

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AN	10/12/18
Planning Development Manager authorisation:	SCE	10/12/18
Admin checks / despatch completed	AN SB	11/12/18 11/12/18.

**Application:** 18/00096/FUL **Town / Parish:** Lawford Parish Council

**Applicant:** Mr & Mrs Edmond

**Address:** Shirburn Mill Mill Hill Lawford

**Development:** Erection of a detached two storey dwelling & single storey cartlodge. Repairs to existing mill, along with conversion to residential annexe.

### 1. Town / Parish Council

Lawford Parish Council

- a) Had the Mill been maintained it would not be in a poor state of repair. Council is advised no major repairs have been carried out since the late 1970's for Mr J Parrington, on the Grade 11 listed building. Thieves broke into the Mill overnight and stole 500 Peg Tiles from inside and these were replaced around 1990. The present owners had to stop a leak from the Mill Pond, under emergency works as it was working away part of the foundation. It is suggested the funds set aside for a new development should be assigned to the repair of the Mill
- b) This is an AONB and development should only be allowed if it makes a positive contribution to the landscape, which in LPC's opinion it does not.
- c) The site should be protected - nothing has been built on the site since 1840.
- d) An excessive amount of trees are proposed to be removed in order to facilitate the application.
- e) This is the only area of AONB in Tendring and should be retained as existing. If this development was approved it would set a precedence for larger properties in the surrounding area, to the detriment of the AONB.
- f) Loss of privacy - the proposed development overlooks Mill Cottage

### 2. Consultation Responses

Cadent Gas Limited  
(Pipelines team)

Thank you for consulting Cadent Gas for this application. We do not object to the proposal in principle.

Please note the presence of a high pressure gas pipeline in close proximity to the proposal, the pipeline is a major accident hazard pipeline (MAHP), which has a building proximity distance (BPD) of 7.3m. Cadent Gas will object to any building sited within the 7.3m distance.

The high pressure pipeline is sited within the HSE consultation zones, therefore the application will need to be put through the HSE Land Use Planning (LUP) process by the LA to confirm if the proposal is acceptable, to date it doesn't appear that Tendring DC have completed this? Link to the Land Use Planning is as follows if you are not already familiar with the requirements of the consultation zones.

ECC Highways Dept

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions:

- 1 Prior to the first occupation of the proposed dwellings, the proposed vehicular access shall be reconstructed to a width of 5.5m for at least the first 6m. within the site tapering one-sided over the next 6m. to no less than 3.7m wide and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.
- 2 Prior to the proposed access being brought into use, vehicular visibility splays of site maximum by 2.4m by site maximum as measured along, from and along the nearside edge of the carriageway, shall be provided on both sides of the centre line of the access and shall be retained and maintained free from obstruction clear to ground thereafter.
- 3 No unbound materials shall be used in the surface treatment of the proposed vehicular access within 6m of the highway boundary.
- 4 The development shall not be occupied until such time as the car parking and turning areas, has been provided in accord with the details shown in Drawing Numbered 5616-15. The car parking areas shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.
- 5 Prior to the occupation of the proposed development, details of the provision for the storage of bicycles for each dwelling sufficient for all occupants of that dwelling, of a design this shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.
- 6 No development shall take place, including any ground works or works of demolition, until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  - i. the parking of vehicles of site operatives and visitors
  - ii. loading and unloading of plant and materials
  - iii. storage of plant and materials used in constructing the development
  - iv. wheel and under body washing facilities
  - v. HGV Routing plan
- 7 Any new or proposed boundary hedge shall be planted a minimum of 1m back from the highway boundary and 1m behind any visibility splays which shall be maintained clear of the limits of the highway or visibility splays thereafter.

Informative1: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to:

SMO1 - Essex Highways  
Colchester Highways Depot,  
653 The Crescent,  
Colchester  
CO4 9YQ

Cadent Gas Limited

Thank you for your enquiry which was received on 30/10/2018. Please note this response and any attached map(s) are valid for 28 days.

An assessment has been carried out with respect to Cadent Gas Limited, National Grid Electricity Transmission plc's and National Grid Gas Transmission plc's apparatus. Please note it does not cover the items listed in the section "Your Responsibilities and Obligations", including gas service pipes and related apparatus.

For details of Network areas please see the Cadent website (<http://cadentgas.com/Digging-safely/Dial-beforeyou-dig>) or the enclosed documentation.

Due to the presence of Cadent and/or National Grid apparatus in proximity to the specified area, the contractor should contact Plant Protection before any works are carried out to ensure the apparatus is not affected by any of the proposed works.

- Cadent and/or National Grid's legal interest (easements or wayleaves) in the land which restricts activity in proximity to Cadent and/or National Grid's assets in private land. You must obtain details of any such restrictions from the landowner in the first instance and if in doubt contact Plant Protection.

