



*St Edmundsbury*  
BOROUGH COUNCIL

## Development Control Committee 1 September 2016

### Planning Application DC/16/0103/FUL Clare Antiques, Malting Lane, Clare

<b>Date</b>	11 February	<b>Expiry Date:</b>	7 April 2016
<b>Registered:</b>	2016		
<b>Case Officer:</b>	Gary Hancox	<b>Recommendation:</b>	Approve
<b>Parish:</b>	Clare	<b>Ward:</b>	Clare
<b>Proposal:</b>	Change of use from Antiques Centre (A1) to 9 self-contained flats (C3).		
<b>Site:</b>	Clare Antiques, Malting Lane, Clare		
<b>Applicant:</b>	Mr Christopher Marchant		

#### **Synopsis:**

Application under the Town and Country Planning Act 1990 and the (Listed Building and Conservation Areas) Act 1990 and Associated matters.

#### **Recommendation:**

It is recommended that the Committee determine the attached application and associated matters.

CONTACT CASE OFFICER: Gary Hancox  
Email: [gary.hancox@westsuffolk.gov.uk](mailto:gary.hancox@westsuffolk.gov.uk)  
Telephone: 01638 719258

## **Background:**

**This application is presented to the Development Control Committee following consideration by the Delegation Panel. It was referred to the Delegation Panel as the Town Council has an objection in principle to the proposed development, which is contrary to the recommendation of Approval. It was also referred to the Panel in recognition of the issues raised, not least the Officer recommendation for approval notwithstanding the objection from Suffolk County Council as Highway Authority.**

**Members visited the site on Thursday 28 July 2016, prior to the matter being withdrawn by Officers from the August 2016 Development Control Committee agenda prior to its determination, and in light of the need to fully consider the car parking and bin storage matters arising.**

## **Proposal:**

1. Full planning application for the change of use from Antiques Centre (A1) to 9 self-contained flats (C3) with the retention of some A1 space at ground floor level. The proposal involves the creation of 4 x one bed, 1 x studio and 4 x 2 bedroom flats.

## **Application Supporting Material:**

2. Information submitted with the application as follows:
  - Plans, elevations and window details
  - Design and access statement, Heritage Statement, Contaminated Land Survey.

## **Site Details:**

3. The application site is located in the south part of the historic town of Clare. The site contains a large three-storey former mill building dating back to about 1920. It has arched windows facing Malting Lane with brick walls and a large steep slate clad roof. The building has been used as an Antiques Retail Showroom for approximately 30 years and is subdivided into individual spaces for traders. Internally the building is completely open throughout with a structural steel frame supporting timber floors. The site is within the settlement boundary and a Conservation Area but the building is not listed. The site is outside the defined town centre, which starts approximately 21 metres to the north.
4. The site is bounded to the south and west by dwellings and attached to the north flank of the building is a new build two-storey dwelling granted permission in 2013.

## **Relevant Planning History:**

5. SE/11/1309/OUTCA – Conversion of building to 8 flats – App. W/D

## **Consultations:**

6. Highway Authority: Suffolk County Council originally expressed no objection to this proposal stating that *'in line with previous Highway Authority responses to similar proposals at this location, the presence of Clare Country Park car park and opportunity for occupiers to purchase annual passes, coupled with adjacent on-street parking restrictions make the proposal acceptable regarding vehicle parking.'*

In light of further information made available to the County Council about the availability of car parking within the adjacent car park the County Council revised their position to object, stating that *'without a long term solution to provide for off-street parking the Highway Authority recommend refusal'*.

Conditions had originally been recommended in relation to bin and cycle storage.

7. Public Health and Housing: No objection, subject to conditions outlined in their comments.
8. Environmental health: No objection.
9. Clare Society: Object. Strong preference is that the building remains as a centre for commercial activity. Parking presents a problem. Should be less housing and more commercial space within the building. Question the need for 20 windows in the rear elevation. Foul drainage needs to be clarified.
10. Conservation Officer: No objection to the principle of the change of use and the internal changes, however the existing Crittall windows and loading door should be retained.

