



PLANNING COMMITTEE

DATE: Tuesday, 2 August 2022

TIME: 6.00 pm

VENUE: Committee Room - Town Hall,
Station Road, Clacton-on-Sea, CO15
1SE

MEMBERSHIP:

Councillor White (Chairman)
Councillor Fowler (Vice-Chairman)
Councillor Alexander
Councillor Baker
Councillor Codling

Councillor V Guglielmi
Councillor Harris
Councillor Placey
Councillor Wiggins

Most Council meetings are open to the public and press. The space for the public and press will be made available on a first come first served basis. Agendas are available to view five working days prior to the meeting date and the Council aims to publish Minutes within five working days of the meeting. Meeting papers can be provided, on request, in large print, in Braille, or on disc, tape, or in other languages.

This meeting will be filmed by the Council for live and/or subsequent broadcast on the Council's website. The whole of the meeting will be filmed, except where there are confidential or exempt items, and the footage will be on the website for up to 24 months (the Council retains one full year of recordings and the relevant proportion of the current Municipal Year). The Council will seek to avoid/minimise footage of members of the public in attendance at, or participating in the meeting. In addition, the Council is obliged by law to allow members of the public to take photographs, film, audio-record, and report on the proceedings at public meetings. The Council will only seek to prevent this should it be undertaken in a disruptive or otherwise inappropriate manner.

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DATE OF PUBLICATION: Monday, 25 July 2022

AGENDA

1 Apologies for Absence and Substitutions

The Committee is asked to note any apologies for absence and substitutions received from Members.

2 Minutes of the Last Meeting (Pages 1 - 6)

To confirm and sign as a correct record, the minutes of the meeting of the Committee, held on Tuesday, 5 July 2022.

3 Declarations of Interest

Councillors are invited to declare any Disclosable Pecuniary Interests or Personal Interest, and the nature of it, in relation to any item on the agenda.

4 Questions on Notice pursuant to Council Procedure Rule 38

Subject to providing two working days' notice, a Member of the Committee may ask the Chairman of the Committee a question on any matter in relation to which the Council has powers or duties which affect the Tendring District **and** which falls within the terms of reference of the Committee.

5 A.1 PLANNING APPLICATION 22/00633/FUL - Tesco, 32-34 HIGH STREET, MANNINGTREE CO11 1AJ (Pages 7 - 16)

The application is referred to the Planning Committee using the powers delegated to the Assistant Director under the Constitution. The reason for referral follows the Planning Committee's decision to refuse planning permission reference 21/01270/FUL in January 2022 for retrospective planning permission for the CO2 gas cooler and timber enclosure.

Application 21/01270/FUL was referred to the Planning Committee by Councillor Giancarlo Guglielmi on grounds of the negative impact on the street scene and the Manningtree and Mistle Conservation as well as impact on amenity.

6 A.2 PLANNING APPLICATION 22/1083/FUL - UPPER DOVERCOURT METHODIST CHURCH, 618 MAIN ROAD, DOVERCOURT CO12 4LS (Pages 17 - 30)

The application has been called in by Councillor Henderson due to concerns regarding Highways and Parking in the area and the impact of the proposal on neighbouring occupiers.

The proposal is for the change of use of the redundant Methodist Church and Hall (Class F1) to a Members only community social club, comprising of a bar area for darts and pool within the main church building and a community/function events use of the rear hall. The site is located within the settlement development boundary of Harwich and Dovercourt

Date of the Next Scheduled Meeting

The next scheduled meeting of the Planning Committee is to be held in the Committee Room - Town Hall, Station Road, Clacton-on-Sea, CO15 1SE at 6.00 pm on Thursday, 1 September 2022.

INFORMATION FOR VISITORS

PUBLIC ATTENDANCE AT PLANNING COMMITTEE MEETINGS

Welcome to this evening's meeting of Tendring District Council's Planning Committee.

This is an open meeting which members of the public can attend to see Councillors debating and transacting the business of the Council. However, please be aware that, unless you have registered to speak under the Public Speaking Scheme, members of the public are not entitled to make any comment or take part in the meeting. You are also asked to behave in a respectful manner at all times during these meetings.

Members of the public do have the right to film or record Committee meetings subject to the provisions set out below:-

Rights of members of the public to film and record meetings

Under The Openness of Local Government Bodies Regulations 2014, which came into effect on 6 August 2014, any person is permitted to film or record any meeting of the Council, a Committee, Sub-Committee or the Cabinet, unless the public have been excluded from the meeting for the consideration of exempt or confidential business.

Members of the public also have the right to report meetings using social media (including blogging or tweeting).

The Council will provide reasonable facilities to facilitate reporting.

Public Behaviour

Any person exercising the rights set out above must not disrupt proceedings. Examples of what will be regarded as disruptive, include, but are not limited to:

- (1) Moving outside the area designated for the public;
- (2) Making excessive noise;
- (3) Intrusive lighting/flash; or
- (4) Asking a Councillor to repeat a statement.

In addition, members of the public or the public gallery should **not** be filmed as this could infringe on an individual's right to privacy, if their prior permission has not been obtained.

Any person considered being disruptive or filming the public will be requested to cease doing so by the Chairman of the meeting and may be asked to leave the meeting. A refusal by the member of the public concerned will lead to the Police being called to intervene.

Tendring District Council



PLANNING COMMITTEE MEETINGS PUBLIC SPEAKING SCHEME March 2021

This Public Speaking Scheme is made pursuant to Council Procedure Rule 40 and gives the opportunity for a member of the public and other parties identified below to speak to Tendring District Council's Planning Committee when they are deciding a planning application.

TO WHICH MEETINGS DOES THIS SCHEME APPLY?

Public meeting of the Council's Planning Committee are normally held every 4 weeks at 6.00 pm in the Committee Room at the Town Hall, Station Road, Clacton-on-Sea CO15 1SE.

WHO CAN SPEAK & TIME PERMITTED? All speakers must be aged 18 or over:

1. The applicant, his agent or representative; or (where applicable) one person the subject of the potential enforcement action or directly affected by the potential confirmation of a tree preservation order, his agent or representative. A maximum of 3 minutes to speak is allowed;
2. One member of the public who wishes to comment on or to speak in favour of the application or someone who produces a signed, written authority to speak on their behalf. A maximum of 3 minutes to speak is allowed;
3. One member of the public who wishes to comment on or speak against the application or someone who produces a signed, written authority to speak on their behalf. A maximum of 3 minutes to speak is allowed;
4. Where the proposed development is in the area of a Parish or Town Council, one Parish or Town Council representative. A maximum of 3 minutes to speak is allowed;
5. All District Councillors for the ward where the development is situated ("ward member") or (if the ward member is unable to attend the meeting) a District Councillor appointed in writing by the ward member. Member(s) of adjacent wards or wards impacted by the proposed development may also speak with the agreement of the Chairman. Permission for District Councillors to speak is subject to the Council's Code of Conduct and the declarations of interest provisions will apply. A maximum of 5 minutes to speak is allowed;

In accordance, with Council Procedure Rule 36.1, this Public Speaking Scheme takes precedence and no other Member shall be entitled to address or speak to the Planning Committee under Rule 36.1; and

6. A member of the Council's Cabinet may also be permitted to speak on any application but only if the proposed development has a direct impact on the portfolio for which the Cabinet member is responsible. The Leader of the Council must approve the Cabinet Member making representations to the Planning Committee. A maximum of 3 minutes is allowed.

Any one speaking as a Parish/Town Council representative may be requested to produce written evidence of their authority to do so, by the District Council's Committee Services Officer (CSO). This evidence may be an official Minute, copy of standing orders (or equivalent) or a signed letter from the Clerk to the Parish/Town Council and must be shown to the DSO before the beginning of the Planning Committee meeting concerned.