Tree & Landscape Officer

The site currently forms part of the garden associated with Mill House and has been well set out although rough grasses and ruderal vegetation are becoming established as the frequency of routine maintenance operations have decreased.

There are several established trees on the application site that would be affected by the development proposal ' several of which would need to be removed completely.

Whilst the applicant has submitted detailed information comprising of an Ecological Survey relating to protected species that may or may not be present on the site and a Landscape and Visual Impact Assessment (LVIA) to determine the impact of the development proposal on the local landscape character they do not appear to have submitted a tree survey and report.

The studies described above make reference to trees, both in terms of their landscape value and for their ecological benefits however this information is not complete and does not accord with the appropriate British Standard.

In order to show the impact of the development proposal on the trees on the land, to identify those that would need to be removed and the measures that would be put in place to physically protect retained trees for the duration of the construction phase of any planning permission that may be granted the applicant should provide a full tree survey and report. This report should be in accordance with BS5837: 2012 Trees in relation to design, demolition and

construction: Recommendations.

The report will need to contain Tree Constraints Plan (TCP) to show the Root Protection Areas (RPA's) of all trees on the application site and adjacent land overlaid with the footprint of the proposed dwelling.

This information should be provided prior to the determination of the application.

With regard to the findings of the LVIA the document contains a genuine and accurate baseline analysis and description of the special qualities of the local landscape character. It goes on to describe the degree to which the development of the site would affect those qualities and the way in which mitigation, primarily in the way of soft landscaping, would in time minimise the harm that would result as a consequence of the development of the land. The LVIA addresses the impact of the development on the key qualities of the Dedham Vale Area of Outstanding Natural Beauty (AONB) and concludes that the small scale development would not alter the overall character of the AONB.

On balance it is considered that the conclusion set out in part 4.2.1 of the LVIA is reasonable and that the small scale localised harm will not significantly alter the existing qualities of the local landscape character or affect the special qualities of the AONB.

Notwithstanding the assessment of the impact of the development proposal on the Dedham Vale AONB the absence of a tree report means that it is not possible to assess the impact of tree removal on the AONB or the amenities of the locality.

In terms of soft landscaping the site layout plan shows indicative planting. Should planning permission be likely to be granted then details of this planting should be secured by a planning condition.

Tree & Landscape Officer

Notwithstanding previous comments:

In order to show the impact of the development proposal on the trees on the land, to identify those that would need to be removed and the measures that would be put in place to physically protect retained trees for the duration of the construction phase of any planning permission that may be granted the applicant has now provided a full tree survey and report. The report is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction: Recommendations.

The report contains Tree Constraints Plan (TCP) showing the Root Protection Areas (RPA's) of all trees on the application site and adjacent land overlaid with the footprint of the proposed dwelling. It accurately describes the health and condition of the trees on the land and identifies the extent of the constraint that they are on the development potential of the land.

It identifies the need to remove several trees in order to implement the development proposal. The largest being the Poplar and the Spruce at the eastern end of the site. Both Poplars are approaching the end of their safe useful life expectancy and have obvious structural defects. The Spruce is one-sided where it has been reduced to clear branches from overhead power cables.

Several other trees on the land including culinary Apples, Ash and Prunus will also need to be removed but these are relatively low category trees and they do not merit retention by means of a tree preservation order.

In essence the development proposal makes provision for the retention of the best trees on the land that make the most positive contribution to the character of the area. The position of the proposed dwelling is in the most sparsely planted area of the garden.

In conclusion the removal of the trees will not, in itself, have a significant adverse impact on the character or appearance of the area however the introduction of an additional dwelling will contribute, even if to a small degree, to the gradual erosion of the rural character of the area. Resultant harm can be at least partially mitigated by new planting to soften the appearance of the development and to assist with the assimilation of the dwelling into its setting.

Essex County Council  
Archaeology

See documents dated 5th February 2018 – request recording

Building Control and  
Access Officer

No comments at this time

Health and Safety  
Executive

The Health and Safety Executive (HSE) is a statutory consultee for certain developments within the Consultation Distance of Major Hazard Sites/ pipelines. This consultation, which is for such a development and is within at least one Consultation Distance, has been considered using HSE's planning advice web app, based on the details input on behalf of Tendring District Council.  
HSE's Advice: Do Not Advise Against, consequently, HSE does not advise, on safety grounds, against the granting of planning permission in this case.

As the proposed development is within the Consultation Distance of a major hazard pipeline you should consider contacting the pipeline operator before deciding the case.

HSE's advice is based on the situation as currently exists, our advice in this case will not be altered by the outcome of any consultation you may have with the pipeline operator.

Unidentified Pipelines

There is at least one unidentified pipeline in this Local Authority Area. You may wish to check with the pipeline operator where known or the Local Authority before proceeding. The details HSE have on record for these pipelines is as follows:

4405944\_ Cadent Gas Ltd Fairfields Farm Biomethane Pipeline

This advice report has been generated using information supplied by at Tendring District Council on 17 September 2018.

