

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AC	9 th Aug 2022
Planning Development Manager authorisation:	GN	09/08/22
Admin checks / despatch completed	SH	09/08/2022
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	09/08/2022

Application: 22/01058/COUNOT **Town / Parish:** Clacton Non Parished

Applicant: Mr P Newbould

Address: 78 Kings Avenue Holland On Sea Clacton On Sea

Development: Proposed conversion of existing office into a two bedroom dwelling (variation to scheme approved under 20/00210/COUNOT).

1. Town / Parish Council

No comments received

2. Consultation Responses

ECC Highways Dept It is noted that this is a variation to a scheme approved under application 20/00210/COUNOT and the Highway Authority did not object to. The applicant now wishes to amend the original proposal with minor changes to an internal wall and the separation of the garage and stores at the rear. The site is close to existing public transport facilities in Frinton Road and has off-street parking to the rear of the building, considering these factors, 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

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	Determination	20.05.2021
21/01320/COUNOT	Proposed conversion of an office into two x1 bed dwelling units.	Determination	14.10.2021
22/01058/COUNOT	Proposed conversion of existing office into a two bedroom dwelling (variation to scheme approved under 20/00210/COUNOT).	Current	

4. Relevant Policies / Government Guidance

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

5. Officer Appraisal

Class MA – commercial, business and service uses to dwellinghouses

Permitted development

MA. Development consisting of a change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of Schedule 1 to that Order.

Development not permitted

MA.1.

(1) Development is not permitted by Class MA -

- (a) unless the building has been vacant for a continuous period of at least 3 months immediately prior to the date of the application for prior approval;

The building has been vacant for a continuous period of at least 3 months immediately prior to the date of the application for prior approval. **The proposal complies.**

- (b) unless the use of the building fell within one or more of the classes specified in sub-paragraph (2) for a continuous period of at least 2 years prior to the date of the application for prior approval;

The use of the building fell within one or more of the classes specified in sub-paragraph (2) for a continuous period of at least 2 years prior to the date of the application for prior approval. **The proposal complies.**

- (c) if the cumulative floor space of the existing building changing use under Class MA exceeds 1,500 square metres;

The cumulative floor space of the existing building changing use under Class MA does not exceed 1,500 square metres. **The proposal complies.**

- (d) if land covered by, or within the curtilage of, the building -

- (i) is or forms part of a site of special scientific interest;
- (ii) is or forms part of a listed building or land within its curtilage;
- (iii) is or forms part of a scheduled monument or land within its curtilage;
- (iv) is or forms part of a safety hazard area; or
- (iv) is or forms part of a military explosives storage area;

The land is not covered by or within the curtilage of any of the areas (i) to (iv). **The proposal complies.**

- (e) if the building is within -

- (i) an area of outstanding natural beauty;
- (ii) an area specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981;
- (iii) the Broads;
- (iv) a National Park; or
- (iv) a World Heritage Site;

The building is within of any of the areas (i) to (iv). **The proposal complies.**

- (f) if the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained; or

The site is/is not occupied under an agricultural tenancy. The express consent of both the landlord and the tenant has been obtained. **The proposal complies.**

- (g) before 1 August 2022, if -

- (i) the proposed development is of a description falling within Class O of this Part as that Class had effect immediately before 1st August 2021; and
(ii) the development would not have been permitted under Class O immediately before 1st August 2021 by virtue of the operation of a direction under article 4(1) of this Order which has not since been cancelled in accordance with the provisions of Schedule 3.

Not applicable as it is beyond 1st August 2022.

- (2) The classes mentioned in sub-paragraph (1)(b) are the following classes of the Use Classes Order -

- (a) the following classes of the Schedule as it had effect before 1st September 2020-

- (i) Class A1 (shops);
(ii) Class A2 (financial and professional services);
(iii) Class A3 (food and drink);
(iv) Class B1 (business);
(iv) Class D1(a) (non-residential institutions – medical or health services);
(v) Class D1(b) (non-residential institutions – crèche, day nursery or day centre);
(vii) Class D2(e) (assembly and leisure – indoor and outdoor sports), other than use as an indoor swimming pool or skating rink;

- (b) on or after 1st September 2020, Class E (commercial, business and service) of Schedule 2.

Conditions

MA.2.

- (1) Development under Class MA is permitted subject to the following conditions.
- (2) Before beginning development under Class MA, 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 impacts of the development, particularly to ensure safe site access;
(b) contamination risks in relation to the building;
(c) flooding risks in relation to the building;
(d) impacts of noise from commercial premises on the intended occupiers of the development;
(e) where -
(i) the building is located in a conservation area, and
(ii) the development involves a change of use of the whole or part of the ground floor, the impact of that change of use on the character or sustainability of the conservation area;
(f) the provision of adequate natural light in all habitable rooms of the dwellinghouses;
(g) the impact on intended occupiers of the development of the introduction of residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses;
(h) where the development involves the loss of services provided by -
(i) a registered nursery, or

- (ii) a health centre maintained under section 2 or 3 of the National Health Service Act 2006,
the impact on the local provision of the type of services lost; and
- (i) where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building.