No speaker, (with the exception of Ward Members, who are limited to 5 minutes) may speak for more than 3 minutes on any agenda items associated with applications (such as a planning application and an associated listed building consent application). Speakers may not be questioned at the meeting, nor can any public speaker question other speakers, Councillors or Officers. Speakers are not permitted to introduce any photograph, drawing or written material, including slide or other presentations, as part of their public speaking.

All Committee meetings of Tendring District Council are chaired by the Chairman or, in their absence, the Vice-Chairman whose responsibility is to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community. The Chairman of the Planning Committee therefore, has authority to use their discretion when applying the Public Speaking Scheme to comply with this duty.

WHICH MATTERS ARE COVERED BY THIS SCHEME?

Applications for planning permission, reserved matters approval, listed building consent, conservation area consent, advertisement consent, hazardous substances consent, proposed or potential enforcement action and the proposed or potential confirmation of any tree preservation order, where these are the subject of public reports to the Planning Committee meeting.

HOW CAN I FIND OUT WHEN A MATTER WILL BE CONSIDERED?

In addition to the publication of agendas with written reports, the dates and times of the Planning Committee meetings are shown on the Council's website. It should be noted that some applications may be withdrawn by the applicant at short notice and others may be deferred because of new information or for procedural reasons. This means that deferral takes place shortly before or during the Planning Committee meeting and you will not be able to speak at that meeting, but will be able to do so at the meeting when the application is next considered by the Planning Committee.

DO I HAVE TO ATTEND THE PLANNING COMMITTEE MEETING TO MAKE THE COMMITTEE AWARE OF MY VIEWS?

No. If you have made written representations, their substance will be taken into account and the Committee report, which is available to all Planning Committee Councillors, will contain a summary of the representations received.

HOW DO I ARRANGE TO SPEAK AT THE MEETING?

You can:-

Telephone the Committee Services Officer (“CSO”) (01255 686007) during normal working hours on any weekday after the reports and agenda have been published; or

Email: democraticservices@tendringdc.gov.uk

OR

On the day of the Planning Committee meeting, you can arrive in the Committee Room in the Town Hall at least 15 minutes before the beginning of the meeting (meetings normally begin at 6.00pm) and speak to the CSO.

If more than one person wants to speak who is eligible under a particular category (e.g. a member of the public within the description set out in numbered paragraphs 2 or 3 above), the right to speak under that category will be on a “first come, first served” basis.

Indicating to the Chairman at a site visit that you wish to speak on an item is **NOT** formal notification or registration to speak; this must be made via the Committee Services Officer in the manner set out above.

WHAT WILL HAPPEN WHEN THE MATTER CONCERNED IS CONSIDERED?

- Planning Officer presents officer report
- Public speaking takes place in the order set out above under the heading “WHO CAN SPEAK?”
- Officer(s) may respond on factual issues arising from public speaking and may sum up the key policies and material planning considerations relevant to the application
- Committee Members may ask Officers relevant questions and will debate, move motions and vote

Normally, the Committee will determine the matter, but sometimes the Councillors will decide to defer determination, in order to allow officers to seek further information about a particular planning issue. If a matter is deferred after the public speaking, the Committee will not hear public speaking for a second time, unless there has been a substantial material change in the application which requires representations to be made. The Executive Summary section of the Planning Committee Report should identify whether public speaking is going to be permitted on an application being reconsidered after deferral. If there is an update since the Report was published, the Council’s website will confirm this information.

WHAT SHOULD I SAY AT THE MEETING?

Please be straightforward and concise and try to keep your comments to planning matters which are directly relevant to the application or matter concerned. Planning matters may include things such as planning policy, previous decisions of the Council on the same site or in similar circumstances, design, appearance, layout, effects on amenity, overlooking,

loss of light, overshadowing, loss of privacy, noise or smell nuisance, impact on trees, listed buildings or highway safety.

Matters such as the following are not relevant planning matters, namely the effect of the development on property value(s), loss of view, personality or motive of the applicant, covenants, private rights or easements and boundary or access disputes.

Please be courteous and do not make personal remarks. You may wish to come to the meeting with a written statement of exactly what you want to say or read out, having checked beforehand that it will not overrun the 3 minutes allowed.

WHO DO I CONTACT FOR MORE INFORMATION?

The Council's website will help you and you can also contact the relevant planning Case Officer for the matter. The name of the Officer is on the acknowledgement of the application or in the correspondence we have sent you.

Tendring District Council, Planning Services,
Town Hall, Station Road, CLACTON-ON-SEA, Essex CO15 1SE
Tel: 01255 686161 Fax: 01255 686417
Email: planningservices@tendringdc.gov.uk Web: www.tendringdc.gov.uk

It always helps to save time if you can quote the planning application reference number.

As approved at the meeting of the Full Council held on 16 March 2021

**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,
HELD ON TUESDAY, 5TH JULY, 2022 AT 6.00 PM
IN THE COMMITTEE ROOM - TOWN HALL, STATION ROAD, CLACTON-ON-SEA,
CO15 1SE**

Present:	Councillors, White (Chairman), Fowler (Vice-Chairman), Alexander, Baker, Codling, V Guglielmi, Placey, Turner and Wiggins
Also Present:	Councillors, P Honeywood, McWilliams and Scott
In Attendance:	Gary Guiver (Acting Director (Planning)), Graham Nourse (Assistant Director (Planning)), Joanne Fisher (Planning Solicitor), John Pateman-Gee (Planning Manager), Michael Pingram (Planning Officer), Keith Durran (Committee Services Officer), Mark Wilson (Development Technician - Technical) and Matt Cattermole (Communications Assistant)

18. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

An apology for absence was received from Councillor Harris (with Councillor Turner substituting).

19. MINUTES OF THE LAST MEETING

The minutes of the last meeting of the Committee, held on Tuesday 7 June 2022, were approved as a correct record and signed by the Chairman subject to the inclusion of Councillor Allen in the attendance list.

20. DECLARATIONS OF INTEREST

Councillors Baker, Fowler and White all declared a non-pecuniary interest in agenda item 5, **21/01523/FUL - Land Adjacent Cliphedge Farm, Harwich Road, Little Bentley**, as they had all sat on the Committee for the determination of the original application. They all stated that they were not pre-determined in relation to this application.

21. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

There were none on this occasion.

22. REPORT OF THE ASSISTANT DIRECTOR OF PLANNING - A.1 - PLANNING APPLICATION - 21/01523/FUL - LAND ADJACENT CLIPHEDGE FARM, HARWICH ROAD, LITTLE BENTLEY

The Committee heard how this application was before the Planning Committee following a call-in request from Councillor McWilliams due to her concerns with the highway safety impacts, the increase in size of the development to that previously approved, and the impacts to neighbouring amenities. The proposal was for the construction of six buildings for Class E use (including offices, financial, professional and medical services) which would amount to 3,016sqm of floor space that included a new vehicular access off Harwich Road and ancillary works which included landscaping and parking provision.

Members recalled that under relevant appeal decision APP/P1560/W/19/3226387 (dated 26th May 2020), planning permission had previously been granted on this site for the development of two buildings for office uses measuring 1,687sqm of floor space, which also included a new vehicular access off Harwich Road and ancillary parking and landscaping. This permission remained extant and was a material consideration in the determination of this application.

The Committee had been informed that in respect of the development proposal the subject of this report, Officers were content that the buildings were of a suitable design for this rural location and did not consider there to be significant harm to the amenities of any neighbouring residents. Essex Highways Authority had raised no objections, and the parking being provided was in accordance with the Essex Car Parking Standards. There was no significant harm to trees and the soft landscaping scheme provided would sufficiently soften, screen and enhance the development. Following the submission of an amended Preliminary Ecological Assessment, ECC Place Services (Ecology) had raised no objections, and the Environment Agency, Natural England and Essex SuDS also had not objected on flood risk and/or drainage grounds.