Note that any changes in the information concerning this development would require it to be re-submitted.

### 3. Planning History

92/00043/FUL	Proposed replacement of felted flat roof to existing two storey rear extension, with Natural Slated pitched roof, enlarging existing single storey extensions	Approved	31.03.1992
92/00044/LBC			
98/00632/LBC	(Shirburn Mill, Lawford) Repair of basement wall and roof structure.	Approved	10.07.1998

Installation of handrailing and rainwater goods. Reconstruction of existing garden wall

18/00097/LBC

Repairs to existing mill to facilitate conversion to residential annexe.

Current  
(recommended for approval)

**4. Relevant Policies / Government Guidance**

NPPF National Planning Policy Framework July 2018

National Planning Practice Guidance

Tendring District Local Plan 2007

QL1 Spatial Strategy

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

HG9 Private Amenity Space

EN1 Landscape Character

EN5 Areas of Outstanding Natural Beauty (AONB's)

EN6 Biodiversity

EN6A Protected Species

EN22 Extensions or Alterations to a Listed Building

EN23 Development Within the Proximity of a Listed Building

EN27 Enabling Development

EN29 Archaeology

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)

SP1 Presumption in Favour of Sustainable Development

SPL1 Managing Growth

SPL3 Sustainable Design

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

PPL7 Archaeology

PPL9 Listed Buildings

CP1 Sustainable Transport and Accessibility

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

### **Status of the Local Plan**

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2018) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.

With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

In relation to housing supply:

The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not. At the time of this decision, the Council is able to demonstrate a robust five year supply of deliverable housing sites (as confirmed in recent appeal decisions) and housing delivered over the previous three years has been comfortably above 75% of the requirement. There is consequently no need for the Council to consider an exceptional departure from the Local Plan on housing supply grounds and applications for housing development are to be determined in line with the plan-led approach.

## **5. Officer Appraisal (including Site Description and Proposal)**

Proposal

- Erection of a detached two storey dwelling and single storey cartlodge with store. Repairs to existing mill, along with conversion to residential annexe.

- The accompanying listed building consent application is 18/00097/LBC for conversion of the listed mill.

### Representations

6 letters of objection have been received on the following summarised grounds:

- Not in accordance with the development plan or Paragraph 55 of the NPPF
- Affects the setting of two listed buildings which are a non-renewable resource
- Loss of trees
- Harm to neighbouring amenity in terms of outlook, privacy and light
- Enabling development should not justify the dwelling the owner should repair the listed building
- Harmful to conservation area and Dedham Vale AONB
- Garden grabbing and overdevelopment
- The amount of enabling development must be the minimum necessary to secure the future of the place this exceeds that
- Internal mill workings are historically valuable and should not be sacrificed
- Highway safety concerns with narrow road and poor visibility
- The AONB comprises both the natural landscape and the built infrastructure
- The enabling dwelling is only a short term measure to preserve the listed mill

Lawford Parish Council object to the proposal:

- Had the Mill been maintained it would not be in a poor state of repair. Council is advised no major repairs have been carried out since the late 1970's for Mr J Parrington, on the Grade II listed building. Thieves broke into the Mill overnight and stole 500 Peg Tiles from inside and these were replaced around 1990. The present owners had to stop a leak from the Mill Pond, under emergency works as it was working away part of the foundation. It is suggested the funds set aside for a new development should be assigned to the repair of the Mill
- This is an AONB and development should only be allowed if it makes a positive contribution to the landscape, which in LPC's opinion it does not.
- The site should be protected - nothing has been built on the site since 1840.
- An excessive amount of trees are proposed to be removed in order to facilitate the application.
- This is the only area of AONB in Tendring and should be retained as existing. If this development was approved it would set a precedence for larger properties in the surrounding area, to the detriment of the AONB.
- Loss of privacy - the proposed development overlooks Mill Cottage

### Context

- The application site lies outside of any settlement development boundary within both the adopted and emerging local plans and within the Dedham Vale Area of Outstanding Natural Beauty.
- Shirburn Mill is a Grade II listed building which was placed on the at risk register in 2010. The neighbouring dwelling The Cottage is a Grade II listed building, and Shirburn Mill House is a Grade II listed building which has group value with Shirburn Mill.
- The site lies wholly outside of flood zones 2 and 3 which are focussed around the stream and is therefore at low risk of flooding (flood zone 1).
- It is stated by objectors that the site lies within the Lawford Conservation Area but this is incorrect. The boundary of the conservation area lies around 750 metres to the east. Due to this significant separation distance and intervening vegetation the proposal would not impact upon the setting of the Lawford Conservation Area and is therefore excluded from the assessment below.
- The site of the proposed dwelling is located within the inner zone of the high pressure gas pipeline.

