

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AC	18 <sup>th</sup> May 2021
Planning Development Manager authorisation:	SCE	19.05.2021
Admin checks / despatch completed	DB	20.05.2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	20.05.2021

**Application:** 21/00555/COUNOT                      **Town / Parish:** Clacton Non Parished

**Applicant:** Mr P Newbould

**Address:** 78 Kings Avenue Holland On Sea Clacton On Sea

**Development:** Proposed conversion of an office into two x1 bed dwelling units

### 1. Town / Parish Council

None received

### 2. Consultation Responses

ECC Highways Dept                      My response would be the same as the April 2020 application is almost identical and the parking provision would obviously be 1 space per 1 bed dwelling instead of 2 spaces for the 2-bed dwelling.

Environmental Protection                      I have reviewed the above application and can confirm that EP have no comments to make.

Waste Management  
23.04.2021                      Bin storage area required to accommodate wheeled bin and recycling boxes for each unit.

Building Control and  
Access Officer  
21.04.2021                      No comments at this stage.

### 3. Planning History

20/00210/COUNOT                      Proposed conversion of office into two bed dwelling.                      Determination                      03.04.2020

21/00555/COUNOT                      Proposed conversion of an office into two x1 bed dwelling units                      Current

### 4. Relevant Policies / Government Guidance

The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

### 5. Officer Appraisal

Class O - offices to dwellinghouses

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.

Development not permitted

O.1 Development is not permitted by Class O if

(a) the building is on article 2(5) land

The building is not on article 2(5) land. **The proposal complies.**

(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

The building was used for a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order on 29th May 2013. **The proposal complies.**

(c) the use of the building falling within Class C3 (dwellinghouses) of that Schedule was begun after 30th May 2016

The use of the building falling within Class C3 (dwellinghouses) of that Schedule was not begun after 30th May 2016. **The proposal complies.**

(d) the site is, or forms part of, a safety hazard area

The site is not, or does not form part of, a safety hazard area. **The proposal complies.**

(e) the site is, or forms part of, a military explosives storage area

The site is not, or does not form part of, a military explosives storage area. **The proposal complies.**

(f) the building is a listed building or is within the curtilage of a listed building

The building is not a listed building nor is within the curtilage of a listed building. **The proposal complies.**

(g) the site is, or contains, a scheduled monument.

The site is not nor contains, a scheduled monument. The proposal complies.

### 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; and

(c) flooding risks on the site,

(d) impacts of noise from commercial premises on the intended occupiers of the development, and

(e) the provision of adequate natural light in all habitable rooms of the dwellinghouses,

### Transport and Highways Impacts of the Development

There are no parking facilities connected to the office unit, although free on-street parking is available in front of the building for a limited period during the daytime and with no restrictions after 6pm or on Sundays. The Highways Authority does not raise any objection to the proposal.

The site is located within an area where there are a number of local amenities located within a short walk distance of the site, the site is located within a short distance of bus stops located on Holland Road. The site is therefore considered to be highly accessible by non-car modes of travel for typical residential day-to-day journey purposes.

#### Contamination Risks on the Site

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

#### Flooding risks on the site

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

#### Noise Impacts from Commercial Premises on the Intended Occupiers of the Development

The proposal would not result in any material noise impacts.

#### 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”. It is considered that the bedroom of the proposed forward-facing flat will not have sufficient adequate natural light. The only window proposed is adjacent a narrow alley-way which is approximately 1.1m away from a 6m-high building. Although the window would be on the south elevation, the benefits of this are unlikely to be felt due to the height of the adjacent property in conjunction with its close proximity to this window.

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

#### 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

(a) Paragraph 3.1 of the Planning Statement which accompanies the application provides a written description of the proposed development and includes any building or other operations. (b) A plan indicating the site and showing the proposed development was received on 31<sup>st</sup> March 2021. (ba) Paragraphs 1.1 and 2.2 of the Planning Statement specifies that there will be a net increase of 2 new dwellings. (bb) Development is not proposed under Class Q. (bc) In relation to development proposed under Class O, drawing 582-104 B indicates the dimensions and proposed use of each room, the position and dimensions of windows, doors and walls, and the elevations of the dwellinghouse. (c) 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 8 on the application form. (e) Sub-paragraph (6) does not require the Environment Agency(a) to be consulted. The fee required was paid on 31<sup>st</sup> March 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; the local planning authority are refusing prior approval as adequate natural light is not 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 refusing the application but it complies with all other conditions (except paragraph O.2(1)(e). 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 under sub-paragraph (3). 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 21<sup>st</sup> April 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 12<sup>th</sup> May 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 27<sup>th</sup> April of the proposed development 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 described the proposed development, provided the address of the proposed development and specified the date by which representations are to be received by the local planning authority. 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).

Paragraph 127 of the National Planning Policy Framework issued by the Department for Communities and Local Government in February 2019 requires that decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. From 6<sup>th</sup> April 2021 the National Space Standards apply to development proposed through the General Permitted Development Order.

The National Space Standards require that a one bedroom 2-person unit has a minimum gross internal floor area of 50sqm – the rear-facing studio falls significantly short of this at 35sqm. As such it is likely that the conversion of the office space to a studio is likely to lead to less than satisfactory living conditions for future users. Again, the National Space Standards require that a one bedroom 2-person unit has a minimum gross internal floor area of 50sqm and, at 42.5sqm again falls short of these standards and is likely to lead to less than satisfactory living conditions for future users.

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 refusing 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**

Prior approval required - deemed application refused

## **7. Reasons for Refusal**

- 1 The proposed conversion of the ground floor fails to comply with Schedule 2, Part 3, Class O, Condition O.2 (1) (e) as the bedroom of the forward-facing flat does not have adequate natural daylight as its only window would face on to a narrow alley-way with a circa 1.1m wide separation to a 6m-high building.
- 2 The proposed conversion of the ground floor fails to comply with Schedule 2, Part 3, paragraph W (Procedure for applications for prior approval under Part 3, paragraph 10 (b) have regard to paragraph 127 of the National Planning Policy Framework issued by the Department for Communities and Local Government in February 2019 - requiring that decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

## **8. Informatives**

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