Members were made aware that the proposal would result in an increase in bulk and floor space to the scheme previously allowed, as well as an increase in hardstanding for car parking, and by its very nature, having regard to the immediate and wider context, would result in a level of harm to the character and appearance of the area, thereby resulting in minor conflict with Adopted Policies SPL3 and PPL3 as well as Paragraph 130 of the NPPF. However, the development did allow for sufficient levels of soft landscaping, particularly to all boundaries, and retained good separation distances between each building, thereby ensuring the development did not appear overdeveloped.

In addition, the proposed development was considered by officers to represent a strong economic boost to the District, with provision for up to 152 jobs, which compared favourably to the extant permission that provided for 36 jobs. The proposal would therefore set a positive and progressive tone for commercial development in the District, which currently had very poor provision of commercial office space, and what provision there was, was generally of very poor quality. In addition, a Sequential Test had been undertaken, which had demonstrated there were no other sequentially preferable sites where the development could instead be located.

Taking all of the above into consideration, Officers considered that the strong economic benefits of the proposal outweighed the identified harm to the character and appearance of the area, and on balance Officers were therefore recommending approval.

An update sheet had been circulated to the Committee prior to the meeting which detailed two objection letters received from the neighbouring resident, that outlined their concerns and an additional letter from the NHS Foundation Trust, which had confirmed the Trust's continued interest in occupying one of the proposed buildings, to be used for the Wheelchair Service.

The updated sheet also confirmed that Officers had incorrectly calculated the parking provision for Building 6 within Paragraph 6.50 of the report.

Neil Naphine, the agent acting on behalf of the applicant, spoke in support of the application.

Mark Rodgers, a member of the public, spoke against the application.

Philip Suarez, Chairman of Little Bentley Parish Council spoke against the application.

Councillor Gary Scott, a Member for the adjacent ward, spoke against the application.

Councillor Lynda McWilliams, the Ward Member, spoke against the application.

Matters raised by Members of the Committee:-	Officer's response thereto:-
What is the overbuild on this application compared to the Inspectors ruling and if we go against this application will we be going against the Inspectors original ruling?	There is an overbuild of 78% and no, this would not be going against the Inspectors ruling as this is a new application.
Will refusal on this affect the Inspectors ruling?	No, the Inspectors ruling is extant and any ruling here will not affect that.
How will the sewerage be treated on site?	It will be processed by an internal system, utilising the run-off water that would filter the sewerage and produce clean water.
Is the water treat at the plant a mechanical process?	No
What are the sizes of buildings 1,2,3 & 4. Also How far are they from Clip Hedge Farm (CHF) and how does that compare to the extant permission?	<u>Building 1 to be 2.5 storeys, Building 2 to be single storey, Building 3 to be two storeys, and Building 4 to be 1.5 storeys.</u>
Are there bunds in the new application?	Yes, to the north of the site it is about 1mts in height, what is proposed is 1 singular long bund instead of 3 separate bunds which is in the extant permission.
Is there parking capacity on site for the public?	Yes
Job creation, how many jobs were on the first application?	36
Why this site and not one of the sequential sites?	12 other sites were looked at but nothing that matched as well as this, also the extant permission leads to this site being optimal.
Are there sites elsewhere that could take the smaller number?	The Council's Economic Team had advised on this location.
What is the size of the plot?	1.3 hectares
Can the design of the buildings, as shown in the report, be changed post decision?	No, the building design would have to be in accordance with what is on the application.
So what we see on the plans we will see at completion?	Yes
Drainage. Can you tell us where at the end of the pipeline the water goes, and how long the pipe is?	The treatment plan will break down the waste to completely clear water. I can't say how long the pipe is and it will be into the existing ditch network.
Could we put that a pond with reeds must be created as a condition?	No as it would go beyond the site and is not within the ownership or control of the applicant and so any condition would be

	unreasonable.
We can only judge it on what's here before us in the agenda?	Yes

Following discussion by the Committee, it was moved by Councillor Turner and seconded by Councillor Fowler that the application be approved, subject to conditions, which motion on being put to the vote was declared **LOST**.

Following further discussion by the Committee, it was moved by Councillor Baker, seconded by Councillor Wiggins and **RESOLVED** that, contrary to the Officer's recommendation of approval, the Assistant Director (Planning) (or equivalent authorised officer) be authorised to refuse planning permission for the development due to the following reasons:-

1. Harm to neighbouring occupiers by reason of overbearing and overlooking impact.
2. Harm to the rural character and landscape appearance of the area by reason of excessive built form and floor space resulting in industrial character; and
3. Outside settlement development boundary contrary to local plan.

23. REPORT OF THE ASSISTANT DIRECTOR OF PLANNING - A.2 - PLANNING APPLICATION 21/02027/FUL THE COLLEGE COLCHESTER INSTITUTE CHURCH ROAD CLACTON ON SEA

It was reported to Members that this application had been referred to the Planning Committee following the Member referral request of Pier Ward Councillor Paul Honeywood, due to his concerns over parking provision and highways impact, and the effect of the proposal on the living conditions of existing residents.

The Committee was informed that this application was the subject of a current non-determination appeal, listed to be considered by the Inquiry procedure lasting for 6 days in September 2022. When the appeal was submitted the jurisdiction of the Council to determine the application was removed. Therefore, the purpose of this report was to obtain Members' resolution as to whether or not they would have approved the application had they been in a position to determine it. Members noted that an extension of time for the submission of the Council's Statement of Case for the appeal had been agreed until Friday 15 July 2022.

The Committee heard how the proposal had attracted objections from Essex County Council's Heritage Section and the Local Highway Authority. The former considered that the proposal would result in harm to the Conservation Area, the latter that there was inadequate parking provision and circulation space on-site. In addition, there would be some limited impact on the living conditions of adjoining neighbours. However, the proposal was considered acceptable in principle by Officers and that there were very considerable benefits to regeneration, and in the re-use of a deteriorating brownfield site for much needed specialist housing delivery. Those were considerations which were afforded strong Local Plan policy support. Furthermore, Officers considered that the public benefits clearly outweighed the less than substantial heritage harm and resultant development plan conflict. Officers further considered that a technical conflict with the

Parking SPD would not give rise to unacceptable highway safety impacts, or residual cumulative impacts on the highway network that would be severe. As such, in applying the appropriate local and national planning policy tests, the Officers considered that the appeal should not be defended on highways grounds. All other detailed technical matters including a holding objection from the Lead Local Flood Authority would be capable of being addressed through the use of appropriately worded planning conditions. Overall, officers concluded that the benefits would very clearly outweigh the harms and development plan/Parking SPD conflict.

The proposal had been accompanied by a viability report, attesting that the proposal would be unviable with Local Plan Policy requirements for 30% affordable housing provision. This was to be the subject of an independent appraisal prior to the inquiry, the outcome of which would determine whether or not affordable housing contributions would be provided. Ultimately, if the appeal proceeded, this would be a matter for the Secretary of State appointed Inspector to determine.

Bill Marshall, a resident of the District, spoke for the application.

Councillor Paul Honeywood, the Ward Member, spoke against the application.

Matters raised by Members of the Committee:-	Officer's response thereto:-
Why are we at a non-determination situation?; and	It wasn't dealt with within the 13 week period so it went to appeal as is the developers' right.
Why are we looking at this and not other non-determined cases?	It was felt this application was finally balanced and required the Committee's guidance.
Regarding previous use, is there anything from ECC about loss of an education facility. Also no comment from housing services?	No response from ECC or Housing services had been received.
Are we allowed to specify the age of people that are allowed to live in a development?	Yes, as it will be sheltered housing that means an age restriction of 60 years young.
What is the size of the site?	4472sqms
Are all the units in the application of the national minimum standard?	Yes
Will there be a need for extra parking spaces?	We do have guidance from ECC that the elderly does have a reduced parking standard, but yes, the proposal falls short of the parking standard and will create a parking burden beyond the site.
How many parking spaces would normally be recommended for a development of this size?	It should be 1 place per unit, so 61 spaces.