### History

- Shirburn Mill was constructed at the beginning of the nineteenth century (c.1800) and ceased to operate in the early 1930s. Thereafter the building has been used for purposes ancillary to the adjacent mill house which was itself constructed in about 1840. The former watermill was subsequently listed in 1966 and the mill house in 1987. Shirburn Mill was entered on the 'Essex Heritage at Risk Register' in 2010 and was recorded as being in a 'poor condition' and 'in need of repair'.
- In 1988 the site had planning permission refused and dismissed at appeal for residential conversion of the mill. In 1989 there was a second refusal for residential conversion as the Council wanted to explore ancillary use to Mill House.



## Principle of development

- Shirburn Mill is a Grade II listed building which was placed on the at risk register in 2010. The proposed dwelling is 'enabling development' to fund the repairs and conversion of Shirburn Mill into a residential annexe to Shirburn Mill House. The purpose of enabling development is to generate funds to be utilised for the repair of a heritage asset such as a listed building. Enabling development, in planning terms, is development which contravenes normal planning policies, in this case by proposing a dwelling outside of any defined settlement development boundary and not in a location sufficiently close to a range of services to prevent reliance on private transport contrary to the interests of sustainable development.
- The National Planning Policy Framework (NPPF) makes an allowance for such developments where the public benefits of securing the future conservation of a heritage asset outweigh the 'disbenefits'. There is also guidance from Historic England (Enabling Development and the Conservation of Significant Places 2008) about how it is to be assessed, although it pre-dates both the 2012 and 2018 versions of the NPPF and there is a limit to how much weight can be attached to it.
- Paragraph 202 of the NPPF 2018 states Local planning authorities should assess whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies but which would secure the future conservation of a heritage asset, outweigh the disbenefits of departing from those policies.
- Paragraph 189 of the NPPF requires the applicant to provide an appropriately detailed heritage assessment to describe the significance of any heritage assets affected, including any contribution made by their setting. A high quality heritage assessment has been provided with the application which appropriately describes the significance of, and impact upon, all affected heritage assets.
- Paragraph 191 of the NPPF confirms where there is evidence of deliberate neglect of, or damage to, a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision. This is not considered to be the case here as detailed within the heritage assessment significant repair works have been undertaken over the years however the ultimate aim is to find a use for the building to ensure its long term viability and preservation.
- Paragraph 192 of the NPPF states in determining applications, local planning authorities should take account of: a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and c) the desirability of new development making a positive contribution to local character and distinctiveness.
- Paragraph 194 of the NPPF confirms any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Paragraph 196 confirms where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- The Planning (Listed Buildings and Conservation Areas) Act 1990 S. 66 imposes a general duty as respects listed buildings in the exercise of planning functions. In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- Saved Policy EN22 states development involving proposals to alter a listed building will only be permitted where it would not result in the damage or loss of features of special architectural or historic interest, and the special character and appearance or setting of the building would be preserved or enhanced.
- Saved Policy EN23 states proposals for development that would adversely affect the setting of a listed building, including group value and long distance views, will not be permitted.
- Emerging Policy PPL9 states 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, fabric, and are explained and justified through an informed assessment and understanding of the significance of the heritage asset and its setting, and are of a scale, design, use, materials and finishes that respect the listed building and its setting.

