

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AL	12/04/2022
Planning Development Manager authorisation:	JJ	14/04/2022
Admin checks / despatch completed	DB	14.04.2022
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	14.04.2022

Application: 21/02008/DEMCON **Town / Parish:** Weeley Parish Council

Applicant: Balciunas - Abellio East Anglia Limited

Address: Weeley Railway Station Clacton Road Weeley

Development: Demolition of existing disused station building on platform.

1. Town / Parish Council

Weeley Parish Council Comments not required for this prior notification application.

2. Consultation Responses

Environmental Protection Should the above application be approved the EP Team would
17.12.2021 request the following be considered in relation to application of
conditions –

Construction Activities - In order to minimise potential nuisance caused by demolition/construction works, Environmental Protection recommend that the following below is conditioned;

- No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Mondays to Saturdays (finishing at 13:00 on Saturdays) with no working of any kind permitted on Sundays or any Public/Bank Holiday whilst construction works and alterations are being carried out.
- No materials produced as a result of the site development or clearance shall be burned on site.

Adherence to the above condition will significantly reduce the likelihood of public complaint and potential enforcement action by Pollution and Environmental Control. The condition gives the best practice for Demolition and Construction sites. Failure to follow them may result in enforcement action under nuisance legislation (Environmental Protection Act 1990), or the imposition of controls on working hours (Control of Pollution Act 1974).

REASON: to protect the amenity of nearby residential premises

3. Planning History

21/01048/DEMCON	Proposed demolition of existing disused train station building	Determination	14.07.2021
		Decision Agreed by Parties to Quash	20.08.2021

4. Relevant Policies / Government Guidance

- Town and Country Planning (General Permitted Development) (England) Order 2015 ('the Order') - SCHEDULE 2 PART 11 Class B - demolition of buildings.
- Changes to legislation: There are currently no known outstanding effects for The Town and Country Planning (General Permitted Development) (England) Order 2015, Cross Heading: Class B - demolition of buildings.
- No planning policies or other Government guidance are relevant to this application.

Status of the Local Plan

Planning law requires that decisions on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), together with any neighbourhood plans that have been brought into force.

5. Officer Appraisal (including Site Description and Proposal)

Site Description and Context

The application relates to the Weeley Railway Station located off Clacton Road / Weeley Bypass B1441, to the south of the main built up area of the village. The station is accessed via The Street under the viaduct or via the access road leading to Weeley Bridge Holiday Park off Clacton Road / Weeley Bypass. The station can also be accessed on foot via the staircase access also from Clacton Road / Weeley Bypass.

To the east of the site is Willow Park Resource Centre run by the Clacton Family Trust. Immediately to the west of the station access is a commercial site.

The site is situated on the edge, but within the defined settlement limits of Weeley.

The application specifically relates to the existing disused station building located on the northern platform edge (described as platform 2 by the applicant) adjacent to the main station entrance.

Description of Proposed Works

The application seeks confirmation as to whether the demolition of the existing disused Weeley Station building located on the station platform requires the benefit of prior approval.

As explained within the application form accompanying the application:

The station building was the former station house that provided ticket vending facilities through a ticket office and other staff quarters. The railway station is unmanned and there is no requirement for a building to provide passenger facilities that are otherwise provided through ticket vending machines, customer display screens and information help points that enable customers to contact staff if required. As a result the station building has been dormant for some time and provides no positive effects on the passenger experience; in fact - the dormant building provides for a hindrance to perceptions of safety and security with limitations on sight lines and CCTV coverage. If removed the building will be replaced with modern, well-lit shelters for passengers to wait for train services.

The proposals for replacement structures and lighting shown on the accompanying proposed plans and sections do not form part of this application. A separate application for full planning permission will be required for the proposed new structures.

Application 21/02008/DEMCON – Information submitted in support

A copy of the site notice has been provided with the submission detailing the correct information. Site photographs demonstrate that the site notice has been displayed correctly. The site notice displayed by the applicant is now considered to comply.

Under the Prior Notification application criteria, the Council as the Local Planning Authority (LPA) cannot consider the heritage value of the building but are required to consider the method of demolition, the impact upon local amenity and all other criteria under Part 11, Class B of the Order. Moreover, the assessment of the proposed demolition must clearly set out the reasoning behind the LPA's decision.