Following a discussion by the Committee, it was moved by Councillor Baker, seconded by Councillor Turner and **RESOLVED** that the Planning Inspector be informed that if the Committee had been in a position to determine the planning application it would have refused planning permission on the following grounds:

1. The development, if approved would result in significant harm to the amenity of the local area due to increased parking demand as a result of insufficient parking proposed contrary to adopted standards
2. The development, if approved, results in harm to the character of conservation area by reason of poor design, including significant massing and bulk, lack of opportunity to landscape and such harm is not outweighed by public benefit.
3. The development would remove educational facilities from the local area and fails to demonstrate lack of need or that need can be accommodated locally in accordance with policies PP12 and HP2.
4. The development fails to secure RAMS, affordable housing, NHS contribution and open space contribution.

The meeting was declared closed at 8.54 pm

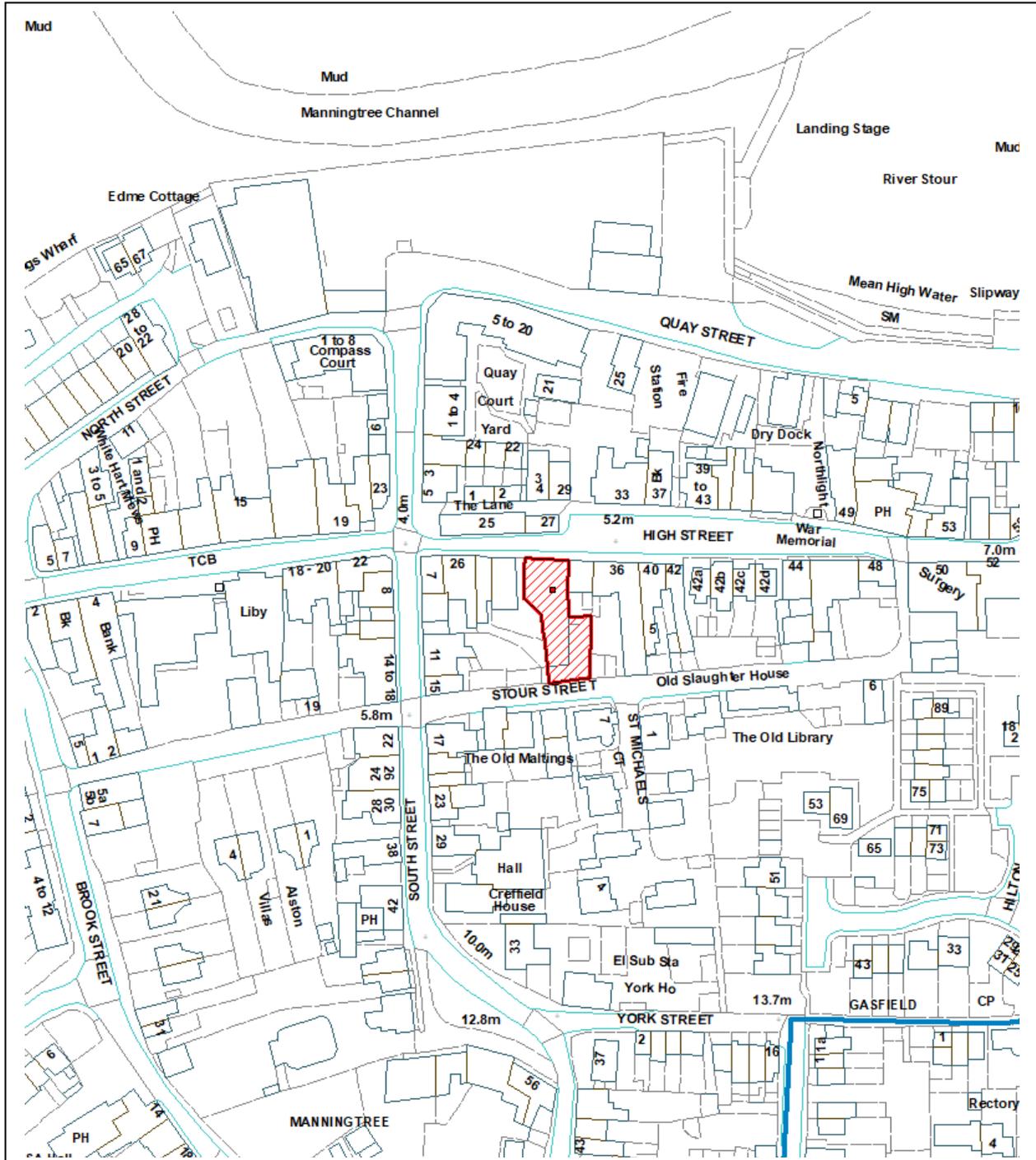
Chairman

PLANNING COMMITTEE

2nd August 2022

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.1 PLANNING APPLICATION – 22/00633/FUL – 32 - 34 HIGH STREET MANNINGTREE CO11 1AJ



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Application: 22/00633/FUL

Town / Parish: Manningtree Town Council

Applicant: Tesco Stores Ltd

Address: 32 - 34 High Street Manningtree CO11 1AJ

Development: Retrospective application for the installation of a new CO2 gas cooler, acoustic panels, hit and miss fence and access gate.

1. **Executive Summary**

- 1.1 The application is referred to the Planning Committee using the powers delegated to the Assistant Director under the Constitution. The reason for referral follows the Planning Committee's decision to refuse planning permission reference 21/01270/FUL in January 2022 for retrospective planning permission for the CO2 gas cooler and timber enclosure.
- 1.2 Application 21/01270/FUL was referred to the Planning Committee by Councillor Giancarlo Guglielmi on grounds of the negative impact on the street scene and the Manningtree and Mistle Conservation as well as impact on amenity.
- 1.3 The application seeks retrospective planning permission for the CO2 gas cooler with proposed additional acoustic panels, hit and miss fence and access gate and is recommended for approval subject to the necessary conditions set out below.

Recommendation:

To grant planning permission for the development subject to:-

- a) Subject to the conditions stated in section 8.2

2. **Planning Policy**

The following Local and National Planning Policies are relevant to this planning application.

NPPF National Planning Policy Framework July 2021

National Planning Practice Guidance

Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1 Plan (adopted January 2021)

SP7 Place Shaping Principles

Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022)

SPL3 Sustainable Design

PPL3 The Rural Landscape

PPL8 Conservation Areas

PPL9 Listed Buildings

PP5 Town Centre Uses

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.

3. Relevant Planning History

00/01785/ADV	Shop sign and projecting sign	Refused	05.01.2001
01/01387/ADV	Shop Sign	Refused	15.11.2001
04/01740/ADV	3 No. illuminated fascia signs and 2 No. illuminated projecting signs	Approved	08.11.2004
04/01741/FUL	Conversion of a One Stop Store to a Tesco Express including the installation of an ATM.	Refused	01.11.2004
04/01773/FUL	To install a plant frogbox, located behind a licensed convenience store	Refused	04.11.2004
04/02405/FUL	To install a plant frogbox located behind a licensed convenience store	Refused	15.02.2005
05/00501/FUL	To install a plant condenser unit	Approved	13.05.2005
19/00863/FUL	Installation of perimeter steel balustrading around existing roof for health and safety (retrospective).	Approved	30.08.2019
19/00864/LBC	Installation of perimeter steel balustrading around existing roof for health and safety (retrospective).	Approved	
21/01270/FUL	Proposed installation of new 1x CO2 gas cooler.	Refused	19.01.2022

4. Consultations

Manningtree Town Council

No representation received

Essex County Council Heritage
10.06.2022

The application is for retrospective application for the installation of a new CO2 gas cooler, acoustic panels, hit and miss fence and access gate.

