

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	NH	24/08/2020
Planning Development Manager authorisation:	AN	24/08/2020
Admin checks / despatch completed	DB	24.08.20
Technician Final Checks/ Scanned / LC Notified / UU Emails:		

Application: 20/00609/FUL **Town / Parish:** Elmstead Market Parish Council

Applicant: Mrs Heidi Bowker

Address: Autumn House Clacton Road Elmstead

Development: Proposed change of use from Class C3 to Class C2 to provide a residential childrens home.

1. Town / Parish Council

Elmstead Parish Council
13.08.2020

Elmstead Parish Council wishes to return a neutral response to this application with the following comment:

There is no safe or legal place to park on the road outside Autumn House. It is in close proximity to the Bromley Road/Clacton Road junction with traffic lights, the free flow of which would suffer if congestion were added onto this busy section of road.

We therefore request that when the three car parking spaces at Autumn House are full, additional vehicles are directed/required to park in the Clacton Road car park. This is a free car park.

We also request that responsibility for ensuring that this happens should be given to the management of the children's home.

2. Consultation Responses

ECC Highways Dept
04.08.2020

The highway authority has not been making site visits due to the COVID-19 restrictions and the observations below are based on submitted material, google earth image dated April 2019 and the previous uses of the site (children's play group) and the traffic generation associated with the building and that with the change of use; the car parking and existing parking restrictions in the vicinity of the site, therefore:

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

1. Areas within the curtilage of the site for the purpose of loading / unloading / reception and storage of building materials and manoeuvring of all vehicles, including construction traffic shall be provided 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.

2. The proposed development shall not be occupied until such time as car parking for a minimum of two vehicles has been provided in accordance with the Parking Standards, details to be agreed with the Local Planning Authority. The agreed car parking shall be retained at all times for such purpose.

Reason: To ensure that on street parking of vehicles in the adjoining streets/roads does not occur and that appropriate parking is provided in accordance with Policy DM8.

3. Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to 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.

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: 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. Planning History

01/01563/FUL	Change of use from shop to living accommodation (games room and lounge)	Approved	22.10.2001
92/00454/FUL	Proposed side extension	Approved	26.05.1992
92/01240/FUL	(The Baby Clothes Shop, Autumn House, Clacton Road, Elmstead Market) Two storey side extension plus internal alterations to form	Approved	18.12.1992

	first floor shop accommodation		
93/00096/FUL	(The Baby Clothes Shop and Autumn House, Clacton Road, Elmstead Market) Extensions and internal alterations [including use of part of first floor to shop accommodation]	Approved	26.02.1993
91/00251/FUL	Proposed extension.	Approved	22.04.1991
16/01660/FUL	Conversion of former bedsits to children's day nursery.	Refused	19.12.2016

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

COM5 Residential Institutional Uses

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)

SPL3 Sustainable Design

LP10 Care, Independent Assisted Living

CP1 Sustainable Transport and Accessibility

PPL4 Biodiversity and Geodiversity

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, with further hearing sessions in January 2020. The Inspector issued his findings in respect of the legal compliance and soundness of the Section 1 Plan in May 2020. He confirmed that the plan was legally compliant and that the housing and employment targets for each of the North Essex Authorities, including Tendring, were sound. However, he has recommended that for the plan to proceed to adoption, modifications will be required – including the removal of two of the three Garden Communities 'Garden Communities' proposed along the A120 (to the West of Braintree and on the Colchester/Braintree Border) that were designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033.

The three North Essex Authorities are currently considering the Inspector's advice and the implications of such modifications with a view to agreeing a way forward for the Local Plan. With the Local Plan requiring modifications which, in due course, will be the subject of consultation on their own right, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications – increasing with each stage of the plan-making process.

The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) will progress once modifications to the Section 1 have been consulted upon and agreed by the Inspector. 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.

5. Officer Appraisal (including Site Description and Proposal)

Site Description

The application site is located on the southern side of Clacton Road within the settlement development boundary of Elmstead Market. The site comprises of a two-storey property known as Autumn House that was constructed as a dwelling in the mid 1980's. Since then the building has been the subject of a number of extensions and was also partly converted into a clothes shop. The shop use has ceased and used as a number of bedsits on an unauthorised basis. This use has now ceased too. Consequently, the building remains as a detached dwelling and is currently unoccupied.

The property adjoins the A133 highway from Colchester to Clacton which in this area has a 30 MPH limit but narrows adjoining the property with a traffic light controlled pedestrian crossing and a traffic light controlled junction with a B road to Great Bromley nearby.

