



Appeal Decision

Site visit made on 23 September 2025

By Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 09 October 2025

Appeal Ref: APP/P1560/W/25/3367163

7 Colchester Road, Weeley, Clacton-on-Sea, CO16 9JT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Kiritto Sebamalaimuthu against the decision of Tendring District Council.
 - The application Ref is 25/00077/FUL.
 - The development proposed is a change of use of former tyre/exhaust garage to convenience store with alterations including new shopfront, roller shutter and canopy.
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Decision

1. The appeal is allowed and planning permission is granted for a change of use of former tyre/exhaust garage to convenience store with alterations including new shopfront, roller shutter and canopy at 7 Colchester Road, Weeley, Clacton-on-Sea, CO16 9JT in accordance with the terms of the application, Ref 25/00077/FUL, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby approved shall not operate outside of the hours of 7am to 10pm Mondays to Saturdays and 8am - 9pm Sundays and Bank Holidays, and deliveries shall only take place between the hours of 8am - 6pm Mondays to Saturdays.
 - 3) The noise emitted from the chiller units shall not exceed +5dB above background, and shall comply with the relevant British Standards, and the standard maintenance of the systems, as required by the manufacturers guidance, shall be carried out for the life of the units.

Main Issues

2. The main issues in this case are: i) the effect of the proposed change of use on highway safety; and ii) the effect of the proposal on the living conditions of the neighbouring residential occupiers.

Reasons

3. The appeal site is located to the northern side of Colchester Road, within the Parish of Weeley. The building is currently vacant, having been formally occupied as a tyre/exhaust garage. To the front of the building is hardstanding used for parking. There are detached 2-storey houses to both sides of the site. The character of the surrounding area is urban in nature, with a mix of residential and commercial

properties. There is a car sales business opposite and, to the east, 'The Black Boy' public house and restaurant, with its car park and beer garden, immediately beyond No.5 and 'Lily Cottages'. To the west, slightly further along Colchester Road, is an Ambulance Station and Veterinary Surgery. Colchester Road, the B1033, is a busy route linking the A120 with Thorpe/Frinton/Walton, etc.

The effect of the proposed change of use on highway safety

4. Essex Parking Standards 2024 state that for Class E (a) uses, for the display or retail sale of goods other than hot food, 1 space per 20m² is required. The application form states that the building measures approximately 253 m², therefore 13 parking spaces are required according to these standards, which the site clearly cannot accommodate. However, there is marked curb-side parking from the appeal site to the Black Boy pub, some 60 odd metres long, and the forecourt itself would provide 2 disabled parking bays and cycle parking. I also saw that there is a Weeley Post Office and Convenience Store in The Street, not far away, that also has houses on each side, and has little provision for car parking. This is not uncommon with village shops, and I do not consider that it is realistic to apply the Essex Parking Standards to such a situation. Furthermore, the highway authority has not raised an objection. In reaching my conclusion on this issue, I have noted what is said about the car dealership opposite frequently having large lorries loading and unloading, with traffic and other issues.
5. I conclude that the proposed change of use would not have a harmful effect on highway safety.

The effect of the proposal on the living conditions of the neighbouring residential occupiers.

6. The neighbouring houses have until recently lived alongside a motor vehicle tyre and exhaust garage, which is industrial in nature, and would have attracted vehicles of a variety of size and types. It would have involved using equipment to remove wheels and exhaust pipes, etc. Whilst the proposed use would be likely to involve a greater number of visits, the activity of shopping is generally not noisy, does not involve noisy equipment, and the vehicles attracted would be a minor component of the existing traffic on this busy classified highway. There would of course be air condensing chiller units, but a Noise Impact Assessment to assess the impact of noise from these was submitted to the council with the application. The Council's Environmental Protection Team have reviewed this assessment, and confirmed that they are satisfied with the methodology and its findings, and provided the operational aspect of the proposal does not exceed +5dB(A) above background noise level (which the assessment confirms would be the case) no objections were raised.
7. The proposed opening hours are 7am to 10pm Monday to Saturday and 8am - 9pm Sundays and Bank Holidays. Deliveries to the shop are proposed between 8am - 6pm Mondays to Saturdays only. These are not unreasonable hours of business, and bearing in mind the nature of the road and its traffic, together with the nearby public house, I conclude that the proposed change of use would not have a harmful effect on living conditions of the neighbouring residential occupiers.

Overall conclusion

8. Since I have found that the proposed change of use would not have a harmful effect on highway safety, and nor would it have a harmful effect on the living conditions of the neighbouring residential occupiers, the appeal will be allowed.

Conditions

9. The statutory condition that provides a time limit on the start of development must be imposed. In addition, the council has suggested 2 conditions in the event that the appeal is upheld. I have considered these in the light of Planning Practice Guidance.
10. The first of the suggested conditions is that the materials match those of the existing building, and the second is that the development shall be carried out in accordance with the approved plans. Certainly, the requirement to carry out the development in accordance with the plans is necessary for certainty and avoidance of doubt as to the development permitted, but it can be incorporated in the terms of the permission itself. However, the materials will be those of a shop front and so will not match the existing materials. In any event, the materials are shown on the plans, so that compliance with the plans will ensure that suitable materials are used in the development.
11. There are additional matters that need to be dealt with by condition: hours of opening, and limit on noise emission from chillers at the rear of the property, both necessary to protect the residential amenity of neighbours.

Terrence Kemmann-Lane

INSPECTOR