The site is located in a Conservation Area. Given the character of this space at the rear of the modern commercial building, and the fencing enclosure proposed, this proposal is not considered to cause harm to the character and appearance of the Conservation Area. This is on the basis that the acoustic screening is considered adequate by the local planning authority.

There is no objection to this application.

Environmental Protection
25.05.2022

Thank you for your consultation regarding the proposed development above.

I have reviewed the plant noise assessment carried out by NSL as revised on 4th March 2022 and confirm that Environmental Protection have no comments to make.

5. **Representations**

5.1 25 representations of objection have been received. The concerns raised are summarised below.

- Noise
 - Impact on nearby residents
 - Impact on wider community use venues – Tidal Arts and The Grand Theatre of Lemmings
 - Impact on garden use
 - Impact on health and well being
- Design, appearance and heritage impacts
- Impact on Area of Outstanding Natural Beauty
- Impact on local wildlife and the environment

6. **Assessment**

Site Context

6.1 The application site is located on the southern side of the High Street within the town centre and recognised Historic Town of Manningtree and associated Manningtree and Mistley Conservation Area. The building to which this application relates is part of a terrace of shops facing the High Street and currently accommodates a Tesco Express store. The façade of the building is of Georgian styling with casement windows at first floor and a parapet roof. The shop front at ground floor is of aluminium construction. The building has been extended to the rear to accommodate storage associated with the retail use and which access is gained from Stour Street. The extension to the store is of red brick construction for functional use only with no particular features of architectural interest. 32-34 High Street is not listed although many of the

surrounding buildings are and the application site also lies just outside of the recently extended designation of the Suffolk Coasts and Heaths Area of Outstanding Natural Beauty.

Planning History

- 6.2 Application 21/01270/FUL for retrospective planning permission for the CO2 gas cooler and timber enclosure, also the subject of this current application, was refused by the Planning Committee in January 2022.
- 6.3 Applications 04/01773/FUL and 04/02405/FUL for plant located in a similar position to this application under consideration were refused. The submitted acoustic report on both occasions failed to provide details of where the background noise levels were carried out and therefore the report could not demonstrate that the development could be undertaken without causing noise and nuisance to surrounding properties.
- 6.4 Further to these applications a new application, reference 05/00501/FUL for a plant condenser unit, located on the flat roof of the Tesco Store, 5 metres from the front elevation was approved. The submitted acoustic report confirmed that the sound level attenuation was an acceptable level subject to a condition securing a suitable enclosure surrounding the plant.

Proposal

- 6.5 The application seeks retrospective planning permission for the CO2 gas cooler with proposed additional acoustic panels, hit and miss fence and access gate.
- 6.6 The changes compared to the previously submitted scheme are:
- Increase in height of 0.5 metres of the hit and miss fence enclosure and access gate to 3 metres
 - Two 3 metre high acoustic panels fixed to the inside of the northern and eastern hit and miss fence enclosure panels

Design, Appearance and Heritage

- 6.7 Policy SP7 states that all new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Policy SPL3 seeks to provide new development which is well designed and maintains or enhances local character and distinctiveness. The development should relate well to its site and surrounding.
- 6.8 Policy PPL8 seeks to ensure that any new development within a designated Conservation Area, or which affects its setting, will only be permitted where it has regard to the desirability of preserving or enhancing the special character and appearance of the area, especially in terms of: any important views into, out of, or within the Conservation Area.
- 6.9 Policy PPL9 states that 'Proposals for new development affecting a listed building or its setting will only be permitted where they will protect its special architectural or historic interest, its character, appearance and fabric'.
- 6.10 The CO2 gas cooler has been installed to the rear of the Tesco application site. The installation was completed in June 2021. The CO2 gas cooler is positioned 0.70 metres from the eastern elevation at ground level and measures 2.22 metres in height, 2.6 metres in width and 0.83 metres in depth. The CO2 gas cooler itself is of a beige metal construction, consistent with the appearance of retail plant. One panel of acoustic wall lining, grey in colour is in place, fixed to the eastern elevation behind the CO2 gas cooler. The appearance of the CO2 gas cooler in its current form is noticeable from Stour Street although it is also viewed alongside the bright blue

metal concertina doors of Tesco and the galvanised cable channelling which also stand out in this location on the already nondescript building. The applicant has proposed to screen the CO2 gas cooler with a 3 metre high timber enclosure which will assimilate the structure better in the street scene and appear more sympathetic to the surroundings which comprise mainly the rear of the buildings and garden boundaries of those buildings facing the High Street.

- 6.11 Essex County Council Place Services were consulted on the application and they confirmed that given the character of the space at the rear of the modern commercial building, and the fencing enclosure proposed, the proposal is not considered to cause harm to the character and appearance of the Conservation Area.
- 6.12 The CO2 gas cooler with a timber enclosure in this location is considered acceptable and will not significantly harm the character or appearance of the conservation area or have a significant impact on the settings of the listed buildings taking into account its scale, design and positioning in the service area at the rear of the Tesco store.
- 6.13 Should the application be recommended for approval a condition securing the erection of the proposed timber enclosure within three months of the date of the decision will be imposed.

Noise and Environmental Impacts

- 6.14 Policy SPL3 seeks to ensure that new development should be compatible with surrounding uses and minimise any adverse environmental impacts in terms of the amenities of occupiers of nearby properties, minimising the production of greenhouse gases and impact on climate change and unacceptable levels of pollution.
- 6.15 The use of the application site remains as retail, with other retail uses, residential properties and spaces for use by the wider community surrounding the application site there is the potential for existing amenities to be harmed.
- 6.16 As part of this planning application the applicant has commissioned a Plant Noise Impact Assessment. The Plant Noise Impact Assessment uses the original survey data from June 2021 which has been updated to reflect the proposed mitigation which forms part of this planning application. Paragraph 3.1 of the report clearly and correctly identifies the nearest properties and windows with the potential to be impacted by the proposal stating that the closest residential dwelling is approximately 5 metres from the proposal with an intervening boundary wall.
- 6.17 The Plant Noise Impact Assessment has been carried out in accordance with BS4142:2014 'Methods for Rating and Assessing Industrial and Commercial Sound'. Table 5 on page 8 of the Plant Noise Impact Assessment concludes that the noise levels associated with the proposed plant and equipment would be below the background noise level at existing properties. It is noted at paragraph 6.7 that the assessment is based on the plant operating at its maximum during the day and night although it is acknowledged that the plant will not operate at maximum design duty all of the time and therefore the assessment is considered to be representative of the worst case.
- 6.18 The Plant Noise Impact Assessment takes into account the proposed mitigation which provides two additional 3 metre high acoustic panels fixed to the inside of the northern and eastern hit and miss fence panels. The existing 2.5 metre high acoustic wall lining will remain in place.
- 6.19 Following consultation with the Council's Environmental Health team, they do not object to the proposal and confirmed that they have reviewed the revised plant noise assessment carried out by NSL and have no comments to make. As part of application 21/01270/FUL the Council's Environmental Health team confirmed that they accepted the findings of the plant noise assessment.

- 6.20 Should the application be recommended for approval a condition securing the implementation of the proposal which includes the additional acoustic panels within three months of the date of the decision will be imposed.
- 6.21 The new refrigeration plant significantly reduces the global warming impact of the store by:
- Using CO2 as a refrigerant rather than hydrofluorocarbon (HFC), and;
 - Improved technology reduces the overall energy usage of the store.
- 6.22 Thus, reducing the carbon footprint of the store and helping to tackle climate change.
- 6.23 The need for new development must be carefully balanced against the requirement to conserve and enhance the Natural Beauty of the Suffolk Coast and Heaths Area of Outstanding Natural Beauty. In this case it is considered that there is no significant impact on local wildlife and the extension to the Suffolk Coast and Heaths Area of Outstanding Natural Beauty due to the location of the minor development proposal contained within the busy town centre for an existing retail use surrounded by a mix of uses and town centre activity.