- Saved Policy EN27 relates specifically to enabling development proposals. It requires proposals for enabling development to satisfy all of the criteria set out in that policy, or else the proposal will not be permitted. The criteria which have to be met reflect, very closely, those set out in Historic England's guidance on enabling development. Both Policy EN27 and the Historic England guidance however pre-date the publication of the NPPF which, generally advocates a more positive approach to development than the government planning policy that preceded it. Paragraph 213 in the NPPF says that due weight should be given to relevant policies in existing plans (such as the Council's adopted Local Plan), according to their degree of consistency with the NPPF (the closer the policies in the plan to the NPPF, the greater the weight that may be given).
- There is no suggestion in current national policy (NPPF para 202) that enabling development proposals should be subjected to a prescriptive set of criteria, but that a balance between benefits and disbenefits needs to be met which will require the decision maker (i.e. the Council) to exercise judgement. This change in approach is reflected in the Council's emerging Local Plan where Policy PPL10 no longer carries forward prescriptive criteria that must be met, but instead requires applicants to provide sufficient evidence for the Council to make an informed judgement as to the benefits and disbenefits.
- With the above in mind, the criteria in Policy EN27 need to be applied pragmatically and whilst any suggestion that all criteria must be met to avoid the refusal of planning permission is now inconsistent with the thrust of national policy, the criteria still provide a practical checklist of issues that need to be given proper consideration.
- Policy EN27 part 1 a) requires that "enabling development will not materially detract from the archaeological, historic and landscape interest of the heritage asset, or materially harm its setting". This requirement now has to be considered alongside paragraphs 195 and 196 in the NPPF which do allow for some harm so long as it is outweighed by wider public benefits. In this case there is 1) the heritage asset of the mill itself to be converted to ancillary residential use and 2) the impact upon the setting of the heritage assets of Shirburn Mill House and The Cottage. ECC Archaeology request that given the rareness of these buildings a full historic buildings record should be completed prior to conversion this is included as a pre-agreed pre-commencement condition. The conversion of the Mill will result in its long term preservation (and as detailed within the accompanying LBC application is to an appropriate standard) ensuring that the Mill will have a viable use. Clearly its optimum use would be as a working mill but that is no longer a realistic prospect. Previous refusals for conversion to a separate dwelling have confirmed this requires too much alteration and loss of historic fabric, the proposed residential annexe allows retention of more historic fabric in a more open layout. Alternative economic uses would raise concerns in terms of harm to amenity and setting with parking requirements etc and would also have small areas of usable floorspace so are unlikely to be viable. A residential annexe is therefore considered to be the optimum viable use. An annexe also has a very limited impact upon the setting of neighbouring listed buildings with no division of curtilage or parking provision etc. Landscape impact is assessed below and considered to be acceptable. The proposed enabling dwelling is located to the north of the mill and Shirburn Mill House and out of their immediate setting due to distance, change in ground levels and vegetation. The enabling dwelling is to the west of The Cottage and will have the most impact upon the setting of this heritage asset. There is substantial existing vegetation and dense proposed evergreen planting which will limit the impact. The benefits of restoring the mill and converting it to a long term appropriate use significantly outweighs any modest impact upon the setting of The Cottage. It is therefore concluded that the harm to the heritage assets would be 'less than substantial' and that it is therefore paragraph 196 of the NPPF that applies.
- Criterion b) in part 1 of Policy EN27 requires that "it has been clearly demonstrated that all alternative options have been fully evaluated". The need to exhaust all alternative options before enabling development can even be considered is not a specific requirement of the NPPF, but if harm to the setting and significance of a heritage asset can be avoided or minimised, and benefit maximised through an alternative approach, it is perfectly logical and reasonable to expect all options to be evaluated. The consideration of alternative options is set out under a above and a residential annexe is considered to be the optimum viable use.
- Criterion c) in part 1 of Policy EN27 requires that "the proposal avoids detrimental fragmentation of management of the heritage asset". This is the case as the Mill will become an ancillary residential annexe to Shirburn Mill House. It is highly desirable in conservation terms for the former watermill and the mill house to be retained as a single unit and, in particular, for the mill to continue in ancillary use with the house.
- Criterion d) in part 1 of Policy EN27 requires that "the enabling development will secure the long term future of the heritage asset, and where applicable, its continued use for a purpose that

reflects the character of the asset". As detailed above a residential annexe is considered the optimum viable use. Externally the mill will be restored and this will significantly improve the character of the asset and the immediate setting of Shirburn Mill House. The two buildings will remain linked in terms of ownership and use.

- Criterion e) in part 1 of Policy EN27 requires that "the need for enabling development arises from the inherent need of the heritage asset, rather than the circumstances of the present owner, or the purchase price paid". The Mill is on the at risk register and is therefore in strong need of repair. As detailed below the scale of enabling development is adequately justified by detailed supporting financial and structural assessments.

- Criterion f) in part 1 of Policy EN27 requires that "financial assistance is not available from any other source consistent with the preservation or enhancement of the heritage asset". This is addressed in full in the heritage statement and confirms that there are no suitable grants available.

- Criterion g) in part 1 of Policy EN27 requires that "it is demonstrated that the amount of enabling development is the minimum necessary to secure the future of the heritage asset". The submitted Structural Assessment adequately details the works required to make the mill structurally sound, wind and weathertight. It concludes the condition is not unreasonable and the main defect is voiding to the west end, especially under the sw corner of the extension caused by previous leaking which was successfully repaired. The mill needs underpinning and recasting of the slab. The mill pond water channel needs to be remade over much of its length and the entire west upper wall needs rebuilding. The wheel pit needs extensive re-facing/partial rebuilding as does the North wall at the head. Externally repairs are needed to the weatherboarding and extension. The financial breakdown of costs confirms that the proposal breaks even. Given the robust supporting information provided and the nature and scale of the enabling works it is considered unnecessary to seek external review and the scale of enabling development in the form of one four bedroom house with detached garage/store is acceptable.

- Criterion h) in part 1 of Policy EN27 requires that "the value, or benefit, of the survival or enhancement of the heritage asset outweighs any harm to the asset by providing the enabling development". This requirement is, in effect, the 'balancing exercise' advocated through paragraph 196 in the NPPF where the benefits have to be weighed against the disbenefits. The detailed conversion of the mill is considered under the associated LBC and deemed to be acceptable. A good balance is struck between needing to find a longterm use for the mill but retaining its character and open floorplan. The benefits of the conversion therefore outweigh any disbenefits in losing the potential reuse as a working mill.

