

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AC	8 th April 2021
Planning Development Manager authorisation:	SCE	09.04.2021
Admin checks / despatch completed	DB	09.04.2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	ER	09/04/2021

Application: 21/00183/COUNOT **Town / Parish:** Clacton Non Parished

Applicant: Mr Smith - EA Jewellers

Address: 68A - 70A Pier Avenue Clacton On Sea Essex

Development: Proposed creation of 3 x 1 bed flats at first floor.

1. Town / Parish Council

Not applicable

2. Consultation Responses

ECC Highways Dept The information that was submitted in association with the application has been fully considered by the Highway Authority. No site visit was undertaken in conjunction with this planning application. The information submitted with the application has been thoroughly assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material, google earth image dated April 2019. The site is in a town centre location where there is reasonably good transport links; the Highway Authority would not deem the application of current Parking Standards necessary in this instance. The town centre location means that many services are within walking distance of the proposed accommodation.

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

3. Planning History

91/00455/FUL	Siting of temporary flower stall on forecourt.	Refused	11.06.1991
21/00183/COUNOT	Proposed creation of 2 x 1 bed flats and 1 x 2 bed flat to first floor.	Current	

4. Relevant Policies / Government Guidance

The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)
Technical housing standards – nationally described space standard

5. Officer Appraisal

Class M - retail or betting office or pay day loan shop to dwellinghouses

Development consisting of-

- (a) a change of use of a building from -
 - (i) a use falling within Class A1 (shops) or Class A2 (financial and professional services) of the Schedule to the Use Classes Order;
 - (ii) a use as a betting office or pay day loan shop, or
 - (iii) a mixed use combining use as a dwellinghouse with -
 - (aa) a use as a betting office or pay day loan shop, or
 - (bb) a use falling within either Class A1 (shops) or Class A2 (financial and professional services) of that Schedule (whether that use was granted permission under Class G of this Part or otherwise),
- to a use falling within Class C3 (dwellinghouses) of that Schedule, and
- (b) building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule.

Development not permitted

M.1 Development is not permitted by Class M if -

- (a) the building was not used for one of the uses referred to in Class M(a) -
 - (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 was used for one of the uses referred to in Class M(a) on 20th March 2013. **The proposal complies.**

- (b) permission to use the building for a use falling within Class A1 (shops) or Class A2 (financial and professional services) of the Schedule to the Use Classes Order has been granted only by this Part;

Permission to use the building for a use falling within Class A1 (shops) or Class A2 (financial and professional services) of the Schedule to the Use Classes Order has not been granted only by this Part. **The proposal complies.**

- (c) the cumulative floor space of the existing building changing use under Class M exceeds 150 square metres;

At approximately 133sqm the cumulative floor space of the existing building changing use under Class M does not exceed 150 square metres. **The proposal complies.**

- (d) the development (together with any previous development under Class M) would result in more than 150 square metres of floor space in the building having changed use under Class M;

The development (together with any previous development under Class M) would not result in more than 150 square metres of floor space in the building having changed use under Class M. **The proposal complies.**

- (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 development would not result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point. **The proposal complies.**

- (f) the development consists of demolition (other than partial demolition which is reasonably necessary to convert the building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order); or
- (g) the building is -
- (i) on article 2(3) land;
 - (ii) in a site of special scientific interest;
 - (iii) in a safety hazard area;
 - (iv) in a military explosives storage area;
 - (iv) a listed building; or
 - (v) a scheduled monument.

The building is not on or in the areas prohibited by (i) to (iii) nor is a listed building or a scheduled monument. **The proposal complies.**

Conditions

M.2- (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
- (b) contamination risks on the site; and
- (c) flooding risks on the site,
- (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,
- (e) the design or external appearance of the building, and
- (f) the provision of adequate natural light in all habitable rooms of the dwellinghouses,

(a) Transport and Highways Impacts of the Development

The site is in a town centre location where there is reasonably good transport links; the Highway Authority would not deem the application of current Parking Standards necessary in this instance. The town centre location means that many services are within walking distance of the proposed accommodation. The Highways Authority does not raise any objection to the proposal.

(b) Contamination Risks on the Site

The site is not in an area where there are Contamination Risks on the site.

(c) Flooding Risks on the Site

The site is not in an area where there are Flooding Risks on the site. The proposal complies.

(d) Desirability for the Building to Change Use

Whilst the building occupies a prominent location in the retail core of the town centre; the application relates only to the first floor and would not cause the loss of a viable retail outlet at ground floor.

National Space Standards require that one bedroom flats have a minimum floorspace of 37sqm; drawing 369EAJ 103, revision C shows that each flat complies.

(e) The Design or External Appearance of the Building

The works required to convert the first floor ancillary retail space to residential require internal alterations only. No external alterations are proposed.