## **Representations:**

11. Town Council: Object.
- New windows will overlook dwellings
  - The location of refuse bins will harm the amenities of nearby properties
  - Harmful impact within the Conservation Area
  - Contrary to DM36 (Local Centre) – has the property been marketed for 12 months?
  - Lack of parking – 13 spaces plus cycle storage required
  - Can connection to the main foul sewer be achieved?
  - The site is not a brownfield site.

## 12. Neighbours:

8 letters of objection have been received raising the following issues of concern:

- How will access be achieved for the insertion of the rear windows?
- Overlooking
- Disruption during construction
- Bin storage area will block right of access
- Bin storage will cause issue with smells
- No cycle storage shown
- Loss of antique centre will have a detrimental impact on the viability and vitality of the town
- No parking is provided
- Antique Centre is an employment use and therefore its loss runs counter to Policy DM30, and marketing information should be provided in accordance with criterion b.

## 13. Clare Castle Country Park Trust:

Letter received clarifying the position of the Trust. In summary:

- The Trustees have no objection in principle to the conversion of the building to flats. However, they would be in breach of their duties as Trustees if they allowed the car park to be used to support a private development.
- The Clare Castle Country Park car park cannot therefore be the answer to the parking requirements of people who would occupy the proposed flats.

## **Policy:**

13. The following policies of the Joint Development Management Policies Document and the Forest Heath Core Strategy 2010 have been taken into account in the consideration of this application:

## 14. Joint Development Management Policies Document:

- Policy DM1 (Presumption in Favour of Sustainable Development)
- Policy DM2 (Creating Places – Development Principles and Local Distinctiveness)
- Policy DM17 (Conservation Areas)
- Policy DM22 (Residential Design)
- Policy DM30 (Protection of Employment Land and Existing Businesses)
- Policy DM41: Community Facilities and Services
- Policy DM46 (Parking Standards)

## 15. St Edmundsbury Core Strategy 2010:

- Policy CS1 (Spatial Strategy)
- Policy CS3 (Design Quality and Local Distinctiveness)
- Policy CS4 (Settlement Hierarchy and Identity)
- Policy CS9 (Employment and Local Economy)

- Policy CS13 (Rural Areas)

16. Rural Vision 2031

- Policy RV3
- Policy RV11

**Other Planning Policy:**

17. National Planning Policy Framework (2012)

18. National Planning Practice Guidance

**Officer Comment:**

19. The issues to be considered in the determination of the application are:

- Principle of Development
- Loss of Antique Centre (A1 retail use)
- Impact on the Character or Appearance of the Conservation Area
- Impact on Neighbouring Amenity
- Access/parking

**Principle of Development**

20. Core Strategy Policy CS4 identifies Clare as a 'key service centre', defined as large villages with good levels of services. The policy indicates that these Key Service Centres will be the main focus for additional homes, jobs and community facilities outside of Bury St Edmunds and Haverhill. However, the scale of growth in the individual settlements will be dependent upon the local environmental and infrastructure capacity of the settlement concerned.

21. The pre-amble to Policy RV11 of Vision 2031 highlights the fact that within Clare there are limited opportunities for development on previously developed land, largely due to the form and character of the town. It also states that a certain amount of development is required to ensure that the vitality and viability of the town is maintained. The NPPF sets the requirement that applications for housing should be considered in the context of the presumption in favour of sustainable development. This of course also supports the general provisions of Policy RV3 which permits housing proposals within the Housing Settlement Boundary.