Transport and Highways Impacts of the Development

The information submitted with the application has been assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material, google earth image dated April 2019. It is noted that this is a variation to a scheme approved under application 20/00210/COUNOT and the Highway Authority did not object to. The applicant now wishes to amend the original proposal with minor changes to an internal wall and the separation of the garage and stores at the rear. The site is close to existing public transport facilities in Frinton Road and has off-street parking to the rear of the building. The Highways Authority does not object to the proposal.

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 proposal complies.

Conservation Area

The site is not within a Conservation Area.

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 582-107 indicates that all habitable rooms would benefit from adequate natural light.

Impact on Intended Occupiers in Regards to General or Heavy Industry, Waste-Management, Storage & Distribution, or a Mix of Such Uses

The authority does not consider the area to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses.

Impact of the Loss of a Registered Nursery or a Health Centre

Not applicable, the development does not involve the loss of services provided by a registered nursery, or a health centre.

Fire Risk

Not applicable; whilst the resulting may contain two or more dwellings (it is assumed that there is a flat at first floor); this is not in conjunction with the building being either 18m in height or 7 storeys.

- (3) An application for prior approval for development under Class MA may not be made before 1 August 2021.

An application for prior approval for development under Class MA was not made before 1 August 2021. **The proposal complies.**

- (4) The provisions of paragraph W (prior approval) of this Part apply in relation to an application under this paragraph as if -
- (a) for paragraph (e) of sub-paragraph (2) there were substituted—
- “(e) where -
- (i) sub-paragraph (6) requires the Environment Agency to be consulted, a site-specific flood risk assessment;
- (ii) sub-paragraph (6A) requires the Health and Safety Executive to be consulted, a statement about the fire safety design principles, concepts and standards that have been applied to the development,”;
- (b) in the introductory words in sub-paragraph (5), for “and highways impacts of the development” there were substituted “impacts of the development, particularly to ensure safe site access”;
- (c) after sub-paragraph (6) there were inserted—
- “(6A)Where the application relates to prior approval as to fire safety impacts, on receipt of the application, the local planning authority must consult the Health and Safety Executive.”;
- (d) in sub-paragraph (7) for “(5) and (6)” there were substituted “(5), (6) and (6A)”;
- (5) Development must be completed within a period of 3 years starting with the prior approval date.
- (6) Any building permitted to be used as a dwellinghouse by virtue of Class MA is to remain in use as a dwellinghouse within the meaning of Class C3 of Schedule 1 to the Use Classes Order and for no other purpose, except to the extent that the other purpose is ancillary to the use as a dwellinghouse.

Interpretation of Class MA

MA.3.Development meets the fire risk condition referred to in paragraph MA.2(2)(i) if the development relates to a building which will –

- (a) contain two or more dwellinghouses; and
- (b) satisfy the height condition in paragraph (3), read with paragraph (7), of article 9A (fire statements) of the Town and Country Planning (Development Management Procedure) (England) Order 201560

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 M, MA, 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 G, M, MA, 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 G, M, MA, N, O, PA or Q of this Part, a floor plan indicating the total floor space in square metres of each dwellinghouse, 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 3.2 of the Planning Statement which accompanies the application provides a written description of the proposed development and includes any building or other operations.
 - (b) plan indicating the site and showing the proposed development was received on 23 June 2022
 - (ba) Question 6 on the application form which accompanies the application specifies that there will be a net increase of 1 new dwelling;
 - (bb) not applicable
 - (bc) In relation to development proposed under Class MA, Drawing 582-107 REV B indicates the proposed use of each room, the position of windows, doors and walls, and the elevations of the dwellinghouse.
 - (c) The developer's contact address is given in response to Question 1 on the application form.
 - (d) The developer's email address if (the developer is content to receive communications electronically) is given in response to question 10 on the application form.
 - (e) Sub-paragraph (6) does not require the Environment Agency(a) to be consulted. The fee required was paid on 23rd June 2022.

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 G.1(d)(iv), paragraph M.2(1)(f), paragraph MA.2(2)(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 29.06.2022. 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 20.07.2022. 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 -
 - (i) on any adjoining owner or occupier; and
 - (ii) where the proposed development relates to part of a building, on any owner or occupier of the other part or parts of the building

The local planning authority gave notice on 01.07.2022 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 July 2021, 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 July 2021, 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.

Space Standards:-

In March 2015, the government launched a new approach to housing standards and published a new set of streamlined national technical standards. This included publication of Technical housing standards – nationally described space standard. On 30 September 2020 Housing Secretary Robert Jenrick announced that new homes delivered through permitted development rights would have to meet the Nationally Described Space Standard.

No. of Bedrooms	No. of Bed Spaces	Storeys	Min Requirement	Actual Floorspace	Compliance
2	4	1	70sqm	94sqm	yes

- (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 must be completed within a period of 3 years starting with the prior approval date.
- 2 Any building permitted to be used as a dwellinghouse by virtue of Class MA is to remain in use as a dwellinghouse within the meaning of Class C3 of Schedule 1 to the Use Classes Order and for no other purpose, except to the extent that the other purpose is ancillary to the use as a dwellinghouse

8. Informatives