

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Case Officer recommendation:	JR	13.03.2023
Planning Manager / Team Leader authorisation:	ML	17.03.2023
Planning Technician final checks and despatch:	ER	17/03/2023

Application: 23/00103/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 (Variation to scheme approved under 21/01320/COUNOT).

1. Town / Parish Council

Clacton Non Parished No Comments Received

2. Consultation Responses

ECC Highways Dept It is noted that the application is similar/ identical to previous
06.02.2023 applications 20/00210/COUNOT, 21/00555/COUNOT, and
21/01320/COUNOT, considering these factors:

The Highway Authority does not object to the proposals as submitted

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).	Determination	09.08.2022

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 (2015)

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

Site Description

The application site is located on the eastern side of Kings Avenue and comprises of a two-storey brick built building, with offices at ground floor and a flat at first floor. The site is within the settlement development boundary of Clacton-on-Sea and the Village and Neighbourhood Centre of Holland-on-Sea within the adopted Local Plan. The site is within Flood Zone 1 which has a low risk of flooding.

Proposal

This application is submitted under Class MA, Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (Aug 2021) to determine whether prior approval of the Council is required for the change of use of a ground floor office into 2 No. 1 bed residential dwellings (Class C3). **(Officer assessment shown in bold text):**

Assessment

Class MA – Commercial, Business and Service uses to Dwellinghouses.

Class MA encompasses 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.

(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 submitted and completed application form confirms that the building has been vacant for a continuous period of 3 months prior to the date of this prior approval application. Therefore 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 is considered to be office use, which falls within point (iv) Class B (Business) of sub-paragraph (2) and has been in this use for a minimum period of two years prior to the date of this application. Therefore 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 building changing use under Class MA does not exceed 1,500 square metres. Therefore 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 within the curtilage of the building does not fall within any of the above therefore 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 not within any of the above designated areas, therefore 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 not occupied under an agricultural tenancy; therefore 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.

The proposed development is of a description falling within Class O immediate before 1st August 2021, but no article 4 direction was in place which would have prevented the conversion. Therefore the proposal complies.

(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—

- (j) Class A1 (shops);
- (ii) Class A2 (financial and professional services);
- (iii) Class A3 (food and drink);
- (iv) Class B1 (business);**
- (v) Class D1(a) (non-residential institutions – medical or health services);
- (vi) 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

Conditions

(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;

The application site has vehicular access to the rear from Preston Road, which has space for 2 cars. One space is allocated for the first floor flat. The ECC parking standards require 1 parking space per flat. However, in sustainable location such as town centres this can be reduced. The site is in a town centre location with easy access to a number of facilities as well as good public transport links. Therefore the proposed parking provision is considered acceptable. Furthermore the Highway Authority have no objection to the proposal. The proposal complies.

(b) contamination risks in relation to the building;

There are no contamination risks in relation to the site.

(c) flooding risks in relation to the building;

There are no flooding risks in relation to the site.

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

The site is within a reasonably busy shopping area, however there is residential accommodation above the majority of the shops/units in this area, therefore the noise impacts are considered to be minimal and would not result in a harmful impact on any future occupiers.

(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;

The building is not within a conservation area, therefore this criterion is not applicable in this case.

(f) the provision of adequate natural light in all habitable rooms of the dwellinghouses;

The two flats are of a 1 bed nature and meet the standards set down by the Technical Space Standards for a 1 bed one storey dwelling. The orientation of the ground floor of the building is such that there are buildings adjacent and windows overlooking a narrow alleyway, however it is considered that the main habitable rooms of the two flats would receive adequate natural light. The rear unit also has a large rooflight within the flat roof element and in addition to the rear windows and doors, the rear elevation also has a number of high level windows which is also considered to provide an additional source of natural light to this rear unit.

(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;

The site is within a commercial shopping area and is therefore not within an area that is considered 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

The development does not involve the loss of services provided by any of the above.

- (j) where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building

The development does not meet the criteria for the fire risk condition.

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

The application was submitted after 1 August 2021.

- (4) The provisions of paragraph W (prior approval) of this Part apply in relation to an application under this paragraph. **Considered to have been adhered to**

- (5) Development must be completed within a period of 3 years starting with the prior approval date. **Condition to be added**

- (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.

6. Recommendation

Prior Approval not required

7. Conditions

1. The 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

Essex Coast Recreational Disturbance Avoidance & Mitigation Strategy

Under article 3(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) permitted development rights are subject to regulations 75 to 78 of the Conservation of Habitats and Species Regulations 2017 (the 2017 Regulations). In particular, regulation 75 provides that it is a condition of any planning permission granted by a general development order on or after 30th November 2017, that development which is likely to have a significant effect on a European site or a European offshore marine site and is not directly connected with or necessary to the management of the site, must not be begun until the developer has received written notification of the approval of the Local Planning Authority (LPA) under regulation 77.

It has already been determined that where there is a net increase in residential dwellings within the Zone of Influence of protected European sites this will have a significant effect on those European sites through recreational disturbance within Tendring, and this has been identified as an issue for all of the Essex coastal Habitat sites through published Habitats Regulations Assessments. Therefore, where permitted development rights under the GPDO permit development which will result in a net increase in residential dwellings, article 3(1) of the GPDO and regulations 75 to 78 of the 2017 Regulations will apply.

Prior to the commencement of the development which is the subject of this prior approval determination an application must be made to the LPA under regulation 77 of the 2017 Regulations for the approval of the LPA before the development can be commenced. Mitigation has been agreed through The Essex Coast Recreational Disturbance Avoidance & Mitigation Strategy (Essex Coast RAMS) to protect the integrity of these sites from this type of development, and a standard unilateral undertaking (UU) could secure payment to mitigate the harm arising from the development to the designated site before commencement. Please contact Tendring District Council to make an application under Regulation 77 of the 2017 Regulations and to arrange the required UU prior to commencement of the development.

<p>Are there any letters to be sent to applicant / agent with the decision? If so please specify:</p>	<p>YES</p>	<p>NO</p>
<p>Are there any third parties to be informed of the decision? If so, please specify:</p>	<p>YES</p>	<p>NO</p>