



Planning
Council Offices
Weeley
Essex
CO16 9AJ

Mr Peter Le Grys - Stanfords
The Livestock Market
Wyncolls Road
Colchester
CO4 9HU

Please ask for Amy Lang
Tel: 686150
Email: alang@tendringdc.gov.uk

Our Ref: 19/01927/COUNOT

12 February 2020

Dear Sir/Madam

TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) (ENGLAND) ORDER 2016

APPLICATION NO: 19/01927/COUNOT
PROPOSAL: Proposed conversion of office to 6 residential units.
LOCATION: Units 7 & 7A Rice Bridge Industrial Estate Station Road Thorpe Le Soken

Thank you for your notification on the above matter which was received on 18 December 2019 and made valid on 19 December 2019 and was allocated the reference **19/01927/COUNOT**.

Determination by the Local Planning Authority that the prior approval of the authority is **required** as it fails to meet the conditions set out in Schedule 3, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015.

Tendring District Council hereby **refuse prior approval** for the development proposed in the above-mentioned application for the following reasons:

- 1 The Environment Agency maps show the application site lies within fluvial and tidal Flood Zone 3, the high probability zone. There is a Shoreline Management Plan (Essex and South Suffolk) in the area so the development is safe from a current day residual risk. However, if the development is to be residential safe refuge should be provided above the worst case 1:1000 plus climate change level which is 5.18m AOD (Clacton Coastal modelling 2018).

Paragraph W.2 of Schedule 3, Part 3 Class O of the Town and Country Planning (General Permitted Development) (England) Order 2016 (as amended) (i) requires the submission of a site-specific flood risk assessment (FRA) and consultation with the Environment Agency to be carried out. No FRA has been submitted. Furthermore, Paragraph W.3 states that the Local Planning Authority may refuse an application where, in the opinion of the authority, the proposed development does not comply with, or the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions, limitations or restrictions specified in this Part as being applicable to the development in question. In addition, Paragraph W.10 states that the local planning authority must, when determining an application, have regard to the National Planning Policy Framework (NPPF), so far as relevant to the subject matter of the prior approval, as if the application were a planning application.

The proposal would be a change of use of a 'less vulnerable' use to a 'more vulnerable' development as identified in Table 2: Flood risk vulnerability classification (Paragraph: 066 Reference ID: 7-066-20140306 of the NPPG). Paragraph 163 of the NPPF states that applications should be supported by a site-specific flood-risk assessment. Paragraph 164 of the NPPF states that applications for minor development and changes of use should not be subject to the sequential or exception tests but should still meet the requirements for site-specific flood risk assessments. Paragraph 163 states that development should only be allowed in areas at risk of flooding where it can be demonstrated that the development is appropriately flood resistant and resilient and provides safe access and escape routes as part of an agreed emergency plan.

Saved Policy QL3 of the adopted Tendring District Local Plan (2007) states that the Council will ensure that flood risk is taken into account at all stages in the planning process, to avoid inappropriate development in areas at risk of flooding. These sentiments are echoed within draft Policy PPL1 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017).

In this instance the proposal would result in self-contained apartments with sleeping accommodation on the ground floor with a finished floor level of 3.24m AOD throughout. These apartments have no opportunity for safe refuge above the required 1:1000 plus climate change level which is 5.18m AOD. On this basis, the submission of a FRA for the proposed development could not overcome the objection to the development.

The proposal is considered to represent an inappropriate development in a high risk flood area that fails to provide safe refuge contrary to the afore-mentioned national and local plan policy.

- 2 Paragraph 180 of the National Planning Policy Framework (2019) states that planning policies and decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:
a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development - and avoid noise giving rise to significant adverse impacts on health and the quality of life.

Saved Policy QL11 of the adopted Tendring District Local Plan (2007) states that amongst other criteria, development will only be permitted if the nature of the development is appropriate to the locality and the health, safety or amenity of any occupants of the proposed development will not be materially harmed by any pollution from an existing or committed use. These sentiments are carried forward in draft Policy SPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017).

In the absence of a full noise assessment it cannot be adequately demonstrated that future residents would not be subjected to adverse levels of noise from the established Station Garage directly to the north carrying out vehicle MOTs, serving and repairs, other commercial businesses to the rear of the site and due to the proximity of a main train line serving Thorpe-le-Soken train station with frequent and late night services. As a result the Local Planning Authority cannot be certain that future residents will have a sufficient level of residential amenity or that the existing business will be compromised through the potential for noise complaints. The development therefore fails to comply with the above mentioned national and local planning policies.

If you require any clarification on this matter or further information, please contact the case officer Amy Lang on 686150.

Yours faithfully

A handwritten signature in black ink that reads "Catherine Bicknell". The signature is written in a cursive style with a large initial 'C'.

Catherine Bicknell
Head of Planning