- Part 2 of Policy EN27 states subject to the proposed enabling development meeting the criteria listed in Part 1 planning permission will be granted where:

a) the impact of the development is precisely defined at the outset, through the submission of full rather than outline applications; Complies.

b) with reference to the guidance contained in Circular 1/97, Planning Obligations, the objective of the preservation of the historic asset is securely linked to the planning permission; and

c) the historic asset is restored to an agreed standard, or funds made available to secure this aim, prior to the commencement of the use of the enabling development.

In relation to b) this refers to old guidance however the preservation of the mill to a structurally sound, wind and weathertight condition (as detailed in full in the Structural Assessment) will be required by condition prior to occupation of the enabling dwelling. This will ensure the mill is restored to an agreed standard before the enabling dwelling can be first occupied securing the preservation as required by EN27 Part 2 b and c. The condition also requires that within six months of occupation of the enabling dwelling, and following inspection by the Local Planning Authority, Shirburn Mill shall be converted to a residential annexe in full accordance with 18/00097/LBC and be available for ancillary occupation to Shirburn Mill House.

- The proposal is therefore considered to represent acceptable enabling development and the benefits of the proposed enabling development, which would otherwise conflict with planning policies but which would secure the future conservation of the mill, outweigh the disbenefits of departing from the housing policies. The principle of development is therefore accepted and the remaining detailed matters are assessed below.

#### Detailed design

- The proposed dwelling is sited in a generous plot, in keeping with the character of surrounding development. The proposed garden area significantly exceeds that required by saved policy HG9 and off street parking exceeds that required by saved policy TR7 the proposal could not therefore

be considered overdevelopment. The detached double cartlodge with rear store is modest in size and height in relation to the scale of the dwelling and the plot and it is constructed of high quality traditional materials.

- The design approach is traditional and represents good design in terms of quality of form, architectural detailing and construction materials. Materials and landscaping details will be controlled by condition to ensure high quality.

- In terms of objections stating failure to comply with paragraph 55 of the NPPF (now paragraph 79 of NPPF 2018) it is now widely accepted that sites such as this, where buildings/dwellings exist on neighbouring plots, cannot be considered isolated so paragraph 79 does not apply.

#### Residential amenity

- The conversion of the mill to an ancillary residential use to Shirburn Mill House should not raise any concerns in terms of loss of privacy or other disturbance to neighbouring occupiers.

- The proposed dwelling is sited to the south of the highway and within a generous plot ensuring no loss of light to neighbouring properties. Impact upon views is not a material planning consideration, however impact upon outlook is. Given the significant separation distances and vegetation between the proposed dwellings and the neighbours at The Cottage, Mill Cottage and Shirburn Mill House there would not be any significant harm to outlook.

- In terms of privacy there is one bedroom window and two bathroom windows at first floor level facing The Cottage but these are around 180 metres from the boundary so no loss of privacy would result. To the front elevation which overlooks the highway there are two bedroom windows and a landing window at first floor level which are around 320 metres from the dwelling at Mill Cottage thereby preserving their privacy.

#### Landscape impact

- The site lies within the Dedham Vale Area of Outstanding Natural Beauty (AONB) and contains a number of mature trees and significant vegetation. Tree surveys and a landscape visual impact assessment (LVIA) have been provided to assess the impact of the proposal upon the landscape, AONB and existing vegetation.

- Paragraph 172 of the NPPF states 'great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues'. 'The scale and extent of development within these designated areas should be limited. Planning permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of: a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy; b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.'

- Saved Policy EN5 states development which would harm or otherwise fail to conserve the natural beauty of the landscape of an AONB will not be permitted. The Council will have regard to the Dedham Vale Management Strategy when determining applications affecting the AONB. Conflicting proposals will not be permitted.

- Emerging Policy PPL3 states the Council will protect the rural landscape and refuse permission for any development which would cause overriding harm to its character or appearance.

Development proposals must pay particular regard to the conservation and enhancement of the special character and appearance of the Dedham Vale AONB and its setting, including any relevant AONB Management Plan objectives.

- As detailed above the proposal represents enabling development which in planning terms, is development which contravenes normal planning policies.

- The submitted LVIA concludes the proposal will have limited localised effects on landscape character and views. The site is not visible from the wider AONB. These localised effects are outweighed by the beneficial landscape impact of retaining the mill as a heritage asset and part of the Dedham Vale landscape.

- With regard to the findings of the LVIA the document contains a genuine and accurate baseline analysis and description of the special qualities of the local landscape character. It goes on to describe the degree to which the development of the site would affect those qualities and the way in which mitigation, primarily in the way of soft landscaping, would in time minimise the harm that would result as a consequence of the development of the land. The LVIA addresses the impact of

the development on the key qualities of the Dedham Vale AONB and concludes that the small scale development would not alter the overall character of the AONB. On balance it is considered that the conclusion set out in part 4.2.1 of the LVIA is reasonable and that the small scale localised harm will not significantly alter the existing qualities of the local landscape character or affect the special qualities of the AONB.

- A condition is imposed to secure the proposed soft landscaping.

