

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	NH	01/07/19
Planning Development Manager authorisation:	GN	1/2/19
Admin checks / despatch completed	SB	01/02/19.

Application: 19/00036/FUL

Town / Parish: Thorpe Le Soken Parish Council

Applicant: MM Ltd

Address: Bosworth House, Office 1 High Street Thorpe Le Soken

Development: Conversion of part existing shop into one bedroom residential dwelling unit.

1. Town / Parish Council

Thorpe le Soken Parish Council have not commented on this application.

2. Consultation Responses

Essex County Highways

The site is in a town centre location where there is reasonably good transport links; the Highway Authority would not deem the application of current Parking Standards necessary in this instance. In addition, the North Essex Parking Partnership; the Parking Authority in Tendring District have been consulted their view is that as there is already a business in place, parking associated with this would probably have been catered for historically as such a 1 bedroom residential dwelling is unlikely to make much of a difference, assuming that any vehicle attached to this may be removed during the business day therefore:

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

1. The Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to first occupation and retained at all times.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy DM8.

2. Prior to occupation of the proposed dwelling, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator free of charge. (Continued....)

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10.

3. Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the highway.

Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety in accordance with policy DM1.

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative 1: In main urban areas with frequent and extensive public transport, cycling and walking links, the EPOA Parking Standards recommend that a reduced parking standard provision may be applied to residential developments. A reduced parking standard provision level can be applied to this proposal as it is located very close to regular public transport services and public car parking facilities.

Informative 2: Steps should be taken to ensure that the Developer provides sufficient turning and off-loading facilities for delivery and site worker vehicles, within the limits of the site together with an adequate parking area for those employed in developing the site.

Informative 3: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

Informative 4: 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 or by post to:

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

The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

3. Planning History

19/00036/FUL Conversion of part existing shop Current
into one bedroom residential
dwelling unit.

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

HG1 Housing Provision

HG3 Residential Development Within Defined Settlements

HG6 Dwelling Size and Type

HG9 Private Amenity Space

TR1A Development Affecting Highways

TR7 Vehicle Parking at New Development

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

EN17 Conservation Areas

COM6 Provision of Recreational Open Space for New Residential Development

ER31 Town Centre Hierachy and Uses

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

LP1 Housing Supply

LP2 Housing Choice

LP4 Housing Layout

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

HP5 Open Space, Sports & Recreation Facilities

PP5 Town Centre Uses

PPL4 Biodiversity and Geodiversity

PPL8 Conservation Areas

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 supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF. In addition, the actual need for housing was found to be much less than the figure produced by the standard method when tested at the recent Examination In Public of the Local plan. Therefore, the justification for reducing the weight attributed to Local Plan policies is reduced as is the weight to be given to the delivery of new housing to help with the deficit.

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5. Officer Appraisal (including Site Description and Proposal)

Site Description

The application site refers to Bosworth House, Office 1, High Street, Thorpe Le Soken, is a two storey semi-detached property located within the development boundary of Thorpe Le Soken. The application site fronts the main High Street of Thorpe Le Soken and is located within Thorpe Le Soken Conservation Area.

Proposal

The application seeks planning permission for conversion of part existing shop into one bedroom residential dwelling unit.

Assessment

The main considerations for this application are:

- Principle of development
- Design and appearance
- Residential Amenities
- Highways Considerations and Parking Provision
- Impact on Conservation Area
- Legal Obligation
- Habitat Regulations Assessment

Principle of Development

The application site is situated within the defined settlement limits of Thorpe-le-Soken, as defined by both the adopted Tendring District Local Plan (2007) and Emerging Publication Draft (2017), and therefore the principle of residential development in this location is acceptable subject to the detailed considerations as set out below.

Design and Appearance

The adopted Tendring District Local Plan (2007) "Saved" Policies QL9, QL10 and QL11 seek to ensure that all new development makes a positive contribution to the quality of the local environment and character, by ensuring that proposals are well designed, relate satisfactorily to their setting and are of a suitable scale, mass and form. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

The application will retain the shop to the front of the application site with the conversion of part of the existing shop towards the rear from an office, W.C and kitchen to a one bed dwelling. In terms of impact upon the street scene, the application does not propose any changes to the shop front and therefore it is considered that there will not be any impact upon the High Street.

