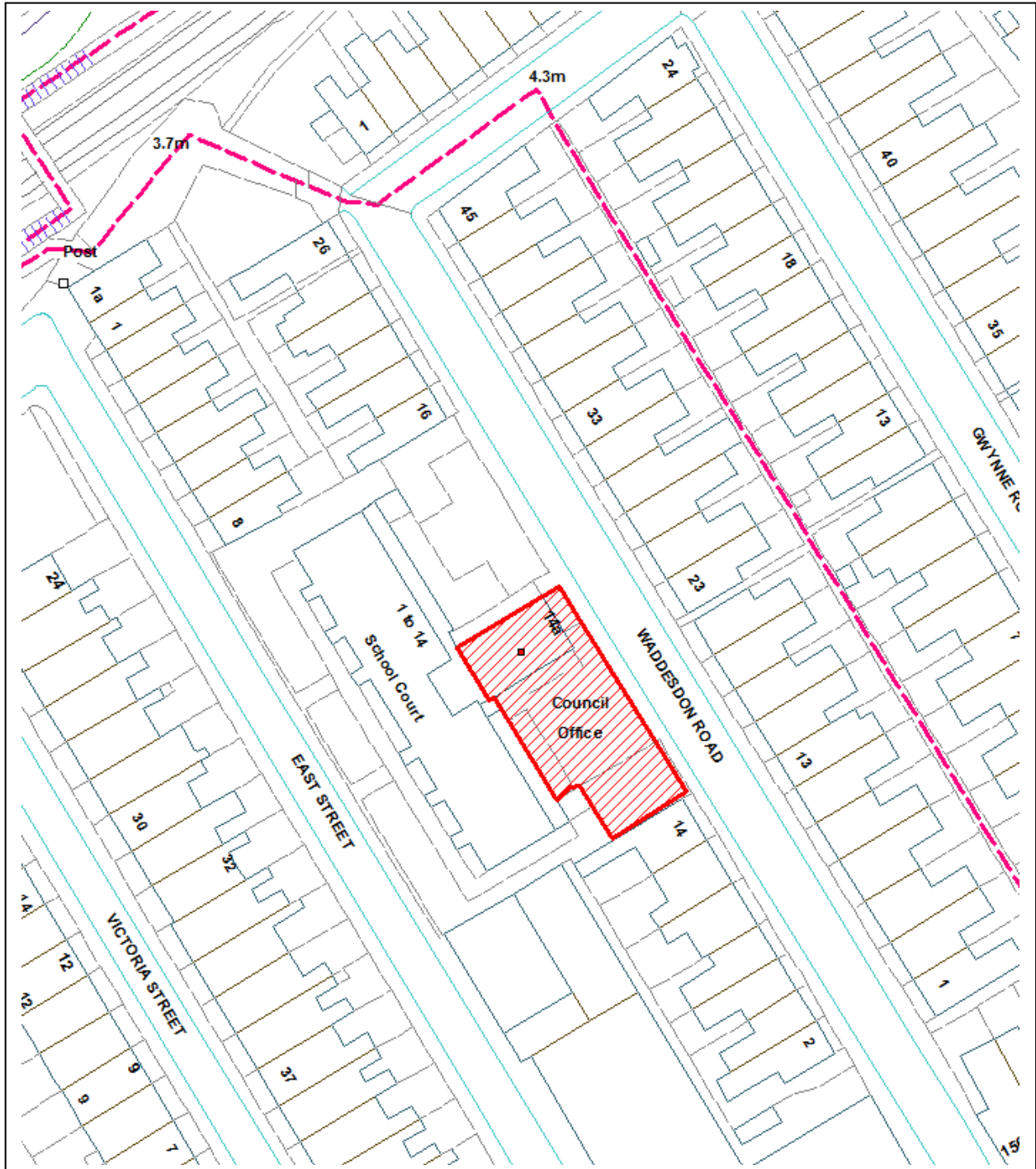


PLANNING COMMITTEE

30 July 2019

REPORT OF THE HEAD OF PLANNING

**A.5 PLANNING APPLICATION – 19/00398/COUNOT – 14A WADDES DON ROAD
DOVERCOURT HARWICH CO12 3BA**



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Application: 19/00398/COUNOT

Town / Parish: Harwich Town Council

Applicant: Miss Victoria Found - Tendring District Council

Address: 14A Waddesdon Road Dovercourt Harwich CO12 3BA

Development: Change of use from cash office (A2) to accessible 2 bedroom Bungalow (C3).