#### Trees

- A full tree survey and report has been provided which accurately describes the health and condition of the trees on the land. It identifies the need to remove several trees in order to implement the development proposal. The largest being the Poplar and the Spruce at the eastern end of the site. Both Poplars are approaching the end of their safe useful life expectancy and have obvious structural defects. The Spruce is one-sided where it has been reduced to clear branches from overhead power cables. Several other trees on the land including culinary Apples, Ash and Prunus will also need to be removed but these are relatively low category trees and they do not merit retention by means of a tree preservation order. In essence the development proposal makes provision for the retention of the best trees on the land that make the most positive contribution to the character of the area. The position of the proposed dwelling is in the most sparsely planted area of the garden. In conclusion the removal of the trees will not, in itself, have a significant adverse impact on the character or appearance of the area.

- The introduction of an additional dwelling will contribute, even if to a small degree, to the gradual erosion of the rural character of the area. This harm is partially mitigated by new planting to soften the appearance of the development and to assist with the assimilation of the dwelling into its setting. On balance the benefits of the proposal in terms of preserving the heritage asset outweigh any modest disbenefits to the rural character of the immediate area.

#### Ecology

- An ecological assessment has been provided which confirms there are Brown Long Eared Bats roosting within the top floor of the mill. A license is therefore required. This area is protected as a bat roost within the proposals so the bats will remain undisturbed.

- Further bat surveys are needed from May to assess where the scaffolding should be restricted to allow bat access. Five trees proposed to be removed have been identified as having bat roost potential and will require assessment prior to felling. A Great Crested Newt survey is also needed from May. These have not been provided but in this case they can be conditioned in accordance with the conclusions of the ecology assessment as no mitigation will be required. A bat license is also required so Natural England will be monitoring the works. The scaffolding will be designed in response to the outcomes of the emergence survey and no development related mitigation would be required following the GCN survey it would just limit timings of the mill pond works.

- Subject to a condition securing the conclusions and recommendations of the ecological assessment the proposal is acceptable in relation to ecology and potential impact upon protected species.

#### Highway safety

- Adequate off street parking and turning is provided to meet the needs of the proposed dwelling.

- The Highway Authority has no objection to the proposal subject to 7 conditions relating to the vehicular access; visibility splays; no unbound materials within 6 metres of the highway boundary; parking and turning as shown to be provided prior to occupation; construction method statement; and hedge planting to be set 1 m back from highway and visibility splays. These conditions are all considered necessary and are included. They also request details of cycle parking which is considered unnecessary given the detached cartlodge which has an attached secure store.

#### Gas

- The site of the proposed dwelling lies within the inner zone of a high pressure gas pipeline. Cadent gas and HSE have therefore been consulted. HSE do not advise against the granting of planning permission and Cadent gas also do not object. Informatives will be applied to ensure the applicant is aware of the need to contact Cadent in relation to gas safety.

#### Other considerations

- As enabling development the proposal is exempt from the requirement to provide a financial contribution towards public open space (where there is a confirmed need) against saved Policy COM6.

#### Conclusion

- It is considered that the benefits of the enabling development, which would otherwise conflict with planning policies for the location of new housing but which would secure the future conservation of a heritage asset at risk, outweigh the disbenefits of departing from those policies. The development proposal will lead to less than substantial harm to the significance of designated heritage assets, and this harm is outweighed by the public benefits of securing the optimum viable use for the Grade II listed at risk Shirburn Mill.

#### 6. Recommendation

Approval - Full

#### 7. Conditions

- 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 accordance with the following approved plans and documents: Drawing numbers 5616- 12, 13, 15, 22, 23, 24, 25, 26, and 27; Ecological Assessment by Eco-Planning dated 10/01/2018; Structural Assessment Report by The Morton Partnership reference EJM/CE/18065~srep rev 0; Tree Survey Schedule; Arboricultural Impact Assessment dated 02/10/18; and Drawing numbers JBA 18/281 TR01 Tree Removal Plan and JBA 18/281 TR01 Tree Protection Plan.

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

- 3 The hereby approved dwelling shall not be occupied until Shirburn Mill has been completed to a structurally sound, wind and weathertight condition as detailed within '3.0 Schedule of Works for Structurally Sound, Wind and Weathertight' in Structural Assessment Report by The Morton Partnership reference EJM/CE/18065~srep rev 0. Within six months of occupation of the hereby approved dwelling, and following inspection by the Local Planning Authority, Shirburn Mill shall be converted to a residential annexe in full accordance with 18/00097/LBC and be available for ancillary occupation to Shirburn Mill House.

Reason - The proposal represents enabling development, for a dwelling in a location that would otherwise be contrary to planning policy, and is only acceptable subject to the preservation and conversion of the Grade II listed at risk Shirburn Mill.

- 4 Prior to the first occupation of the hereby approved dwelling, the proposed vehicular access shall be reconstructed to a width of 5.5m for at least the first 6m. within the site tapering one-sided over the next 6m. to no less than 3.7m wide and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.

