

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	JD	30/07/2020
Planning Development Manager authorisation:	AN	30/07/2020
Admin checks / despatch completed	CC	30/07/2020
Technician Final Checks/ Scanned / LC Notified / UU Emails:	BB	30/07/2020

**Application:** 20/00741/COUNOT                      **Town / Parish:** Clacton Non Parished

**Applicant:** Mr Mark Vorhand

**Address:** 53-55 Pier Avenue Clacton On Sea Essex

**Development** Change of use of second, third and part first floor from A1 to C3.

### 1. Town / Parish Council

Clacton Non Parished

### 2. Consultation Responses

ECC Highways Dept                      No response.

Environmental Protection                      I have reviewed the application and have no adverse comment to  
27.07.2020                      make.

Environment Agency                      No response.

### 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

19/00884/COUNO                      Change of use from A1 to C3.                      Determinati                      27.09.2019  
T                      (*Five flats*)                      on

20/00741/COUNO                      Change of use from A1 to C3.                      Current  
T                      (*Four flats*)

### 4. Officer Appraisal (including Site Description and Proposal)

### Site Description

53 is a vacant unit, previously known as Claire's, with a pair of recessed doors. 55 is a charity shop run by Mind. To the left hand side is WH Smith, to the right hand side is Pier Avenue Stores. The building has three storeys plus roof accommodation served by two dormers.

### Proposal

The proposal is to change the use of part of the first floor, and the whole of the second and third floors of the building from Class A1 (shop) to Class C3 (Dwelling Houses) under the 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 whole of the ground floor and a part of the first floor with a proposed change of use to approximately half the first floor, and all of the second and third floors. This would result in the creation of four flats with a gross floor space of 124.8 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 or was last a 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 residential use, the four flats, would be 124.83 square metres and therefore this criteria is met.

In this respect the current proposal differs from the previous proposal, 19/00884/COUNOT. The design has been changed, involving a change from five flats previously to four flats for the current application.

*(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.

*(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. The local highway authority has not responded to the application but it is noted that in relation to the previous application, 19/00884/COUNOT, no objection was raised. It is considered that a development of this scale at this site 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 would retain the ground floor A1 shops. Although this will result in the loss of storage areas for both A1 shops with only a small first floor area retained, 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

It is considered that the change of use of the A1 (shop) building to C3 (residential) does not require Prior Approval, as it meets the conditions set out in the Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 3, Class M.

### **5. Recommendation**

Prior approval not required.

### **6. Conditions / Reasons for Refusal**

Development under Class M is permitted subject to the condition that (a) development under Class M(a), and under Class M(b), if any, must be completed within a period of 3 years starting with the prior approval date; and (b) a building which has changed use under Class M is to be used as a dwellinghouse within the meaning of Class C3 of the Schedule to the Use Classes Order and for no other purpose, except to the extent that the other purpose is ancillary to the primary use as such a dwellinghouse.

### **7. Informatives**

Not applicable.