7. Conclusion

- 7.1 The revised scheme offers a marked improvement by offering further acoustic mitigation by way of two additional acoustic panels inside the raised height of the timber enclosure.
- 7.2 The proposal will not result in any adverse impact on the character and appearance of the Conservation Area, the settings of the surrounding listed buildings or the Suffolk Coast and Heaths Area of Outstanding Natural Beauty to warrant refusal. In addition, the proposal will result in reduced impacts upon the environment in terms of noise and climate change. On balance given the absence of material harm to warrant refusal, the application is recommended for approval.

8. Recommendation

- 8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions.

8.2 Conditions and Reasons

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans:

DRAWING NO.'s
03_5096_03B_R4
03_5096_03C_R3
02_5096_02D_R3
02_5096_02E_R3

Reason - For the avoidance of doubt and in the interests of proper planning.

- 2 The development hereby approved shall operate in full accordance with the Plant Noise Impact Assessment Report dated 2nd June 2021, revised on 4th March 2022 and submitted on 11th April 2022 at all times

Reason - To protect the character and amenities of neighbouring areas by ensuring that measures are implemented to avoid any noise nuisance.

- 3 The hit and miss fence and access gate hereby approved and shown on DRAWING NO.'s 03_5096_03B_R4, 03_5096_03C_R3, 02_5096_02D_R3 and 02_5096_02E_R3 must be

erected within 3 months of the date of this decision and thereafter maintained and retained in perpetuity.

Reason - In order to maintain the character of the conservation area in the interest of visual amenity and protect neighbouring amenities.

8.3 Informatives

None

9. Additional Considerations

Public Sector Equality Duty (PSED)

- 9.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
- 9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- 9.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
- 9.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.
- 9.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 9.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

Human Rights

- 9.8 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 9.9 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).
- 9.10 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is

considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Finance Implications

- 9.11 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.

10. Background Papers

- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report) also form background papers. All such information is available to view on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.

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PLANNING COMMITTEE

Tuesday 2nd August 2022

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.2 PLANNING APPLICATION – 22/01083/FUL – 618 MAIN ROAD UPPER DOVERCOURT CO12 4LS



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Application: 22/01083/FUL

Town / Parish: Harwich Town Council

Applicant: Mr Bradleigh Wosko - Harwich Hall Ltd

Address: 618 Main Road Upper Dovercourt CO12 4LS

Development: Proposed change of use from a disused Methodist chapel to a social club (Sui Generis use) and associated internal and external alterations

1. **Executive Summary**

- 1.1 The application has been called in by Councillor Henderson due to concerns regarding Highways and Parking in the area and the impact of the proposal on neighbouring occupiers.
- 1.2 The proposal is for the change of use of the redundant Methodist Church and Hall (Class F1) to a Members only community social club, comprising of a bar area for darts and pool within the main church building and a community/function events use of the rear hall. The site is located within the settlement development boundary of Harwich and Dovercourt
- 1.3 The application is part retrospective as the majority of the works, mostly internal have been completed and the site has been operational. ECC Place Services have no concerns regarding the conversion or its impact on the neighbouring Grade II Listed Public House, The Trafalgar. Subject to conditions and mitigation to minimise the noise and disturbance to neighbouring occupiers there are no concerns raised regarding the impact neighbouring residential properties. Given its current use as a Church and function hall, its sustainable location along with its local community membership use, the proposal is acceptable in regards to Highways and Parking impacts.

Recommendation:

That the Assistant Director for Planning be authorised to grant planning permission for the development subject to:-

- a) the conditions stated in section 8.2

2. **Planning Policy**

- 2.1 The following Local and National Planning Policies are relevant to this planning application.

NPPF National Planning Policy Framework July 2021
National Planning Practice Guidance

Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1 Plan (adopted January 2021)

SP1 Presumption in Favour of Sustainable Development
SP3 Spatial Strategy for North Essex
SP7 Place Shaping Principles

Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022)

SPL1 Managing Growth

- SPL3 Sustainable Design
- CP1 Sustainable Transport and Accessibility
- HP2 Community Facilities
- PPL9 Listed Buildings

Essex County Council Car Parking Standards - Design and Good Practice

2.2 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.

3. Relevant Planning History

3.1 None

4. Consultations (Summarised)

<p>ECC Highways Dept 21.07.2022</p>	<p>No new or altered means of access is proposed for the building. Access to the proposal will be from The Green an established local road that runs parallel with Main Road. The North Essex Parking Partnership have intervened previously, installing restrictions to aid travel in/out of the district-controlled crematorium but no recent requests for additional parking restrictions within The Green have been made. <i>Officer note: This is a red line no waiting zone across the front to the access on both sides of the road.</i></p> <p>It is noted that the site is in close proximity to an existing Pub and two Take-away restaurants none of which appear to have any off-street parking provision. Realistically, there are very few control methods available to deter the practices which may occur, with enforcement at these types of sites which in turn are likely to be restricted to the local road, considering the previous use of the building, the trips generated would be on a par with the proposal and due to its urban location, local residents should be encouraged to walk to the site, therefore there is no objection to the proposal.</p>
<p>Environmental Protection 13.07.2022</p>	<p><u>Noise</u></p> <p>The applicant must need to demonstrate the ability to control noise at/from the premises. This is important during the use of the function hall or during the provision of any amplified sounds/music. The applicant will be required to submit a noise management plan and this is to be agreed with the local planning authority. Noise from such events should not be audible from the façade of any noise sensitive residential premises.</p> <p>It is also recommended that the premises is suitably insulated to ensure that there is minimal noise escape during events or during provision of amplified sound/music. This should include that all windows and doors shall remain closed except for access and egress whilst any amplified sound/music takes place.</p>

	<p><u>Plant</u></p> <p>Any external plant (such as extraction systems and air conditioning units) must be subject to a noise assessment to be carried out by relevantly qualified person in line with BS4142.</p>
<p>Essex County Council Heritage</p>	<p>The application is for a change of building use to a F2 building for a proposed social club.</p> <p>The site is the former Upper Dovercourt Primitive Methodist chapel which was opened in 1866. The original two 19th century chapels were extended in the 1960s with the construction of a Function Hall to the rear and generally most of the original features, particularly the external windows, are now lost. The Chapel has the potential to be considered a non-designated heritage asset for its architectural interest and its social and communal historic interest. The site is also in close proximity to Grade II listed The Trafalgar Public House.</p> <p>There is no objection to a sympathetic conversion of the chapel into commercial use. A change of use of a heritage asset will undoubtedly cause some degree of harm, as such great weight should be given to the heritage asset's conservation.</p> <p>The current proposal is mostly for a general internal refurbishment of the chapel, retaining the two Chapels and the Function Hall as full height open spaces. The proposed openings between the two chapels to allow for the insertion of a central bar, are not considered to affect the legibility and the experience of the original tall open worshipping space.</p> <p>No external alterations have been proposed at this stage which could affect the setting of Grade II Listed The Trafalgar.</p> <p>The proposal is not considered to have a detrimental impact upon the significance of a non-designated heritage asset.</p>
<p>Licensing Section 06.07.2022</p>	<p>The premises holds a valid Club Premises Certificate under the Licensing Act 2003 for the following licensable activities.</p> <p>Supply Alcohol on and off the premises Sunday to Thursday 10:00 23:00 Fridays and Saturdays 10:00 00:00</p> <p>Performance of Dance Monday to Saturday 10:00 23:00 Sunday 10:00 22:00</p> <p>Exhibition of a Film Every Day 10:00 23:00</p> <p>Indoor Sporting Event Sunday to Thursday 10:00 00:30 Fridays and Saturdays 10:00 00:00</p> <p>Performance of Live Music Sunday to Thursday 10:00 23:00 Fridays and Saturdays 10:00 00:00</p> <p>Performance of Recorded Music Sunday to Thursday 10:00 23:00 Fridays and Saturdays 10:00 00:00</p>