22. Representations received have suggested that Policy DM30 (Protection of Employment Land and Existing Businesses) applies; that the proposals run counter to this policy and that marketing information should have been submitted to explain that no viable alternative employment uses can be found. However, the use of the building as a retail Antique Centre does not generate significant levels of employment, and it is difficult to see how a building of such a scale and form could be occupied by an employment generating use without significant alteration, thus reducing its viability. In any event, in order for the Policy to apply it would need to be considered that the loss of the site for employment purposes would have an adverse

effect on employment generation, which is not considered the case. Officers have therefore given limited weight to this policy. The site is not within the town centre and neither is the site within any designated local centre so the provisions of Policy DM35 do not apply.

23. Likewise, Policy DM41 is not considered to offer any protection in this context. Firstly, the use to be protected must be a valued community use. It is moot if this is the case here and, in any event, even if it is so valued, then its loss can be sanctioned if *alternative facilities and services are available or replacement provision is made, of at least equivalent standard, in a location that is accessible to the community it serves with good access by public transport or by cycling or walking*. Given the proximity of the site to the town centre, and the range of other retail units available, this criterion is considered satisfied.

24. No policy protection exists therefore for the existing retail use of this site, which must therefore be considered on its own merits, and in light of the NPPF presumption in favour of sustainable development.

25. Taking the above into account it is considered that the principle of the conversion of the building for housing is acceptable, subject to an assessment of the environmental impact of the development. This is considered below.

#### Loss of Antique Centre (A1 Retail use)

26. The building is located outside the centre of the town where the adjoining uses are residential. Although the building is prominent within the street scene, it is not situated within a shopping/commercial environment. The Town Council has suggested that the Antiques Centre attracts 100,000 visitors Clare every year, and is the biggest business in the town. These visitors support the local economy. The applicant disputes the suggested visitor levels, and comments that the Antique Centre consists of dealers who mainly operate as a hobby, and that there is a high turn around and a lot of competition, due to under utilised similar centres in nearby towns. The business is not considered to be a long-term viable option.

27. It is acknowledged that the NPPF seeks to, inter alia, promote town centres and support their viability and vitality. In this case, the building is outside a defined town centre and is not within a defined retail area. Its contribution towards to vitality of the town centre is therefore limited. The contribution the retail use makes to the overall economy, although difficult to quantify, must however be of some significance. This benefit is mainly from additional spending in the town from the visiting dealers and public, as opposed to additional employment generation.

28. It is also noted that the A1 retail use of the ground floor, namely the existing Antique Shop, will be retained.

29. Given the location of the building outside a defined town centre, and its limited contribution to its vitality, it would be very difficult to defend a refusal of permission on this ground, not least noting the conclusions

drawn above in relation to DM41.

### **Impact on the Character and Appearance of the Conservation Area**

30. Section 72 of the Town & Country Planning (Listed Building and Conservation Areas) Act 1990 requires Local Planning Authorities to have special regard to the desirability of preserving or enhancing Conservation Areas, and in accordance with this, Policy DM17 states that proposals should preserve or enhance the character or appearance of the Conservation Area or its setting, and views into, through and out of the area.
31. Clare Antiques is described by the applicant as a former mill used for grinding salt and dates from the earlier part of the twentieth century. It is a significant building within the street scene. The Crittall windows would appear to be contemporary with the original construction of the building. Their industrial, yet elegant and uniform appearance to the principal elevation, in particular, makes a positive contribution to the mill. Due to the building's age, rarity (uncommon to the area), aesthetic value exhibiting a positive architectural appearance in the streetscape, industrial archaeological value, together with its Social and Communal Value as a building set within a prominent location within the Conservation Area, it is identified as a non designated heritage asset. The building makes a significant positive contribution towards the character of this part of the Conservation Area.
32. To a large extent the conversion of the building will not impact on its external appearance when viewed from Malting Lane, however the loss of original windows would have a harmful impact. Original plans indicated the replacement of these windows with those of more crude detailing, and concerns were expressed by the Conservation Officer. The applicant has now agreed to utilise secondary glazing to the windows and preserving the existing windows in situ. The original loading door will also now be retained. Subject to this, the Conservation Officer raises no objection to the scheme and the proposal is in accordance with Policy DM17. The character of the Conservation Area will be preserved in accordance with primary legislation.