To the side of the property is a first floor projecting element over a parking area. Either side of the property are detached dwellings. Across the frontage is a wide pavement area.

History

Planning permission was refused under planning reference 16/01660/FUL for the conversion of former bedsits to a children's day nursery due to the impact upon the highway and impact upon neighbouring amenities. The decision was taken to appeal and dismissed on 9th November 2017 due to the impact of the development would have upon the highway and the impact the development would have upon the living conditions of the neighbouring properties.

A Planning Enforcement Notice was issued in 2016 to prevent use as a hostel or house in multiple occupation in relation to former unlawful uses. It was not appealed but has been complied with.

However the notice remains in force and runs permanently with the land. It would not however prevent the proposed use as a Use within Use Class C2 subject to gaining planning permission.

Proposal

This application proposes the proposed change of use from Class C3 to Class C2 to provide a residential childrens home.

1. Principle of Development

The National Planning Policy Framework 2019 (NPPF) states that applications for development should be considered in the context of the presumption in favour of sustainable development. Paragraph 61 of the NPPF states that Local Planning Authorities should plan for a variety of housing based on current and future demographic trends, market trends and the needs of different groups in the community (such as but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes).

Saved Policy COM5 of the adopted Tendring District Local Plan 2007 is of primary relevance in this instance as it deals specifically with 'Residential Institutional Uses'. The aims and objectives of this policy is echoed within emerging Policy LP10 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

The criteria contained with Policy COM5 can be summarised as addressed as follows:

(i) The development of new residential institutions and changes of use of existing properties to residential institutions will not be permitted within the Control of Residential Institutional Uses Areas in Clacton and Frinton as defined on the Proposals Map Insets.

The site lies outside of the defined Control of Residential Institutional Uses Areas.

(ii) Outside the Control of Residential Institutional Uses Areas applications for changes of use, new residential institutions and extensions to existing residential institutions will be considered on their own merits subject to meeting other relevant Local Plan policies and the following additional criteria:

a) the site would not be located away from existing Settlement Development Boundaries, in order that support services, facilities and public transport routes can be available. Only in exceptional circumstances may such uses be located outside existing Settlement Development Boundaries

The site lies within the defined Elmstead Market Settlement Development Boundary within a well built up, predominately residential area. There is access to amenities within walking distance of the site and also good bus links into Colchester Town.

Having regard to the above, the site is considered to be highly sustainable meeting the aims of this criterion.

b) the development would not lead to a clustering of similar uses in the locality;

The site is located adjacent to existing residential dwellings in an area characterised by dwellings. There are no planning records to suggest that similar uses are in operation in the locality.

c) the development would not create or give rise to a significant material adverse impact on public safety;

Having regard to the number of residents proposed and type of care required it is unlikely that the proposed development will give rise to a significant material adverse impact on public safety.

d) there would be sufficient external space in the proposal to accommodate the normal recreation and other needs of residents, visitors or employees without impacting on highway safety, or the residential amenities enjoyed by adjoining properties; and

Paragraph 108 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users.

Paragraph 127 of the NPPF states that planning should always seek to secure a good standard of amenity for all existing and future occupants. In addition, Policy QL11 of the Tendring District Local Plan (2007) states that amongst other criteria, development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties. Emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017 supports these objectives supports these objectives.

Saved Policy QL10 of the adopted Tendring District Local Plan 2007 states that planning permission will only be granted if amongst other things; access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and the design and layout of the development provides safe and convenient access for people. The sentiments of this policy are carried forward within draft Policy SPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

The number of residents proposed is comparable to the number of people that can currently occupy the property. The internal accommodation provides a good level of communal areas within the ground floor. The garden area is also considered sufficient to serve the number of residents proposed. The standard of amenity for existing and future occupants may therefore be acceptable.

Within the application form submitted, it is stated that there will be a maximum of 6 children occupying the house at any one time with 24 hour staff a day. It is stated that there will be a rota system in place where there are two shifts per day/night; 7am - 9pm and 9pm - 7 am with a manager on site 5 days a week 9 am - 5pm. The application form states that there will be 4 full time employees and 2 part time employees. It is stated that the preferred mode of transport will be public transport and bicycle. There is a bus stop in the vicinity as well as a public car park within walking distance to the property .It is therefore considered that the proposed change of use will not create a significant material adverse impact upon public safety. This is a C2 use and not a secure residential institutional use.

