

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	NH	27/09/2019
Planning Development Manager authorisation:	TF	27/09/2019
Admin checks / despatch completed	ER	27/09/19
Technician Final Checks/ Scanned / LC Notified / UU Emails:	SS	27/09/19

Application: 19/00884/COUNOT **Town / Parish:** Clacton Non Parished

Applicant: Mr Mark Vorhand

Address: 53-55 Pier Avenue Clacton On Sea Essex

Development: Change of use from A1 to C3.

1. Town / Parish Council

Clacton is non parished.

2. Consultation Responses

ECC Highways Dept

The site is in a town centre location where there is reasonably good transport links; the Highway Authority would not deem the application of current Parking Standards necessary in this instance.

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

1. As per drawing no: Pacs55.pr.bp.01 Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to first occupation and retained at all times.

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

2. 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.

3. 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

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: Steps should be taken to ensure that the Developer provides sufficient turning and off-loading facilities for delivery and site worker vehicles, within the limits of the site together with an adequate parking area for those employed in developing the site.

Informative 3: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

Informative 4: 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

The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

3. Planning History

98/01688/FUL	Shop front	Approved	04.02.1999
98/01689/ADV	Illuminated fascia and projecting signs	Approved	04.02.1999

05/02269/ADV	One shop sign and one projecting sign	Approved	17.02.2006
91/00309/FUL	Shopfront.	Approved	08.05.1991

4. Relevant Policies / Government Guidance

Not Applicable

Status of the Local Plan

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.

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 (including Site Description and Proposal)

Proposal

The proposal is to change the use of the first, second and third floor of the building 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.

This application retains the A1 use to the ground floor and proposes the change of use to the first, second and third floor which would result in the creation of five flats with a gross floor space of approximately 169.81 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 building is currently occupied as an A1 shop and there is no planning history to demonstrate that this was not occupied as an A1 shop prior to 20th March 2013.

(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 plans provided demonstrate that the cumulative floor space of the existing building will equal 169.81 square metres and therefore exceeds the criteria. This has been cross referenced and the existing floor space equates to 155.409 which still exceeds 150 sqm.

(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. However, the floor space exceeds 150 square metres.

(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;

The external works proposed do not result in an extension of the existing external dimensions. This 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)

The site is not within a Conservation Area.

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 application site has no parking arrangements however, the site is located in a sustainable location within easy walking distance of public transport links and local services within the town centre. Essex Highways Authority have been consulted on this application and do not raise any objections subject to conditions relating to cycle parking, storage of building materials and Residential Travel Information Pack. The conditions relating to the storage of the building will be imposed as a condition and the Residential Travel Information Pack will only be imposed on major developments. It is therefore considered that a development of this scale would not result in any adverse impact on transport or highways.

(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 application site is located within the Clacton Town Centre primary shopping area, town centre boundary and within an Urban Regeneration area.

Paragraph 85 of the National Planning Policy Framework states the local planning authorities should:

- Recognise town centres as the heart of their communities and pursue policies to support their viability and vitality;

- Retain and enhance existing markets and, where appropriate, re-introduce or create new ones;
- Promote competitive town centres that provide customer choice and diverse retail offer and which reflect the individuality of town centres.
- Recognise that residential development can play an important role in ensuring the vitality of centres and set out policies to encourage residential development on appropriate sites.

This application seeks to retain the ground floor A1 shops and to convert the associated first, second and third floors to five residential flats. Although this will result in the loss of storage areas for both A1 shops, it is considered that the conversion to flats will play an important role in ensuring the vitality of the centre.

(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

Having regard to the above it is considered that the change of use of the A1 (shop) building to C3 (residential) requires Prior Approval, as it fails to meet the conditions set out in Schedule 2, Part 3, Class M (c) of the Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014.

6. Recommendation

Prior approval required - deemed application refused

7. Conditions / Reasons for Refusal

- 1 The plans provided demonstrate that the cumulative floor space of the existing building will equal 169.81 square metres and therefore exceeds the criteria. This has been cross referenced and the existing floor space equates to 155.409 which still exceeds 150 sqm. The proposal fails to comply with The Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 3, Class M (c).

8. Informatives

Not Applicable

<p>Are there any letters to be sent to applicant / agent with the decision? If so please specify:</p>	<p>YES</p>	<p>NO</p>
<p>Are there any third parties to be informed of the decision? If so, please specify:</p>	<p>YES</p>	<p>NO</p>