### **Impact on Neighbouring Amenity**

33. The conversion of the building involves the insertion of 20 windows in the rear elevation of the building, along with a series of roof lights. To the rear of the building is 'The Boathouse Mews', a recently completed two-storey courtyard style development. The rear elevations of these dwellings are between 7 and 8 metres from the application building and as a consequence have relatively small rear gardens. The outlook of these dwellings is already dominated by the west elevation of the 3-storey former mill building, so provided the new windows in this elevation are all obscure glazed and non-opening (as proposed) then there will be no overlooking or loss of privacy.
34. There are existing windows in the side (south) elevation of the building

that will serve kitchens and bedrooms on the first and second floors. These windows already overlook the front garden areas of nos. 9 and 11 Malting Lane, and whilst the use of the windows will become domestic, it is not considered that any subsequent loss of privacy would be significant.

35. Original proposals located a bin storage area to the north east of the building. This was located within an area used as a vehicular access serving the rear of several properties in Nethergate Street. As the storage area was within an area with a private right of way for access, concern was raised by neighbours that the bins would block access and be harmful to amenity. It was also noted that part of this area (within the ownership of the applicant) was already used informally by neighbouring properties for the storage of bins. However, amended plans have now been received that provide shared bins in an enclosed area within the building. Subject to the agreement of the land owner, the storage of bins adjacent the access drive to the side of Mill House by adjoining residents can continue although it should be noted that such relies on the continuing goodwill of the landowner and cannot reasonably be sought through this approval.
36. Subject to the windows to the rear elevation of the building being obscure glazed and fixed shut (with the exception of fan-light windows to bathrooms), the development would not significantly harm the amenities of neighbouring properties and accords with Policy DM2 in this regard.

### **Access/parking**

37. No access or dedicated parking is proposed. The applicants justify this on the basis that due to the units being mainly one and two bed flats close to town centre amenities, car usage is not expected to be high. A public car park is situated opposite the site and from a site inspection would appear able to accommodate some if not all of the likely vehicles arising from the development. The applicant has indicated that permits are available for purchase, and indeed the Antiques Centre already have four parking permits available to them. The current loading and unloading of vehicles on a narrow lane would cease with the residential use of the building, thereby further reducing the likelihood of traffic congestion in the area.
38. This position was accepted formally by the County Council as Highway Authority in their original consultation response.
39. However, a letter from Clare Castle Country Park (new trustees of the car park, leased from the Town Council) disputes the level of public access to the car park, and states that it is not the intention that the car park should be used by local residents. It is also stated that consideration will be given to the car park being locked overnight. In light of this, the County Council as Highway Authority have raised concerns about this proposal, stating that until comfort can be obtained about the likely level of available car parking they will object to the proposal.
40. The applicant counters the above claims with a solicitor's letter. This states that parking permits are available, and that numerous local residents currently use the car park. Most of the houses in Malting Lane



have no parking provision. The letter points out that a clause with the leasehold of the car park requires it to be kept open for use by members of the public at all times.

41. Further letters have been received from the applicant's Solicitor and the Clare Castle Country Park Trust clarifying both the legal position in respect of the current lease of the car park from the Town Council, and in respect of the stated desires and objects of the Trust itself in respect of the management of the car park. In summary, Officer's understanding of the current parking situation and use of the car park is as follows:

- Since March 2015 the car park opposite the site has been leased from the Town Council and managed by Clare Castle Country Park Trust.
- Under the terms of the lease, inter alia, the car park is required to be kept open for use by members of the public at all times.
- Up to five local residents currently use the car-park for off-street parking.
- The parking regulations (set by the Trust) have recently been amended prohibiting overnight parking unless directly authorised by the Trust. *(Note:- this runs contrary to the terms of the lease.)*

42. Taking into account the above, Officers have come to the conclusion that under the terms of the current lease, the car park, at least for the foreseeable future, is available for overnight use by local residents and visitors alike. This conclusion was also reached in 1992 by an Inspector dealing with the planning appeal for the conversion of the building to an Antique Centre where he stated that it had been recognised for over 20 years that the car park provided parking for the town generally and was recognised as such in the local plan at the time.

