

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	MP	13/06/19
Planning Development Manager authorisation:	AN	13/6/19
Admin checks / despatch completed	SB	14/06/19

Application: 19/00632/COUNOT **Town / Parish:** Clacton Non Parished
Applicant: Mr S Low
Address: Store and Premises rear of 124 Old Road Clacton On Sea
Development: Change of use from A1 to C3.

1. Town / Parish Council

Clacton – Non Parished.

2. Consultation Responses

ECC Highways Dept

The current premises appears to not have any off road parking; Old Road has existing waiting restrictions on both sides while the nearest side road Page Road has a mixture of resident and limited waiting in the road. The premises are close to existing public transport links and the Railway Station therefore:

From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to the following conditions:

1. Cycle parking shall be provided in accordance with the EPOA Parking Standards The approved facility shall be secure, convenient, covered and provided prior to occupation of the proposed dwelling hereby permitted site and shall be maintained free from obstruction at all times for that sole purpose in perpetuity.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy DM8.

2. Prior to occupation of the proposed dwellings, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack per dwelling, for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator free of charge.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10.

3. Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the highway.

Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety in accordance with policy DM1.

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative 1: In main urban areas with frequent and extensive public transport, cycling and walking links, the EPOA Parking Standards recommend that a reduced parking standard provision may be applied to residential developments. A reduced parking standard provision level can be applied to this proposal as it is located very close to regular public transport services and public car parking facilities.

Informative 2: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at: development.management@essexhighways.org or by post to:

SMO1 ' Essex Highways
Colchester Highways Depot,
653 The Crescent,
Colchester.
CO4 9YQ.

3. Planning History

N/A

4. Relevant Policies / Government Guidance

N/A

Status of the Local Plan

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2018) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.

With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of

planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

In relation to housing supply:

The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not. At the time of this decision, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF. In addition, the actual need for housing was found to be much less than the figure produced by the standard method when tested at the recent Examination In Public of the Local plan. Therefore, the justification for reducing the weight attributed to Local Plan policies is reduced as is the weight to be given to the delivery of new housing to help with the deficit.

5. Officer Appraisal

Proposal

The proposal is to change the use of the rear of the ground floor of 124 Old Road, Clacton-on-Sea, and also the store to the rear of the site from Class A1 (shop) to Class C3 (Dwelling Houses) under the new permitted development allowances as set out in Schedule 2, Part 3 of The Town and Country Planning (General Permitted Development) (England) Order 2015.

The proposed change of use would result in the creation of two residential dwellings with a floor space of approximately 85 square metres.

This is a "prior notification" under Part 3 of The Town and Country Planning (General Permitted Development) (England) Order 2015. The applicant is seeking the Council's determination as to whether its "prior approval" is required for the change of use of the existing A1 (shop) use to C3 (Residential).

Schedule 2, Part 3, Class M of the Town and Country Planning (General Permitted Development) (England) Order 2015 sets out that development consisting of a change of use of a building and any land within its curtilage to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order from a use falling within Class A1 (shops) of that Schedule shall not be permitted development where:

- (a) the building was not used for a use falling within Class A1 (shops) of the Schedule to the Use Classes Order;
 - (i) on 20th March 2013, or
 - (ii) in the case of a building which was in use before that date but was not in use on that date, when it was last in use;

The applicant has confirmed within the application form that the buildings were in use as Class A1 (shops) on 20th March 2013 and earlier.

(b) permission to use the building for a use falling within Class A1 (shops) or Class A2 (Financial/Professional Services) of the Schedule to the Use Classes Order has been granted only by this Part:

The premises were not granted permission as an A1 or A2 use by this Part.

(c) the cumulative floor space of the existing building changing use under Class M exceeds 150sqm.

The proposed flats will total approximately 85sqm.

(d) the development (together with any previous development under Class M) would result in more than 150sqm of floor space in the building having changed use under Class M.

No other part of the building has changed use under Class M. Therefore, this criterion is met.

(e) the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point;

There are no external alterations proposed. This criterion is therefore met.

(f) the development consists of demolition

No demolition works are proposed.

(g) the building is;

- (i) on article 2(3) land (Conservation Area);
- (ii) in a site of special scientific interest;
- (iii) in a safety hazard area;
- (iv) in a military explosives storage area;
- (v) a listed building; or
- (vi) a scheduled monument.

The site does not fall within any of the above areas and therefore meets this criterion.

Therefore, the application meets the requirements of Schedule 2, Part 3, Class M of the Town and Country Planning (General Permitted Development) (England) Order 2015, subject to the following conditions:

(1) Where the development proposed is development under Class M(a) together with development under Class M(b), development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to—

(a) transport and highways impacts of the development,

The area consists of a mixture of commercial and residential properties, of which most have limited off-street parking arrangements. The proposal shows no parking facilities. While this is not desirable it is acknowledged the site is located within a highly sustainable location, in good walking distance to a number of amenities and shopping facilities. Given this and the one bedroom nature of the properties only likely to attract a single occupier, it is not considered the lack of parking is sufficient to object to the application. Further, Essex Highways Authority do not object to the development.

(b) contamination risks in relation to the building,

This is not applicable to this application.

(c) flooding risks in relation to the building,

This is not applicable to this application as the site is not within a flood zone.

(d) whether it is undesirable for the building to change to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order because of the impact of the change of use—

(i) on adequate provision of services of the sort that may be provided by a building falling within Class A1 (shops) or, as the case may be, Class A2 (financial and professional services) of that Schedule, but only where there is a reasonable prospect of the building being used to provide such services, or

(ii) where the building is located in a key shopping area, on the sustainability of that shopping area, and

The site is not located within a Primary Shopping Frontage but is located within the 'Old Road, Clacton' District Centre in the 2007 Adopted Local Plan and the 'Old Road, Clacton' District Centre in the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017). However, the front of the shop fronting Old Road is to be maintained in its existing A1 use, while the applicant has confirmed the rear of the premises is not essential to the operations of the retail unit. The change of use will therefore not be harmful to the wider retail offer or the vitality of the retail sector and, on balance, is considered to be acceptable.

(e) the design or external appearance of the building, and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.

There are no external changes as a result of the proposed works.

Conclusion

Given the lack of objection based on the main themes identified above, the Local Planning Authority considers that the proposal constitutes permitted development in accordance with Schedule 2, Part 3, Class M of the Town and Country Planning (General Permitted Development) Order 2015.

6. Recommendation

Determination prior approval not required

7. Conditions

N/A

8. Informatives

N/A