

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AL	16/03/2020
Planning Development Manager authorisation:	AN	17/3/20
Admin checks / despatch completed	CC	17/3/20
Technician Final Checks/ Scanned / LC Notified / UU Emails:	AP	17/3/2020

Application: 19/01938/COUNOT **Town / Parish:** Clacton Non Parished

Applicant: Mr Joel Frangel

Address: Former Post Office 61 High Street Clacton On Sea

Development: Proposed change of use of first floor from office to residential to create 10 self-contained flats.

1. Town / Parish Council

Clacton Non Parished.

2. Consultation Responses

ECC Highways Dept

The site is in a town centre location where there is good transport links near the proposed flats; the nearest bus stops are located within 200 metres of the application site and provides access to services to Jaywick, Great Clacton, Clacton, Walton-on-the-Naze and Mistley. Clacton Train Station is located within 500 metres of the site, as such, 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. Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, always covered and provided prior to first occupation and retained.

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 development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for the 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.

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: 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

98/01246/ADV	Integral projecting signs	Approved	21.10.1998
19/01827/DEEME D	Installation of new business box.	Determinati on	03.12.2019

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). 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, whilst housing delivery over the last three years has exceeded requirements, the supply of deliverable housing sites going forward that the Council can demonstrate still 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)

Site Description

The application site relates to the existing offices located on the first floor of the former Post Office on Clacton High Street. The site comprises of a substantial office building set over two storeys. The application site is located on the southern side of the High Street adjacent to its junction with Beach Road.

The application site is not located within the Green Belt, any Conservation Area or any Area of Outstanding Natural Beauty (AONB). The property is located within flood zone 1 which has a low probability of flooding. The property is not a listed building. There is no relevant planning history for the property.

The application is located within the defined Clacton Settlement Development Boundary, Town Centre Boundary, Urban Regeneration Area and Primary Shopping Area for the Town.

Description of Proposal

The application seeks Prior Approval for the Change of Use of the First Floor of the vacant Post Office building from Office (Use Class B1a) to Residential (Use Class C3) to create 10 Self-Contained Flats.

Assessment

The application falls to be considered against Schedule 2, Part 3 Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended by the 2016 Statutory Instrument No. 332 Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2016 which states;

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 is permitted.

O.1 Development is not permitted by Class O if:

- (a) an application under paragraph O.2(1) in respect of the development is received by the local planning authority on or before 30th May 2019;
- (b) the building was not used for a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order –
 - (i) on 29th May 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
- (c) the site is, or forms part of, a safety hazard area
- (d) the site is, or forms part of, a military explosives storage area
- (e) the building is a listed building or is within the curtilage of a listed building
- (f) the site is, or contains, a scheduled monument

The Business Rates Valuation for the first floor of the Former Post Office shows that the site has been in use as an office and premises since April 2010, as demonstrated by Figure 1 which is set out within the supporting statement accompanying the application. This demonstrates that the office in question has been in use for a minimum period of 7 years and certainly prior to May 2013.

The site does not form part of a safety hazard area or a military explosive storage area. The site is not a listed building nor are there any buildings within its curtilage which are listed. Furthermore, the site is not a scheduled monument.

The proposal therefore meets the above-mentioned criterion.

Conditions

O.2 (1) Development under Class O 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
- (b) contamination risks on the site
- (c) flooding risks on the site, and
- (d) impacts of noise from commercial premises on the intended occupiers of the development,

and the provisions of paragraph W (prior approval) apply in relation to that application.

(2) Development under Class O is permitted subject to the condition that it must be completed within a period of 3 years starting with the prior approval date;

(a) Transport and Highways Impacts of the Development

The property benefits from its sustainable location within the centre of Clacton-on-Sea. The nearest pair of bus stops are located within 200 metres of the application site and provides access to services to Jaywick, Great Clacton, Clacton, Walton-on-the-Naze and Mistley.

Clacton-on-Sea Train Station is located within 500 metres of the site and provides access to Greater Anglia services to Colchester and London Liverpool Street. It is therefore considered acceptable that a development of this nature would not have an adverse impact on transport and highways.