(f) The Provision of Adequate Natural Light in all Habitable Rooms of the Dwellinghouses

Habitable Rooms are defined as “any rooms used or intended to be used for sleeping or living which are not solely used for cooking purposes, but does not include bath or toilet facilities, service rooms, corridors, laundry rooms, hallways or utility rooms”. Drawing 369EAJ 103, revision C, received 3rd Nov 2020 indicates that each habitable room will have adequate natural light.

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

- (2) Where the development proposed is development under Class M(a) only, 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 the items referred to in sub-paragraphs (1)(a) to (f) and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.
- (3) 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.

Procedure for applications for prior approval under Part 3

- (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.
- (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 in the same application include any building or other operations;
 - (b) a plan indicating the site and showing the proposed development;
 - (ba) in relation to development proposed under Classes M, N, O, P, PA and Q of this Part, a statement specifying the net increase in dwellinghouses proposed by the development (for the purposes of this sub-paragraph, “net increase in dwellinghouses” is the number of dwellinghouses proposed by the development that is additional to the number of dwellinghouses on the site immediately prior to the development);
 - (bb) in relation to development proposed under Class Q of this Part, a statement specifying -
 - (i) the number of smaller dwellinghouses proposed;
 - (ii) the number of larger dwellinghouses proposed;

- (iii) whether previous development has taken place under Class Q within the established agricultural unit and, if so, the number of smaller and larger dwellinghouses developed under Class Q;
- (bc) in relation to development proposed under Class M, N, O, PA or Q of this Part, a floor plan indicating the dimensions and proposed use of each room, the position and dimensions of windows, doors and walls, and the elevations of the dwellinghouses;
- (c) the developer's contact address;
- (d) the developer's email address if the developer is content to receive communications electronically; and
- (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

Paragraph 4.0 of the Planning Statement which accompanies the application provides a written description of the proposed development and includes any building or other operations. A plan indicating the site and showing the proposed development was received on 03 February 2021. Question 5 on the application form which accompanies the application specifies that there will be a net increase of 3 new dwellings. In relation to development proposed under Class M, drawing Drawing 369EAJ 103 revision C indicates the dimensions and proposed use of each room, the position and dimensions of windows, doors and walls, and the elevations of the dwellinghouse. The developer's contact address is given in response to Question 2 on the application form. The developer's email address if (the developer is content to receive communications electronically) is given in response to question 3 on the application form. Sub-paragraph (6) does not require the Environment Agency(a) to be consulted. The fee required was paid on 3rd February 2021. Procedure W.2, paragraphs (a) to (e) have been met.

- 2A Where the application relates to prior approval as to adequate natural light, the local planning authority must refuse prior approval if adequate natural light is not provided in all the habitable rooms of the dwellinghouses.

The application relates to prior approval as to adequate natural light; adequate natural light is provided in all the habitable rooms of the dwellinghouses. Procedure W.2A has been met.

- (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, except for conditions in paragraph M.2(1)(f), paragraph N.2(1)(e), paragraph O.2(1)(e), paragraph PA.2(1)(v), or paragraph Q.2(1)(g) limitations or restrictions specified in this Part as being applicable to the development in question.

The local planning authority are not refusing the application. Procedure W.3 (a) or (b) are not applicable.

- (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

The local planning authority are not refusing the application. Procedure W.4 is not applicable.

- (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; and
- (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 24th February 2021. Procedure W.5 has been met.

- (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 application does not relate to prior approval as to the flooding risks on the site. Procedure W.6 has been met.

- (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 consultees referred to in sub-paragraph (5) specifying that they must respond by 17th March 2021. Procedure W.7 has been met.

- (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

The local planning authority gave notice on 24th February 2021 of the proposed development by serving a notice in that form on any adjoining owner or occupier. Procedure W.8 has been met.

- (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

The local planning authority did not require the developer to submit such information in order to determine the application. Procedure W.9 has been met.

- (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 February 2019, 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.

The local planning authority did, when determining an application, 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), had regard to the National Planning Policy Framework issued by the Department for Communities and Local Government in February 2019, so far as relevant to the subject matter of the prior approval, as if the application were a planning application; and, in relation to the contamination risks on the site, determined whether 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). Procedure W.10 has been met.

- (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.

Procedure W.11 must be met by the developer.

- (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

Procedure W.12 must be met by the developer

- (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 local planning authority is granting prior approval subject to conditions reasonably related to the subject matter of the prior approval. Procedure W.13 has been met.

- (14) When computing the number of days in sub-paragraph (8)(a), any day which is a public holiday must be disregarded.

When computing the number of days in sub-paragraph (8)(a), any day which is a public holiday was disregarded. Procedure W.14 has been met.

6. Recommendation

Determination prior approval not required

7. Conditions

- 1 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
- 2 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.

8. Informatives

Are there any letters to be sent to applicant / agent with the decision?		NO
Are there any third parties to be informed of the decision?		NO