As originally submitted, this current application failed to provide sufficient supporting information to demonstrate that the demolition of this building falls within the definitional scope of Part 11, Class B of the Order in that there was no evidence to determine that the demolition was not excluded from the permitted development rights by paragraph B.1(a) ('..rendered unsafe ... by the ... inaction of any person having an interest in the land on which the building stands and it is practicable to secure safety or health by works of repair or works for affording temporary support'). Further, there was insufficient information on the method of demolition and site restoration. . The Council acted positively and proactively by engaging with the applicant and highlighting its concerns relating to the lack of sufficient evidence to demonstrate justification for the proposed demolition and lack of any information on the method of demolition.

Within the Council's letter dated 23 December 2021 it was strongly advised that GA carefully consider the previous legal challenge and thoroughly address these as part of this new application through a supporting statement and any other reports or evidence as necessary. The LPA advised that such information can include, but not be limited to:

- Details of a sustained but unsuccessful marketing campaign to sell and retain the building for an alternative use(s);
- A timeline of the building's history, its use and period of time that it has been unused/vacant;
- A structural survey and/or details of what measures have been put in place to ensure the building has been maintained to safe standard during the time shown in the timeline; and,
- Full details of the method of demolition, working hours, site clearance methods, waste disposal, the removal and disposal of any asbestos found in the building etc.

After a number of agreements to extend the determination deadline date to allow for the submission and consideration of additional information in support of the application, the applicant submitted the following documents received via email on 31 March 2022:

1. Asset Condition Statement containing information from an asset survey carried out by GA in November 2020;
2. Condition Survey Report prepared by Hampton Smith Lambert dated March 2012;
3. Demolition Method Statement.

The reports lack any information or justification on the viability or reasons why the building has been left to deteriorate (as requested in the LPA's letter dated 23 December 2021). Essentially, the information gives very little information other than a narrative of two visual inspections. Therefore, a further request for additional information was sent to the applicant dated 31 March 2022. However, GA replied by email dated 1 April 22 stating that no further information will be provided on the basis that:

'The information that has been provided by Greater Anglia addresses that requirement [B.1 (a)]. It demonstrates that the building is not unsafe or uninhabitable by any action or inaction by Greater Anglia. The building is in substantively the same state as it was in when they [GA] took occupation of it. The permitted development rights can therefore be used by Greater Anglia, subject to the conditions set out in paragraph B.2.'

The application has therefore been considered and assessed on the information provided at the time of this report.

Assessment

This prior notification application falls to be considered under Schedule 2 Part 11 Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 - demolition of buildings.

Schedule 2 Part 11 Class B - demolition of buildings states that any building operation consisting of the demolition of a building is permitted development subject to the conditions and limitations as set out in the Class.

Paragraph B.1 states that development is not permitted by Class B if – (officer assessment shown in italics)

(a) the building has been rendered unsafe or otherwise uninhabitable by the action or inaction of any person having an interest in the land on which the building stands and it is practicable to secure safety or health by works of repair or works for affording temporary support;

The additional information provided by the applicant (received on 31 March 2022) explains that GA took on the lease for the station in 2012, at which time they say the station building was already in a poor state of repair and refer to the March 2012 Condition Survey Report. Looking at that report it would appear that the survey of the building was external only with no internal access. The building is described as 'mothballed' and in the main scores 3s and 4s on the survey, which is poor or very poor condition.

They then refer to an asset survey carried out by GA in November 2020, some 8 years later, details of which including photographs are contained in the Asset Condition Report. It is clear from the photographs that the building is not in a safe or habitable condition or certainly was not in 2020 and it is reasonable to assume that it remains in a similar condition and is unlikely to be improved today. GA say in the Asset Condition Statement that the building has not been operational since the 1980s aside from a brief period in the 2000s when it was used as an art studio. GA conclude in their report 'It is considered that the condition of the building was substantively the same at November 2020 as it was in March 2012. Greater Anglia inherited the station building in a condition like that that exists today.'

Further, in their email of 1 April 2022 they say 'The information that has been provided by Greater Anglia addresses that requirement [referring to B.1(a) of the Class]. It demonstrates that the building is not unsafe or uninhabitable by any action or inaction by Greater Anglia. The building is in substantively the same state as it was when they took occupation of it.'

The LPA therefore consider that the supporting information provided by the applicant puts forward the following justification:

- 1. There has been no change in the building's condition between March 2012 when GA took on the lease for the site and November 2020 when the asset survey was undertaken; and*
- 2. That it is not unsafe or uninhabitable as a result of what GA have or have not done*

What they do not address is whether they agree or not that the building is unsafe or uninhabitable.