Essex County Council Highway Authority do not raise an objection.

(b) Contamination Risks on the Site

The site is not in an area where there are contamination risks on the site. The proposal does not raise any concerns in this regard and therefore complies with this consideration.

(c) Flooding risks on the site

The application site is located within flood zone one, which has a low probability of flooding. Therefore, the proposal will not increase the risk of flooding to any future occupiers.

(d) Impacts of noise from commercial premises on the intended occupiers of the development

The property is situated in an area with a mixture of retail, commercial and residential uses. While the nature of the activity at the surrounding commercial premises is unknown, it is considered that the perceivable harm could be mitigated through adequate sound-proofing measures. The retail, residential and business uses do not generate any significant noise to the extent that it would have an adverse impact on the occupiers of the proposed development.

The Council's Environmental Protection Team have recommended that sound proofing details are secured by way of condition.

The provisions of paragraph W (prior approval) apply in relation to this application.

Procedure for applications for prior approval under Part 3

W.1 The following provisions apply where under this Part a developer is required to make an application to a local planning authority for a determination as to whether the prior approval of the authority will be required.

W.2 The application must be accompanied by

- (a) a written description of the proposed development, which, in relation to development proposed under Class C, M, N or Q of this Part, must include any building or other operations
- (b) a plan indicating the site and showing the proposed development
- (c) the developer's contact address
- (d) the developer's email address if the developer is content to receive communications electronically
- (e) where sub-paragraph (6) requires the Environment Agency(a) to be consulted, a site-specific flood risk assessment together with any fee required to be paid.

The application is accompanied by an Application Form, Planning Statement and existing and proposed plans meeting the requirements set out within W.2 (a) to (d). A Flood Risk Assessment is not required in this instance.

The appropriate fee was received on 20.12.2019

W.3 The local planning authority may refuse an application where, in the opinion of the authority -

- (a) the proposed development does not comply with, or
- (b) 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.

This application meets the relevant criteria and does not raise any reasons for refusal.

W.4 Sub-paragraphs (5) to (8) and (10) do not apply where a local planning authority refuses an application under sub-paragraph (3) and for the purposes of section 78 (appeals) of the Act such a refusal is to be treated as a refusal of an application for approval.

Not relevant.

W.5 Where the application relates to prior approval as to transport and highways impacts of the development, on receipt of the application, where in the opinion of the local planning authority the development is likely to result in a material increase or a material change in the character of traffic in the vicinity of the site, the local planning authority must consult -

- (a) where the increase or change relates to traffic entering or leaving a trunk road, the highway authority for the trunk road
- (b) the local highway authority, where the increase or change relates to traffic entering or leaving a classified road or proposed highway, except where the local planning authority is the local highway authority
- (c) the operator of the network which includes or consists of the railway in question, and the Secretary of State for Transport, where the increase or change relates to traffic using a level crossing over a railway

The Highways Authority were consulted on 07.02.2020. The Local Planning Authority has complied with the requirements of Paragraph W.5.

W.6 Where the application relates to prior approval as to the flooding risks on the site, on receipt of the application, the local planning authority must consult the Environment Agency (b) where the development is -

- (a) in an area within Flood Zone 2 or Flood Zone 3; or
- (b) in an area within Flood Zone 1 which has critical drainage problems and which has been notified to the local planning authority by the Environment Agency for the purpose of paragraph (zc)(ii) in the Table in Schedule 4 to the Procedure Order.

The site is within Flood Zone 1. There is no need to consult with The Environment Agency. The Local Planning Authority has complied with the requirements of Paragraph W.6.

W.7 The local planning authority must notify the consultees referred to in sub-paragraphs (5) and (6) specifying the date by which they must respond (being not less than 21 days from the date the notice is given).

The Local Planning Authority notified the relevant consultees specifying the required response date. The required responses have been received and taken into account when making this decision. The Local Planning Authority has complied with the requirements of Paragraph W.6.

W.8 The local planning authority must give notice of the proposed development -

- (a) by site display in at least one place on or near the land to which the application relates for not less than 21 days of a notice which -

- (i) describes the proposed development
 - (ii) provides the address of the proposed development
 - (iii) specifies the date by which representations are to be received by the local planning authority;
- or

(b) by serving a notice in that form on any adjoining owner or occupier.