1. **Executive Summary**

- 1.1 This application has been referred to Planning Committee as Tendring District Council is the landowner and applicant.
- 1.2 This is a "prior notification" under Schedule 2, Part 3, Class M of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). The applicant is seeking the Council's determination as to whether its "prior approval" is required for the change of use of the existing A2 (Cash Office) use to C3 (Residential) subject to the restricted considerations detailed in the report below.
- 1.3 The considerations are restricted solely to the impacts of transport and highways; contamination risks in relation to the building; flood risk; whether the change of use is undesirable in terms of impact on the adequate provision of that use; where the building is located in a key shopping area, on the sustainability of that shopping area; and the design or external appearance of the building.
- 1.4 The report concludes that the proposal would be acceptable in terms of these specific impacts and therefore that the change of use from A2 (Cash Office) use to C3 (Residential) does not require Prior Approval.

Recommendation: Prior Approval Not Required

Subject to the conditions stated in section 8.1.

2. **Planning Policy**

- 2.1 Not applicable to a prior approval application.

Status of the Local Plan

- 2.2 The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF.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.
- 2.3 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.

- 2.4 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.

3. **Relevant Planning History**

04/01271/FUL	Provision of disabled access ramp	Approved	25.08.2004
15/01638/COUNOT	Change of use from cash office (A2) to a fitness class and personal training studio (D2).	Prior approval not required	21.12.2015
19/00756/FUL	Proposed 2 new council owned garages.	Withdrawn	04.07.2019

4. **Consultations**

ECC Highways Dept
AMENDED COMMENTS

Based on the information submitted in association with the application, including revised drawing no. 2018/16/02, from a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority.

5. **Representations**

- 5.1 Harwich Town Council has no objection to this application.
- 5.2 1 letter of objection has been received. The concerns raised can be summarised as follows;
- Lack of parking on Waddesdon Road.

6. **Assessment**

The main considerations in this instance are;

- Site Context;
- Proposal;
- Provisions of Schedule 2, Part 3, Class M of the GPDO;
- Conditions of Schedule 2, Part 3, Class M of the GPDO; and,
- Other Matters.

Site Context

- 6.1 This prior notification application relates to 14A Waddesdon Road the former, now vacant, Tendring District Council Harwich Cash office.

- 6.2 The site comprises a single storey building and access ramp and the adjacent car park area and landscaped area both to the southern side of the building.
- 6.3 The site is located on the western side of Waddesdon Road within the Settlement Development Boundary of Harwich, the Dovercourt Urban Regeneration Area and within Flood Zone 2.
- 6.4 The site is situated within a predominately residential area bounded by dwellings on all sides with the High Street approximately 85 metres to the south.

Proposal

- 6.5 This is a "prior notification" under Schedule 2, Part 3, Class M of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). 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).
- 6.6 The existing car park is to form the private amenity space for the new dwelling.
- 6.7 The existing landscape area is to be cleared and 2 parking spaces provided including 1 disabled parking bay. The dimensions of both parking bays meet the Adopted Parking Standards.

Provisions of Schedule 2, Part 3, Class M of the GPDO

- 6.8 Schedule 2, Part 3, Class M of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) states that:

Permitted development comprises development consisting of—

(a) a change of use of a building from—

(i) a use falling within Class A1 (shops) or Class A2 (financial and professional services) of the Schedule to the Use Classes Order;

(ii) a use as a betting office or pay day loan shop, or

(iii) a mixed use combining use as a dwellinghouse with—

(aa) a use as a betting office or pay day loan shop, or

(bb) a use falling within either Class A1 (shops) or Class A2 (financial and professional services) of that Schedule (whether that use was granted permission under Class G of this Part or otherwise), to a use falling within Class C3 (dwellinghouses) of that Schedule, and

(b) building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule.