	<p>Performance of a Play Every Day 10:00 23:00</p> <p>Provision of Similar Regulated Entertainment Monday to Saturday 10:00 23:00 Sunday 10:00 22:00</p> <p>This was determined by the Licensing Premises / Personal Sub Committee on 8 April 2022.</p>
Weeley Cemetery	<p>The exit from Dovercourt cemetery passes by this building. This isn't ideal for mourners at funerals or for visitors to the cemetery to be passing, although this would be on their way home. If parking becomes more in demand this will also likely impact negatively on the use of the Cemetery.</p> <p>Fences and screens could be in a better condition and restrictions put in place regarding outdoor activities then the impact may not be so great. It is also considered that most activities would be evenings and weekends.</p>

5. **Representations (Summarised)**

Harwich Town Council

- 5.1 Harwich Town Council objects to this application on the grounds of concerns regarding highways issues both involving access on the road, access in and out of the local cemetery and parking, both as business users and residents, in this already congested area.
- 5.2 Concerns also raised regarding the environmental noise nuisance this proposed change of use may bring including public safety and antisocial behaviour fears and the impact on members of the Local Community.
- 5.3 A number of representations have been received following a public consultation which included a site notice posted at the site and neighbour consultation letters sent out to the adjacent properties. These are summarised below:

Support of the application (26 letters)

- Asset to the Community
- Safe environment to socialise
- Adults only
- Community hub
- Improvement to the appearance of the building
- Accessible facilities
- Opportunity to make new friends
- Community uses to be accommodated in rear hall
- Membership scheme to control number of users
- Good facility at this end of town
- Within walking distance of town
- Facility to play darts and pool competitively for both older and younger generations
- Would not impact on traffic in the area as most people would walk or taxi to the venue
- Alternative safe and peaceful venue to the Trafalgar Pub which has seen a rise in complaints and police visits
- Owners ran the pub next door with no issues

- Owners are great people
- Make up for the loss of venues in the area, White Horse, The Devon, The Royal Oak and The Hannover
- Parking issues no different from its operation as a Church
- Benefit neighbouring business due to passing trade
- High standard of facilities
- Installation of CCTV allays security concerns for neighbouring residents
- Reduce levels of underage drinking, drug use, drink driving and violence due to being an over 18 members only club
- Owners have pre-empted concerns re noise, providing a smoking area and staff are monitoring parking outside

Objections received (6 letters):

Material Planning Considerations

- Location close to residential properties
- Parking issues – narrow area, poor visibility, road barely passable due to inconsiderate parking, driveways blocked
- Busy area with Pub, and a number of takeaways impacting on parking and traffic
- Social club has been operating and already flouting the rules
- Impact on safety of pedestrians in this area
- Noise issues,
- Large groups of people congregating on path outside venue
- Potential for damage to property and cars from users
- Trafalgar Pub has been refurbished and provides a community facility and is registered as a Community Asset
- Difficult for emergency vehicles to access the premises and houses further along Main Road
- Inappropriate use close to the Cemetery, adjacent to road which provides exit from the site
- No information submitted regarding noise mitigation measures
- Use of space for events could see large groups of people arriving and departing at the same time causing disruption to the area

Other matters which are not planning considerations

- Title deeds preventing properties on this side of the road being used for offensive noisy or dangerous trade business pursuit or occupation or no intoxicating liquors shall be sold on the said land or in any building
- Owners of the pub could be blamed for noise and disturbance
- What controls will be in place to prevent any anti-social behaviour

5.4 The relevant material considerations raised are fully assessed within the main appraisal section of the report.

6. Assessment

Site Context

6.1 The application site is located on the northern side of Main Road/The Green, in Upper Dovercourt and comprises of a redundant Methodist Church building with a more modern detached hall to the rear. There is a grass area to the side and rear of the building, which is enclosed by black railings and timber fencing. The site is neighboured by The Trafalgar Pub, which is operational and is a Grade II Listed Building, takeaway restaurants further east, with residential dwellings to the north, west and south and Weeley Cemetery to the north-west. The

access road, providing the exit from the Cemetery runs adjacent to the site and joins Main Road/The Green.

- 6.2 The site is located within the defined settlement development boundary of Harwich and Dovercourt and is within Flood Zone 1 which has a low risk of flooding.

Proposal

- 6.3 The application seeks planning permission (part retrospective) for the Change of Use from Methodist Church (Class F1) to a Member's only Community Social Club (Sui Generis). The development is considered to be fairly complete and operational and includes internal alterations, external decoration, erection of fencing and formation of external smoking areas, internal sound system, bar area with pool tables and dart boards and installation of air cooler units for the cellar.

Principle of Development

- 6.4 The site falls within the defined Settlement Development Boundary for Harwich and Dovercourt within the Local Plan. Policy SPL2 states that within the Settlement Development Boundaries, there will be a general presumption in favour of new development subject to detailed consideration against other relevant Local Plan policies (including heritage matters) and any approved Neighbourhood Plans. Policy HP2 seeks to protect existing local services and facilities and to provide either when a loss or change of use is proposed, replacement facilities on site or within the vicinity, which meet the need of the local population.
- 6.5 It is accepted that a number of Methodist Churches have become redundant across the District and have been sold at auction within the last 12-24 months. A number of alternative uses have been proposed, including both commercial and residential uses. The change of use from a Church to a Social Club is considered to be acceptable in principle because the site and building is located in a sustainable location within the defined Settlement Development Boundary for Harwich and Dovercourt. In addition, in accordance with Policy HP2, the proposal seeks to provide a facility that would continue to offer an element of community use, with the hall at the rear available for hire for both community and charity events. The main hall accommodates the bar and entertainment area. The Social club is to be operated on a member's only basis for over 18s, which allows the owners to limit and control the number of members. The Dovercourt All Saints Church is a short 2 minute walk away.
- 6.6 Therefore the requirements of Policy HP2 are considered to have been met in justifying the change of use and the principle of development with regard to the change of use is considered to be acceptable in this location, subject to the detailed material considerations relevant to this proposal which are set out below.

Character and Appearance, including Heritage Impacts

- 6.7 The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. (Para 126 NPPF).
- 6.8 Policy SP7 states that all new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Policy SPL3 seeks to provide new development which is well designed and maintains or enhances local character and distinctiveness. The development should relate well to its site and surroundings particularly in relation to its siting, height, scale, massing, form, design and materials and should respect or enhance local landscape character, views, skylines, landmarks, existing street patterns, open spaces and other locally important features.

- 6.9 The external appearance of the building is largely unaltered except for the repainting the main hall building and other cosmetic improvements. The erection of fencing has been undertaken between the main building and the rear hall to provide an enclosed and screened smoking area, which also houses the chillers for the cellar. Overall the external appearance of the building, streetscene and surrounding area are preserved.
- 6.10 From a heritage perspective, the church building is deemed to be a non-designated heritage asset by ECC Place Services, due to its architectural interest and its social and communal historic interest. The site is also adjacent to the Grade II listed The Trafalgar Public House. Due to the limited external alterations the proposal is not considered to result in material harm to the setting of the adjacent Listed Building. Internally the full height ceilings and overall layout of the church building is preserved and there is no objection to the proposal from ECC Place Services.
- 6.11 The proposal is therefore acceptable and policy compliant in these regards.