The plans demonstrate that there will be fenestration changes to the side elevations of the proposed dwelling. To the western elevation of the property, one of the windows is being removed, one retained and two altered in width. The proposed changes will be in keeping with the host dwelling and therefore it is acceptable in terms of design and appearance. To the eastern elevation, the existing door will be bricked up and moved to serve the entrance area of dwelling. One window will be bricked up with the introduction of two double windows. The rear door serving the existing kitchen will be blocked off with brickwork. It is considered that the proposal will not cause any impact upon the street scene and is acceptable in terms of design and appearance.

Residential Amenities

Policy QL11 of the Saved Plan states that amongst other criteria, 'development will only be permitted if the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties'.

The development introduces living accommodation at ground floor level, which will have little impact on the neighbours. The proposed change of use of part of the existing shop to a dwelling is unlikely to create any greater disturbance than the former shop and raises no amenity issues. Whilst there is the potential for some noise disturbance for the dwelling residents from surrounding uses, this is no different from the current situation.

The dwelling would not have an useable amenity area as required by Policy HG9, however the proposed dwelling is for 1 bedroom and they are unlikely to accommodate families with children, and with the site being located within a sustainable location, the lack of amenity space is not considered to be significant enough to warrant a reason for refusal. It is therefore considered that the proposal will not cause any significant impact upon neighbouring amenities.

Highway Considerations and Parking Provision

Essex County Highways Authority have been consulted on this application and have no objections subject to conditions relating to cycle parking, Residential Travel Information Pack and reception and storage of building materials.

The application site does not currently have any parking facilities to accommodate the existing shop or dwelling. However, due to the sustainable location it is considered that the proposal will not cause any significant impact upon highway safety.

Impact upon Conservation Area

Policy EN17 of the Tendring District Local Plan 2007 and Policy PPL8 of the Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document (July 2016) state that development within a Conservation Area must preserve or enhance the special character or appearance of the Conservation Area.

It is considered that the impact of the proposed change of use on the Conservation Area will be minimal due to the only external changes being changes to the fenestration. It is therefore considered that the proposal will cause a neutral impact upon the special character and appearance of the Conservation Area.

Legal Obligation

Policy COM6 of the adopted Tendring District Local Plan 2007 states "For residential development below 1.5 hectares in size, developers shall contribute financially to meet the open space requirements of the development in proportion to the number and size of dwellings built". There is currently a deficit of 2.43 hectares of play and formal open space in Thorpe-le-Soken.

Due to the size and type of dwelling it is unlikely that there will be any impact on the current facilities. Therefore no contribution is requested on this occasion.

Habitat Regulations Assessment

Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation. This residential development lies within the Zone of Influence of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The residents of new housing are therefore considered likely to regularly visit relevant designated sites for recreation. In order to avoid a likely significant effect in terms of

increased recreational disturbance to coastal European designated sites (Habitats sites) in particular the Hamford Water RAMSAR and SPA, mitigation measures will need to be in place prior to occupation.

A proportionate financial contribution has not been secured in accordance with the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) requirements. As submitted, there is no certainty that the development would not adversely affect the integrity of Habitats sites.

The proposal is therefore considered to be contrary to Policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Other Considerations

Thorpe Le Soken Parish Council have not commented on this application.

No letters of representation have been received.

6. **Recommendation**

Refusal - Full

7. **Reasons for Refusal**

- 1 Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation. This residential development lies within the Zone of Influence of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The residents of new housing are therefore considered likely to regularly visit relevant designated sites for recreation. In order to avoid a likely significant effect in terms of increased recreational disturbance to coastal European designated sites (Habitats sites) in particular the Hamford Water RAMSAR and SPA, mitigation measures will need to be in place prior to occupation.

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8. **Informatives**

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. Unfortunately, it has not been possible to resolve those matters within the timescale allocated for the determination of this planning application. However, the Local Planning Authority has clearly set out, within its report, the steps necessary to remedy the harm identified within the reasons for refusal - which may lead to the submission of a more acceptable proposal in the future. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.

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