- 6.9 The former Cash Office falls within (i) Class A2 (financial and professional services) and seeks a change of use to (bb) Class C3 (dwellinghouses). Development is permitted by Class M subject to relevant criteria which can be summarised and addressed below;
- 6.10 (a) the building was not used for one of the uses referred to in Class M(a)—
(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 unit has been vacant for some time but when it was last in use, it was for the purposes of A2 Cash Office.

- 6.11 (b) permission to use the building for a use falling within Class A1 (shops) or Class A2 (financial and professional services) of the Schedule to the Use Classes Order has been granted only by this Part;

Not applicable.

- 6.12 (c) the cumulative floor space of the existing building changing use under Class M exceeds 150 square metres;

The building amount to approximately 70 square metres.

- 6.13 (d) the development (together with any previous development under Class M) would result in more than 150 square metres of floor space in the building having changed use under Class M;

The site has not been subject of any other development under Class M.

- 6.14 (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;

No extensions or alterations are proposed that would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point.

- 6.15 (f) the development consists of demolition (other than partial demolition which is reasonably necessary to convert the building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order);

No demolition is proposed.

- 6.16 Or; (g) the building is—
(i) on article 2(3) land;
(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 building is not located within or subject of any of the above designations.

Conditions of Schedule 2, Part 3, Class M of the GPDO

- 6.17 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:

- 6.18 (a) transport and highways impacts of the development,

The site has off street parking in accordance with the Council's current Adopted Parking Standards.

The site is located in a highly sustainable location within easy walking distance of public transport links, local services within the town centre, the beach and other recreational facilities. It is therefore considered that a development of this scale would not result in any adverse impacts on transport or highways.

Essex County Council raise no objection.

- 6.19 (b) contamination risks in relation to the building,

This is not applicable to this application.

- 6.20 (c) flooding risks in relation to the building,

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

- 6.21 (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

The existing Council Cash Office falls within use class A2 as a financial and professional service. The site lies on the edge of the Town Centre where there are numerous existing A2 uses such as banks and estate agents. It is not considered that the proposal would affect the provision of A2 uses in the area. The former cash office use has been closed for some time with no direct equivalent service provided.

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

The site lies outside of any protected shopping frontage or designated Town Centre and would not therefore adversely affect the sustainability of the main shopping area.

- 6.23 (e) the design or external appearance of the building,

No extensions or alterations are proposed to the building. The private garden area is to be enclosed by close boarded fencing and the visual impact softened by soft landscaping.

The overall design and external appearance of the building and ancillary works are considered acceptable.

Other Matters

- 6.24 Legal obligations for open space/play space or Essex Coast Recreational disturbance Avoidance and Mitigation is not a requirement in this instance as this application is for prior notification only.

7. Conclusion

- 7.1 The proposal is considered to comply with all of the above criteria and it is therefore concluded that the change of use from A2 (cash office) to C3 (dwellinghouses) does not require Prior Approval.

8. Recommendation

8.1 Conditions and Reasons

1. Development under Class M must begin within a period of 3 years starting with the prior approval date.

8.2 Informatives

Building Control Informative

Escape windows should be provided to the bedrooms. The door to the bathroom should open outwards.

9. Additional Considerations

Public Sector Equality Duty (PSED)

- 9.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
 - 9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
 - 9.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
 - 9.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.
- 9.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 9.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

Human Rights

- 9.8 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 9.9 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).

- 9.10 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Finance Implications

- 9.11 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.
- 9.12 The New Homes Bonus (NHB) is one local finance consideration capable of being a material consideration to which the weight given shall be determined by the decision maker. The NHB is a payment to local authorities to match the Council Tax of net new dwellings built, paid by Central Government over six consecutive years. In this instance, it is not considered to have any significant weight attached to it that would outweigh the other considerations.

10. Background Papers

None.