Impact on Residential Amenity

- 6.12 The NPPF, Paragraph 130 maintains that policies and decisions should result in new development that creates places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
- 6.13 Policy SPL3 seeks new development that does not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 6.14 The building and hall are bordered by residential dwellings on all sides and the Cemetery to the rear, however this is an existing situation. Whilst the church has not been operating for some time, this remains the authorised use of the site, and could re-commence at any time and this forms a material consideration in regards to this application. It is not proposed to extend the building or hall in anyway, therefore no overlooking or loss of privacy issues are identified.
- 6.15 The main concerns raised are in regard to the noise and disturbance that could be experienced by the neighbouring occupiers from the operation of the Social Club in close proximity to residential dwellings. It is also considered that any operation of the proposed Social Club should be sensitive to visitors to the Cemetery, either attending services or visiting graves.
- 6.16 The proposed opening hours are:
- Monday to Thursdays - 12.00 until 23.00
Friday and Saturdays – 12.00 until 0.00
Sundays 11.00 until 23.00
- 6.17 Subject to the imposition of conditions requiring details of a noise assessment and management plan, these hours are considered reasonable and in line with the operating hours of the neighbouring public house and takeaway restaurants. It is also considered reasonable that the owners and staff can occupy the Social Club outside of these hours for the purposes of administration, cleaning and any preparation requirements etc. However due to the residential nature of the area any deliveries, collections or refuse services should be not take place before 08:00 and after 21:00 to prevent disturbance to the neighbouring occupiers and this can be secured by condition.

In order to overcome the concerns raised by neighbouring residents it is proposed to add conditions to any grant of planning permission to ensure:

- No social events including live music events or any other noise generating entertainment can take place in the southern section of the building (indicated as the 'main bar and darts hall,

pool room, stage and FB' area of the building on floorplan) until a full noise survey has been undertaken and completed by a relevantly qualified competent person to ensure that the rating level of noise emitted from the use hereby approved, to include any music equipment and plant installed, shall not exceed 5dBA above the background noise levels. The noise assessment shall be made in accordance with the current version of British Standard 4142. The noise levels shall be determined at all boundaries near to noise-sensitive premises. Confirmation of the findings of the noise assessment along with mitigation and a noise management plan shall thereafter be submitted to the local planning authority for written approval prior to any social events including live music events or any other noise generating entertainment taking place in the southern section the building. The use hereby approved shall then operate fully in accordance with the approved noise assessment and noise management plan

- In detail a noise management plan is to be drawn up and submitted to the LPA for approval and should include matters such as steps to minimise noise thus limiting the impact on the nearby noise sensitive properties/residential properties.
- To prevent any persons from congregating outside to the front, rear and side of the buildings at any time and to use the designated area for smoking at all times.
- No live music or other noise generating entertainment is to be allowed between the hours of 10am – 4pm Monday to Friday, to prevent disturbance to visitors to the neighbouring cemetery; and
- To enforce the proposed opening hours and restrict the hours for deliveries etc.

6.18 It is considered with these measures are necessary, and with these additional safeguards it is considered that the proposed Social Club would not result in material harm to the residential amenity of the neighbouring occupiers.

6.19 It is noted that the granting of an alcohol license is not a planning matter and is controlled and managed by the Council's Licensing department. A licence for selling alcohol and for live music/ events at the Social Club has been granted.

6.20 Therefore subject to conditions the proposal is acceptable and policy compliant in these regards.

Highways and Parking

6.21 Paragraph 110 of the Framework seeks to ensure that safe and suitable access to a development site can be achieved for all users. Policy SP7 seeks new development to include parking facilities that are well integrated as part of the overall design. The sentiments of this policy are carried forward within Policies SPL3 and CP1. Furthermore, the Essex County Council Parking Standards 2009 set out the parking requirements for new development.

6.22 The proposed Social Club does not have any parking provision within the site, however this is an existing situation and no parking is provided with its current use as a Church and ancillary community hall. Then exit road from the Cemetery runs along the side of the buildings an exits onto The Green. Yellow 'no waiting' lines are provided across the access on both sides of the highway as per the plan below, preventing parking from 9am – 5pm Monday to Friday, these lines however are extremely faded/non-existent, however the parking restrictions remain and there is signage in place.



6.23 It is recognised that this area around The Green and Main Road experiences parking stress and there are a number of businesses in the vicinity that also do not have any off street parking provision. This is an existing situation and the yellow lines are provided to maintain free access from the Cemetery. Given the current authorised use of the site, which could re-commence, a reason for refusal based on highway safety as a result of the possibility of additional on street parking would be difficult to sustain at appeal. The Highways Authority also acknowledges this and that realistically, there are very few control methods available to deter the additional parking stress which may occur in any event given the current or previous use of the building, and indeed other uses that can take place in the building under use class F.1 (such as a public hall or exhibition hall). In conclusion it is considered that the trips generated from the proposed use would be on a par with the existing use and due to its urban location, local residents could walk to the site or use public transport.

6.24 Furthermore the site is considered to be within a sustainable location with good public transport links to the site and given its membership only status the majority of users would belong to the local community and live within close proximity of the site. Therefore there is no objection to the proposal.

6.25 Therefore the proposal is considered to be acceptable and policy compliant in these regards.

7. Conclusion

7.1 It is considered that the proposed development is consistent with the National and Local Plan Policies identified above. In the absence of material harm resulting from the proposal the application is subject to conditions recommended for approval.

8. Recommendation

8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives

8.2 Conditions and Reasons

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in strict accordance with the following approved plans and documents:

Location Plan title number EX853863
Proposed Ground Floor Plan

Reason - For the avoidance of doubt and in the interests of proper planning.

3. No social events including live music events or any other noise generating entertainment shall take place in the southern section of the building (indicated as the 'main bar and darts hall, pool room, stage and FB' area of the building on the 'proposed ground floor plan') until a full noise survey has been undertaken and completed by a relevantly qualified competent person to ensure that the rating level of noise emitted from the use hereby approved, to include any music equipment and plant installed, shall not exceed 5dBA above the background noise levels. The noise assessment shall be carried out in accordance with the current version of British Standard 4142. The noise levels shall be determined at all boundaries near to noise-sensitive premises. Confirmation of the findings of the noise assessment along with any mitigation and a noise management plan shall thereafter be submitted to the local planning authority for written approval prior to any social events including live music events or any other noise generating entertainment taking place in the southern section the building. The use hereby approved shall then operate fully in accordance with the approved noise assessment and noise management plan.

Reason: In the interests of residential amenity

4. No live music events or other noise generating entertainment shall take place in any part of the building until the full written approval of the noise assessment and noise management plan has been obtained by the Local Planning Authority.

Reason: In the interests of residential amenity

5. The development hereby approved shall operate only within the following opening times:

Monday to Thursdays - 12.00 until 23.00

Friday and Saturdays – 12.00 until 0.00

Sundays 11.00 until 23.00

Reason - To ensure the use of the site is appropriate to the locality and to safeguard the amenities of local residents.

6. After the first occupation of the development hereby permitted, no vehicle movements including but not limited to deliveries, collections or refuse services shall take place before 08:00 and after 21:00.

Reason: In the interests of residential amenity

7. No materials produced as a result of the site development or clearance shall be burned on site.

Reason: To protect the amenity of nearby residential properties and to reduce the likelihood of nuisance complaint

8. Any ventilation and/or extraction system must be installed by a relevantly qualified technician and must be maintained and cleaned in accordance with the manufacturer's guidance.

Reason: To protect the amenity of nearby residential properties and to reduce the likelihood of nuisance complaint relating to noise and odour.

8.3 Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

9. Additional Considerations

Public Sector Equality Duty (PSED)

- 9.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
- 9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- 9.3 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
- 9.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.5 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.
- 9.6 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 9.7 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

Human Rights

- 9.8 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 9.9 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).
- 9.10 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Finance Implications

- 9.11 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.
- 9.12 The New Homes Bonus (NHB) is one local finance consideration capable of being a material consideration to which the weight given shall be determined by the decision maker. The NHB is a payment to local authorities to match the Council Tax of net new dwellings built, paid by Central Government over six consecutive years. In this instance, it is not considered to have any significant weight attached to it that would outweigh the other considerations.

10. Background Papers

- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report) also form background papers. All such information is available to view on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.

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