

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	WC	16/1/2020
Planning Development Manager authorisation:	AN	16/01/2020
Admin checks / despatch completed	CC	17/01/2020
Technician Final Checks/ Scanned / LC Notified / UU Emails:	<i>[Signature]</i>	17/01/2020

Application: 19/01842/COUNOT **Town / Parish:** St Osyth Parish Council

Applicant: Kevin Green

Address: Rowheath Farm Rectory Road Weeley Heath

Development: Conversion of office building into dwelling.

1. Town / Parish Council

2. Consultation Responses

ECC Highways Dept From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to the following conditions.

TDC Env. Health EP has reviewed the above application. The planning statement states that no land contamination is expected due to previous storage used and EP are happy to accept this but would request the following:

Unexpected Contamination

Should contamination be found that was not previously identified during any stage of the application hereby approved or previous to this and not considered in the any remediation scheme it shall be made safe and reported immediately to the local planning authority. The site shall be assessed and remediation scheme shall be submitted for approval by the planning authority.

3. Planning History

19/01842/COUNO T	Conversion of office building into dwelling.	Current
---------------------	--	---------

4. Relevant Policies / Government Guidance

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 Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF.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 for change of use of an office building situated within a farm holding.

Site Description:

Detached building (formerly a dwelling) on farm holding near Weeley.

Assessment:

Development consisting of a change of use of a building and any land within its curtilage from a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order, to a use falling within Class C3 (dwellinghouses) of that Schedule.

The use class of the existing building is not considered B1 in this case and therefore a change of use to C3 use is not permitted development.

The building was granted planning permission for a change of use from a dwelling in association with the farm holding to office accommodation (93/00403/FUL). It should be noted that the description of the proposal on the decision notice was for 'Change of use of dwelling to offices in connection with adjoining meat and poultry distribution'. Furthermore Condition 2 stated: 'The office use hereby permitted shall only be used by the applicants as an ancillary use to the adjacent meat and poultry distribution business undertaken on the site and it shall not be used as unrelated office accommodation.'

The use of the farm holding has changed over the years, and in 2008 the applicant applied for a lawful development certificate to confirm the lawfulness of the then current uses as a mixture of B8 (storage), B2 (food processing), A1 shop and B1 (veterinary surgeons office). The lawful development certificate was refused on grounds of insufficient evidence in support of the described uses.

In the current application it is stated that the 'applicant owns and controls the adjoining former processing units' (para 3.7, Planning Statement) and that 'It is intended these are for storage purposes in connection with his business'.

The uses of adjacent buildings are therefore not confirmed, but history points to mixture of mainly B2 and B8. It should be noted these buildings are outside of the site boundary on the current application, but are included inside the site location boundary on the previous change of use.

Condition 2 of 93/00403/FUL was imposed to ensure the office was ancillary in nature. The consequence is that the use of the building is ancillary and thus places it within the use of meat and poultry distribution, which is not B1. Therefore the use of the building as a separate office, which is not ancillary to the meat and poultry use would be contrary to the requirements of Condition 2.

Relevant appeal decisions concerning Class M of Part 3 of the GPDO (change of use from office to dwellings) appear to support the principle of ancillary uses taking on the use of primary uses of the planning unit. One example is Harrison Waterproofing Ltd against Tendring District Council (ref APP/P1560/W/17/3168700): the appellant appealed against the turning away of an application for prior approval for conversion of an office building to residential. However the appeal was dismissed on the basis the office building was ancillary (and conditioned as such) to the main dwelling. Appeal Decision (APP/Y0435/W/19/3233359) is also relevant (Permitted Development No 13 against Milton Keynes Council) and affirms the principle of ancillary use taking on the primary use of the planning unit.

Thus taking into account the previous permission for the building for office use as ancillary to the planning unit and conditioned as such; and that the current use of the adjacent buildings is unconfirmed, the proposal is not considered to be permitted development.

6. Recommendation

DETREF – Deemed App Refused- Prior Approval Required

7. Conditions / Reasons for Refusal

- 1 The use of the building is considered to be ancillary to the use of the adjacent meat and poultry distribution business, which places the use of the building within use class B2.

Therefore the proposal fails to comply with The Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 3, Class M.

8. Informatives

Not applicable.

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