Reason: To ensure that all vehicles using the private drive access do so in a controlled manner and to ensure that opposing vehicles may pass clear of the limits of the highway, in the interests of highway safety.

- 5 Prior to the proposed access being brought into use, vehicular visibility splays of site maximum by 2.4m by site maximum as measured from and along the nearside edge of the carriageway, shall be provided on both sides of the centre line of the access and shall be retained and maintained free from obstruction clear to ground thereafter.

Reason: To ensure adequate intervisibility between drivers of vehicles using the proposed access and those in the adjoining highway, in the interests of highway safety.

- 6 No unbound materials shall be used in the surface treatment of the proposed vehicular access within 6m of the highway boundary.

Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety.

- 7 The development shall not be occupied until such time as the car parking and turning areas, have been provided in accord with the details shown on Drawing Number 5616-15. The car parking areas shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety

- 8 No development shall take place, including any ground works or works of demolition, until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- i. the parking of vehicles of site operatives and visitors
  - ii. loading and unloading of plant and materials
  - iii. storage of plant and materials used in constructing the development
  - iv. wheel and under body washing facilities
  - v. HGV Routing plan

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety.

- 9 Any new or proposed boundary hedge shall be planted a minimum of 1m back from the highway boundary and 1m behind any visibility splays which shall be maintained clear of the limits of the highway or visibility splays thereafter.

Reason: To ensure that the future outward growth of the hedge does not encroach upon the highway or interfere with the passage of users of the highway and to preserve the integrity of the highway, in the interests of highway safety.

- 10 No demolition, development or conversion of any kind shall take place until the applicant has secured the implementation of a programme of historic building recording in accordance with a written scheme of investigation which has been submitted by the applicant, and approved in writing by the local planning authority.

Reason: The Essex Historic Environment (HER) Record shows that the building proposed for conversion is a historic watermill and a Grade II listed building. Given the rareness of these buildings a full historic buildings record (RCHME Level 2 historic building record) must be completed prior to conversion.

- 11 Prior to commencement of any above ground works in relation to the hereby approved dwelling and cartlodge samples of external facing and roofing materials shall be submitted to and approved in writing by the Local Planning Authority. Development shall only be carried out in accordance with the approved materials.

Reason: The site lies in a sensitive location close to listed buildings and within the Dedham Vale AONB where a high standard of materials will be required.

- 12 All new driveways and parking areas shall be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwelling.

Reason: In the interests of sustainable development and to ensure that run-off water is avoided to minimise the risk of surface water flooding.

- 13 No floodlighting or other external lighting shall be installed until details of the illumination scheme have been submitted to and approved in writing by the Local Planning Authority. Development shall only be carried out in accordance with the approved details.

Reason - In the interests of amenity to reduce the impact of night time illumination on the character of the area within the Dedham Vale AONB and in the interests of preserving the surrounding habitat for bats.

- 14 No above ground works relating to the hereby approved dwelling and cartlodge shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard and soft landscaping works for the site, which shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 - Trees in relation to design, demolition and construction "

Reason - This is a publicly visible building where an appropriate landscaping scheme is a visually essential requirement.

- 15 All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason - To ensure the adequate maintenance of the approved landscaping scheme for a period of five years in the interests of the character of the surrounding area.

- 16 Prior to commencement of any works relating to Shirburn Mill a copy of the Natural England Bat License shall be provided to the Local Planning Authority. No scaffolding shall be erected until a bat emergence survey has been completed at the appropriate time of year with details submitted to the Local Planning Authority for approval prior to erection of scaffolding. The five trees identified as having potential bat roost features in the Ecological Assessment by Eco-Planning dated 10/01/2018 shall be subject to direct aerial inspections with the use of appropriate endoscope technology immediately before their removal.

Reason: In the interests of protecting bats present within the site.

- 17 Prior to commencement of any works to the Mill Pond or adjacent terrestrial habitat a Great Crested Newt presence or absence survey shall be undertaken at the appropriate time of year and submitted to and approved in writing by the Local Planning Authority. If presence is confirmed details of a working methodology shall be submitted to and approved in writing by the Local Planning Authority to ensure no part of the pond or adjacent terrestrial habitat is damaged, no Newt is disturbed and no access to or from the mill pond is restricted. Works shall be carried out in full accordance with the approved mitigation.

Reason: In the interests of protecting Great Crested Newts and their habitat.

## **8. 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.

Highways informative: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to: SMO1 - Essex Highways Colchester Highways Depot, 653 The Crescent, Colchester, CO4 9YQ

The site lies within close proximity of a high pressure gas pipeline. Prior to commencement of any works relating to the hereby approved dwelling and cartlodge you must contact Cadent Gas.

A European Protected Species Licence (EPSL) will be required for the development of the Mill building that includes the apex bat roost area and you should contact Natural England prior to commencement of any works.