43. It is noted that the Local Highway Authority subsequently objected to the development on the grounds that they are concerned that there is no long term solution for resident's off-street parking. However, taking into account the above, taking into account that there does appear to be off-street parking available in the local area, as well as the proximity of the site to town centre facilities and the likely reduced level of car use, Officers do not consider that a refusal reason based on there being no dedicated parking, could be substantiated at appeal, balancing all matters and considering 'sustainability' in the round. In reaching this position Officers have taken into account that Policy DM46 and the up to date adopted standards do allow for a reduction in parking levels in town centre locations.

44. The management of the car park is a matter for the Town Council, Clare Castle Country Park Trust and other interested parties (including the applicant) and is not a material consideration in the determination of this application. The simple fact of the matter is that presently, the building does not have dedicated parking, but that parking provision does appear to be available within the vicinity of the site, protected for provision by the terms of the lease on which the car park is held, and the Officer's recommendation is made having regard to this fact.

## **Other Matters**

45. It is considered there would be no adverse impact to ecology and biodiversity as a result of the proposed development subject to recommended conditions in relation to mitigation measures.
46. In respect of S106 obligations, following a recent court judgement, contributions should no longer be sought from developments of 10 units or less, and which have a maximum combined gross floor space of no more than 1000sqm. In this case the development is for 9 dwellings with a combined floor-space of 625sqm, therefore no obligations, including those requiring affordable housing provision, can be requested.

## **Conclusion:**

47. For the above reasons the principle of the development of 9 flats with the retention of a proportion of ground floor retail is considered acceptable, and in accordance with Core Strategy Policy CS4. The loss of the majority of the retail use of the building would not have a significant detrimental impact on the vitality and viability of the town. Subject to conditions requiring the rear windows to be obscure glazed and non-opening (with the exception of fan lights to bathrooms), the residential use of the building would not have a significant harmful impact on the amenity of neighbouring residents.
48. Whilst the lack of dedicated parking provision is less than ideal, it is unlikely to result in on-street parking, as existing restrictions are in place to prevent such and also as parking is available in car parks within the local area. The issues highlighted above in respect of the current management of the car park and the restrictions/covenants in the lease are acknowledged. However, at the present time there is a legal right for the public to park in the car park at all times, and there is potential that, subject to agreement between the Town Council, Clare Castle Car Park Trust and interested parties, limited allocated parking provision to serve the development and current local residents using the car park overnight, could be secured.
49. When assessed against the development plan as a whole, including having due regard to the NPPF, it is considered that the adverse impacts of the development do not outweigh the benefits and that the proposal therefore represents sustainable development.

## **Recommendation:**

It is **RECOMMENDED** that planning permission be **Granted** subject to the following conditions:

1. Three year permission time limit
2. In accordance with approved plans
3. House of construction 8am – 6pm Mon – Fri, 9am – 1pm Saturdays, and not at all on Sundays and B/H's

4. Construction management plan to be submitted and agreed
5. Details of the secondary glazing to existing windows to be submitted and agreed
6. Windows to the west (rear) elevation of the building shall be obscure glazed and non-opening (with the exception of fan lights to bathrooms) and shall be retained as such
7. Foul drainage to be submitted and agreed
8. Before the development is commenced details of the areas to be provided for secure cycle storage shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety before the development is brought into use and shall be retained thereafter and used for no other purpose.  
Reason: To ensure the provision and long term maintenance of adequate on-site space for the storage of cycles.

**Documents:**

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online.

<https://planning.westsuffolk.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=O18SI2PDMLV00>

Case Officer: Gary Hancox

Tel. No. 01638 719258