KP1, KP2; Development Management Document (2015) Policy DM6 and the Design and Townscape Guide (2009)

- 4.26 The application site is located within Flood Zone 2. Policy DM6 of the Development Management Document states that development proposals must take account of flood risk and coastal change.
- 4.27 As noted in paragraph 4.7 above it is not considered that the proposal would be vulnerable to flooding or give rise to any increased risk in the area.

Community Infrastructure Levy (CIL) Charging Schedule

- 4.28 The proposed development equates to less than 100sqm of new floorspace. As such, the development benefits from a Minor Development Exemption under the Community Infrastructure Levy Regulations 2010 (as amended) and no charge is payable.

5 Conclusion

- 5.1 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 development would not on balance compromise the objective to preserve or enhance the special character and appearance of the conservation area. Importantly, the proposed development would not result in the loss of marine industrial activities nor would it result in a significant disproportion of leisure and tourism activities within Leigh Old Town. It is also considered that the proposal would have an acceptable impact on the amenities of neighbouring occupiers. The highways impacts of the proposal are acceptable. The application is therefore recommended for approval, subject to appropriate conditions.

6 Planning Policy Summary

- 6.1 National Planning Policy Framework (2018)
- 6.2 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)
- 6.3 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)
- 6.4 Leigh Old Town Conservation Area Appraisal (2010)
- 6.5 Southend Design & Townscape Guide (2009)
- 6.6 Community Infrastructure Levy (2015)

7 Representation Summary

Leigh Town Council

- 7.1 No objection.

Natural England

- 7.2 No objection. Comments: *"Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected sites or landscapes."*

The Leigh Society

- 7.3 Comments; *"We do need to maximise the towns income from empty brownfield sites, and this is such a site, which must not be compromised by opening it up to queues of people."*

Public Consultation

7.4 A site notice was displayed; a press notice published and 10 neighbours were notified of the proposal. 2 representations were received raising the following issues:

- Tourism has taken over peaceful fishing village;
- Deliveries from lorries will cause highway issues;
- Would attract large crowds;
- Customers would be at risk from passing vehicles and the proposed is harmful to pedestrian highway safety;
- The applicant did not consult similar businesses in Old Leigh;
- Loss of business for similar offering nearby.

7.5 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.

8 Relevant Planning History

8.1 90/0712 - Demolish Alter And Rebuild Parts Of Existing Vacant Building And Erect Single Storey Additions For Use As Retail Shop/Restaurant Incorporating Some Roof Storage And Lay Out Parking Area To Side With Vehicular Access Onto High Street – Granted 07.08.1990;

8.2 90/0713 - Demolish Parts Of Existing Vacant Building In Conjunction With Development Under Planning Application SOS/90/0712 – Granted 15.08.1990.

9 Recommendation

GRANT PLANNING PERMISSION subject to the following reasons:

1 The development hereby permitted shall begin no 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

2 The development hereby permitted shall be carried out in accordance with the following approved plans; 01, 02.

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

3 Prior to the commencement of development, detailed design drawings of the new doors and windows/serving hatch 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: 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).

Informatives

- 1. You are advised that as the proposed development equates to less than 100sqm 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.**
- 2. The applicant is reminded that should any further development be implemented in association with the serving of refreshments on site or the serving of hot food off site i.e. external or internal dining areas; express planning permission for a change of use may be required.**
- 3. 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**
- 4. 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.**
- 5. You should be aware that in cases where damage occurs during construction works to the highway in implementing this permission that Council may seek to recover the cost of repairing public highways and footpaths from any party responsible for damaging them. This includes damage carried out when implementing a planning permission or other works to buildings or land. Please take care when carrying out works on or near the public highways and footpaths in the Borough.**
- 6. Please note that any new fascia signs etc. may require separate Advertisement Consent. For further information please visit: https://www.planningportal.co.uk/info/200130/common_projects/4/adverts_and_signs**

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework. The detailed analysis is set out in a report on the application prepared by officers.