Essex Highways Authority have been consulted on this application and have stated that the highway authority has not been making site visits due to the COVID-19 restrictions and the observations below are based on submitted material, google earth image dated April 2019 and the previous uses of the site (children's play group) and the traffic generation associated with the building and that with the change of use; the car parking and existing parking restrictions in the vicinity of the site. The Authority have no objection subject to conditions relating to the storage of building materials, car parking and cycle parking. The building materials will be imposed as an informative and the car parking condition will not be imposed as mentioned below within the report.

The parking required for Use Class C2 as set out within the Essex County Council Parking Standards 2009 is as follows;

- 1 space per full time equivalent staff + 1 visitor space per 3 beds

The application site currently provides 2 parking spaces with a garage. The change of use to Class C2 does require additional parking as stated within Essex Parking Standards Guidance. The proposal should provide 4 parking spaces for full time staff and 2 additional spaces for visitors. Although the proposal does not provide additional parking spaces, as the application site is located within a sustainable location. It is therefore considered that the proposal will not cause any significant harm upon highway safety.

External amenity space will be provided within the grounds of the site which provides a secure and safe environment for the recreational needs of the residents, away from adjoining residential properties. It is therefore considered that sufficient external space is provided within the site to accommodate for the normal recreation needs of the residents, visitors and employees.

e) the extent and nature of any alterations/extensions or new separate buildings which may be required for the purposes of the use proposed should not result in the over development of the site.

Paragraph 8 of the National Planning Policy Framework 2019 sets out the overarching objectives for achieving sustainable development, one being the environmental objective which requires the planning system to contribute to protecting and enhancing our natural, built and historic environment including making effective use of land. Paragraph 127 of the NPPF states that developments should function well, should add to the overall quality of the area, are visually attractive as a result of good architecture and layout and are sympathetic to local character including the surrounding built environment and landscape setting,

Saved Policies QL9, QL10 and QL11 of the adopted Tendring District Local Plan (2007) seek to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to their setting and are of a suitable scale, mass and form. These sentiments are carried forward in Policy SPL3 of the Emerging Plan.

There are no external changes proposed to the existing building.

2. Trees and Landscaping

No trees or vegetation will be affected by the proposed development and there is little opportunity or public benefit to be gained by new soft landscaping associated with the development proposal.

3. Recreational Disturbance

Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'.

This residential development lies within the Zone of Influence. The site is not within or directly adjacent to one of the European designated sites, but is approximately 3.6 km away from the Colne Estuary SPA, RAMSAR and Essex Estuaries SAC.

In this instance, given that the number of residents proposed is not excessive and is directly comparable to the number of people who can currently occupy the property, the Local Planning Authority consider it would be unreasonable to request a financial contribution toward recreational disturbance as the number of visitors to the protected sites is unlikely to increase as a result of the development.

4. Other considerations

Elmstead Parish Council raise a neutral response with the following comments:

There is no safe or legal place to park on the road outside Autumn House. It is in close proximity to the Bromley Road/Clacton Road junction with traffic lights, the free flow of which would suffer if congestion were added onto this busy section of road. We therefore request that when the three car parking spaces at Autumn House are full, additional vehicles are directed/required to park in the Clacton Road car park. This is a free car park. We also request that responsibility for ensuring that this happens should be given to the management of the children's home.

In response to the Parish's comments, Highways and parking have been addressed within the delegated report.

One letter of representation has been received raising the following concerns:

- Concerns over the parking allocation for this change of use. Highways have not been able to make a site visit due to COVID 19 and therefore sufficient attention has not been given to providing adequate parking particularly as the site is on the busy A133, close to a busy junction, and Autumn House itself has a history of parking problems.

In response to the concerns raised, Highways and parking has been addressed within the delegated report.

6. Recommendation

Approval - Full

7. Conditions

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

- Existing Floor Plans - Scanned 26 June 2020
- Proposal for Entry and Egress - Scanned 14th May 2020
- Statement of Purpose - Scanned 14th May 2020

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

- 3 Prior to commencement of the hereby approved use full details of cycle parking shall have been submitted to and approved in writing by the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to occupation and retained at all times.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety

- 4 The building shall be used solely as a community home to accommodate up to 6 children and for no other purpose including any other purpose in Class C2 (Residential Institutions) of the Schedule to the Town and Country Planning (Use Classes) Order 2015 (or in any provision equivalent to that Class in any Statutory instrument revoking and re-enacting that Order with or without modification).

Reason - To avoid disturbance in the interest of residential amenity and highway safety.

8. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Highways

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.

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

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