A site notice was displayed on the lamp post directly outside the premises on 19.02.2020 (the 21-day period expired on 11.03.2020) including all information required by (a) (i) to (iii).

Notification letters were sent to all units adjoining the red lined site area on 07.02.2020 (the 21-day period expired on 28.02.2020).

The Local Planning Authority has complied with the requirements of Paragraph W.8

W.9 The local planning authority may require the developer to submit such information as the authority may reasonably require in order to determine the application, which may include— (a) assessments of impacts or risks; (b) statements setting out how impacts or risks are to be mitigated; or (c) details of proposed building or other operations.

No such statements or additional information is considered necessary prior to determination. The details required by the Council's Environmental Protection Team can be secured by condition.

W.10 The local planning authority must, when determining an application -

- (a) take into account any representations made to them as a result of any consultation under sub-paragraphs (5) or (6) and any notice given under sub-paragraph (8)
- (b) have regard to the National Planning Policy Framework issued by the Department for Communities and Local Government in March 2012(a), so far as relevant to the subject matter of the prior approval, as if the application were a planning application; and
- (c) in relation to the contamination risks on the site -

- (i) determine whether, as a result of the proposed change of use, taking into account any proposed mitigation, the site will be contaminated land as described in Part 2A of the Environmental Protection Act 1990(b), and in doing so have regard to the Contaminated Land Statutory Guidance issued by the Secretary of State for the Environment, Food and Rural Affairs in April 2012(c), and
- (ii) if they determine that the site will be contaminated land, refuse to give prior approval.

All representations received as a result of the consultation exercise have been taken into account. The Local Planning Authority has had regard to the National Planning Policy Framework. As a result of the proposed change of use, taking into account any proposed mitigation, the site will not be contaminated land as described in Part 2A of the Environmental Protection Act 1990(b). The Local Planning Authority has complied with the requirements of Paragraph W.10.

W.11 The development must not begin before the occurrence of one of the following -

- (a) the receipt by the applicant from the local planning authority of a written notice of their determination that such prior approval is not required
- (b) the receipt by the applicant from the local planning authority of a written notice giving their prior approval; or
- (c) the expiry of 56 days following the date on which the application under sub-paragraph (2) was received by the local planning authority without the authority notifying the applicant as to whether prior approval is given or refused.

The expiry of 56 days following the date on which the application under sub-paragraph (2) was received by the local planning authority is 17th March 2020. A notification to the applicant is being made in advance of this date informing the applicant that prior approval is not

required subject to conditions. The Local Planning Authority has complied with the requirements of Paragraph W.11.

W.12 The development must be carried out -

- (a) where prior approval is required, in accordance with the details approved by the local planning authority
- (b) where prior approval is not required, or where sub-paragraph (11)(c) applies, in accordance with the details provided in the application referred to in sub-paragraph (1), unless the local planning authority and the developer agree otherwise in writing

W.13 The local planning authority may grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval.

The application is being approved subject to relevant and necessary conditions.

6. Recommendation

Determination prior approval not required.

7. Conditions

- 1 The development hereby permitted shall be carried out in accordance with the following approved plan: Dwg No PEOO1 Rev 1, Dwg No PEOO2 Rev 1, Dwg No PEOO3 Rev 1, Drawing PROPOSED FIRST FLOOR L, Drawing PROPOSED FIRST FLOOR M&R, Drawing PROPOSED GROUND FLOOR, Dwg PP002 Rev 1 and Dwg PV Rev 1.

Reason - For the avoidance of doubt and in the interests of proper planning.

- 2 Unless otherwise agreed in writing with the Local Planning Authority, the floors between the ground floor commercial units and the first floor flats shall be adequately soundproofed in accordance with a scheme of soundproofing which shall previously have been submitted to the Local Planning Authority for approval in writing. The approved scheme shall be carried out, in its entirety, before the flats are first occupied and shall be retained thereafter.

Reason - To safeguard the residential amenities of future residents of the flats.

8. Informatives

Not applicable.