The LPA response to these points is as follows:

There is no evidence that the condition of the building has stayed the same for the 8 year period, nor do the reports confirm whether the building has or has not been rendered unsafe or otherwise uninhabitable, although the photographs taken in November 2020 suggest that the building is unsafe or otherwise uninhabitable.

The survey provides evidence that the building was not in use in March 2012 as it was boarded up and that externally in respect of those elements that were surveyed it was in a poor or very poor state of repair, which the Council accepts. However, there is no evidence of the internal state of the building in 2012 as it was not surveyed at that time. There is no evidence that the building has stayed in the same condition between 2012 and 2020 as stated by GA and could therefore have further deteriorated during that time. GA have not produced any evidence of maintenance or repair during the period of their lease, even to keep the building wind and water tight to maintain the status quo. Further, GA refer to a brief occupancy in the 2000s and so at some point in the 2000s the building must have been in a safe and habitable state of repair

The Council's letter of 23 December 2021, after setting out the text of Class B.1 (a), asked for a timeline of the building's history, and a structural survey and/or details of what measures had been put in place to ensure the building had been maintained to a safe standard during the times shown in the timeline. This information has not been provided.

Further, Class B.1 (a) refers to "any person" having an "interest in land". Accordingly, it is not apparently limited to the current owner but relates to a condition caused by any person (or persons) with a relevant interest in the land. If that were not so, a simple transactional device could be used to facilitate a permitted development application where the circumstances would otherwise fail to comply with Class B.1 (a). That condition can come about either by "action" or "inaction" (or even a combination of both). Accordingly, even if GA's position that the building was unsafe or uninhabitable at the time they acquired an interest is correct, the condition in Class B.1(a) applies to take the building outside the definitional scope of Part 11, Class B.

Nor does the LPA consider that the application demonstrates that it is not practicable to secure safety or health by works of repair or works for affording temporary support.

*The information provided by GA in support of this application fails to provide sufficient evidence to satisfy B.1 (a). As a result, the LPA cannot justify approval of the demolition of the building. **The evidence provided fails to satisfy Class B.1 (a) and the proposal does not therefore fall within the definitional scope of Part 11, Class B of the Order.***

(b) the demolition is "relevant demolition" for the purposes of section 196D of the Act (demolition of an unlisted etc building in a conservation area)(a); or

*The demolition is not "relevant demolition" for the purposes of section 196D of the Act. **The proposal complies.***

(c) the building is used, or was last used, for a purpose falling within Class A4 (drinking establishments) of the Schedule to the Use Classes Order, including a purpose as described in Class AA (drinking establishments with expanded food provision) of Part 3 of Schedule 2 to this Order.

*The building is not and was not last used as a drinking establishment/establishment with expanded food provision, falling within Class A4 or Class AA. **The proposal complies.***

(d) the building is used, or was last used, for the purpose of—

- (i) a concert hall;
- (ii) a venue for live music performance; or
- (iii) a theatre

*The building is not and was not last used for any of the above-mentioned uses. **The proposal complies.***

(e) the demolition relates to a statue, memorial or monument ("a commemorative structure") in place for a period of at least 10 years on the date of any proposed demolition, other than a commemorative structure—

- (i) that is a listed building;
- (ii) that is a scheduled monument;
- (iii) within a cemetery, on consecrated land, or within the curtilage of a place of public worship;
- (iv) within the grounds of a museum or art gallery; or
- (v) within the curtilage of a dwellinghouse

*The demolition does not relate to a statue, memorial or monument. **The proposal complies.***

Conditions

B.2 Development is permitted by Class B subject to a number of conditions.

It is not necessary to consider the relevance or requirements of these conditions as the application is being refused.

Conclusion

Having regard to the assessment of the information accompanying the application, the LPA cannot justify approval of the demolition of the 'disused station building' due to the lacking and contradictory evidence provided by GA. The application therefore fails to comply with the requirements of Schedule 2, Part 11, Class B.1 (a) of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) in that the proposal does not fall within the definitional scope of the Class and the prior approval of the Local Planning Authority for demolition of building is hereby refused.

6. Recommendation

Prior Approval refused.

7. Reasons for Refusal

- 1 The demolition of the building fails to comply with the requirements of Schedule 2, Part 11, Class B.1 (a) of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) due to insufficient evidence. The prior approval of the Local Planning Authority for demolition of the disused station building is hereby refused.

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

