

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	NH	07/02/2020
Planning Development Manager authorisation:	JE	07/02/2020
Admin checks / despatch completed	OB	07/02/2020
Technician Final Checks/ Scanned / LC Notified / UU Emails:	WRE	07/02/2020

**Application:** 19/01240/FUL **Town / Parish:** Harwich Town Council

**Applicant:** Mr Nick May

**Address:** 26 Kings Head Street Harwich Essex

**Development:** Internal alterations and modest external changes, and change of use of existing dwelling to small restaurant with rooms in conjunction with existing adjacent 'Alma' public house.

### 1. Town / Parish Council

Harwich Town Council Harwich Town Council has no objection to this application.

### 2. Consultation Responses

Environment Agency The move from a dwelling house to become part of the public house and associated rooms on the higher floors does not constitute a change of vulnerability classification. Also the proposed level of development, such as the addition of the outside grill area and internal alterations, could see this site being adequately assessed using flood risk standing advice.

ECC Highways Dept The information that was submitted in association with the application has been fully considered by the Highway Authority. The existing public house has no 'off-road' parking and nor does 26 Kings Head Street. The road is narrow and has some limited 'on street' parking for residents. The premises are located close to The Quay where there is some 'on street' parking. The site is located close to the town centre with good public transport links, therefore:

The Highway Authority does not object to the proposals as submitted.

Informative 1: Prior to commencement of the development, the areas within the curtilage of the site for the purpose of loading / unloading / reception and storage of building materials and manoeuvring of all vehicles, shall be clear from the highway. No vehicles undertaking deliveries shall remain parked within the highway for longer than necessary and kept to a minimum for the duration of the refurbishment.

Informative 2: 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

Essex County Council  
Archaeology

Thankyou for consulting us on the above application

The above application is for internal and some external alterations to a significant historic building which is designated Grade II\* situated within the core of Harwich Town. The port of Harwich has existed since the 12th century; the town itself was planned and built by Roger, Earl of Norfolk as a commercial venture. In either 1222 or 1253 he granted a weekly market. In 1319 King Edward II confirmed a charter making Harwich a Free-Borough. By the fourteenth century Harwich had become an assembly point for the ships summoned by the King in times of war. Situated on a narrow promontory into the estuary of the River Orwell the town was walled by the mid 14th century, The present street plan is still largely that of the medieval town. There were three main north-south streets, King's Head Street (formerly High Street or East Street), Church Street (formerly Middle Street) and West Street. At the end of the sixteenth century there were about 140 houses in the town, at that time the most prominent citizens and ships-masters all lived in Kings Head Street (East/High Street). An archaeological survey has been submitted with the application for 24, 25 and 26 Kings Head St, which reveals the medieval origins of the houses and provides an interpretative survey of the buildings evolution and alterations over time. A historic building record should be completed prior to any alterations taking place which could incorporate the results of the archaeological interpretive survey and determine the impact of the proposal on the historic building. Where there may be considered harm to any of the historic fabric, fixtures or fittings of the historic building a programme of historic building monitoring will need to take place.

In addition, limited investigations in the surrounding area have revealed medieval occupation layers and remains of former historic buildings associated with the growth and development of the town. Any below ground works associated with the application will require archaeological monitoring.

The following recommendations are made in line with the Department for Communities and Local Government National Planning Policy Framework:

**RECOMMENDATION:** A Programme of historic building recording and monitoring and archaeological monitoring.

1. No development can commence until a programme of historic building recording, monitoring and archaeological monitoring has been secured in accordance with a Written Scheme of Investigation, which has been submitted by the applicant, and approved by the planning authority.

2 No development or preliminary ground-works can commence until a programme of historic building recording has been undertaken in accordance with a Written Scheme of Investigation, which has been submitted by the applicant, and approved by the planning authority.

3 A programme of historic building monitoring and archaeological monitoring will be required during the development, as detailed in the WSI. Following completion of this work a report will need to be submitted by the applicant, and approved by the planning authority.

Further Recommendations:

A brief outlining the level of archaeological investigation will be issued from this office on request. Tendring District Council should inform the applicant of the recommendation and its financial implications.

### **3. Planning History**

95/00224/LBC	Conservatory addition	Approved	06.06.1995
19/00607/LBC	Retrospective consent for the removal of modern wall and ceiling finishes added to the older fabric of the interior.	Approved	09.07.2019
19/01240/FUL	Internal alterations and modest external changes, and change of use of existing dwelling to small restaurant with rooms in conjunction with existing adjacent 'Alma' public house.	Current	
19/01241/LBC	Internal alterations and modest external changes, and change of use of existing dwelling to small restaurant with rooms in conjunction with existing adjacent 'Alma' public house.	Current	

### **4. Relevant Policies / Government Guidance**

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Tendring District Local Plan 2007

QL3 Minimising and Managing Flood Risk

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

EN17 Conservation Areas

EN22 Extensions or Alterations to a Listed Building

ER7 Business, Industrial and Warehouse Proposals

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

SPL3 Sustainable Design

PPL1 Development and Flood Risk

PPL8 Conservation Areas

PPL9 Listed Buildings

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

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) 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.

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

### **Site Description**

The application site is 26 Kings Head Street, which is a south west facing Grade II\* Listed Building and is also being used in conjunction with the adjacent 'Alma' public house which is a Grade II Listed Building.

### **Proposal**

The application seeks planning permission for internal and modest external changes, change of use of the existing dwelling to a small restaurant with rooms in conjunction with existing adjacent 'Alma' Public House.

## Assessment

The proposal involves the change of use of the dwelling to a restaurant with rooms in conjunction with existing adjacent 'ALMA' public house. It is acceptable in principle subject to the detailed consideration against Saved Policy ER7 of the Tendring District Local Plan 2007, which states that the proposed works, will be permitted, and provided it meets the following considerations.

a) The scale and nature of the proposal is appropriate to the locality, including its relationship with adjacent uses;

*The proposal seeks planning permission for a change of use from a dwelling to a small restaurant with rooms in conjunction with the existing adjacent 'Alma' public house. The opening times of the restaurant will be;*

*Monday to Thursday 10am - 12.30am;  
Friday and Saturday 10am - 1.30am;  
Sunday 12pm - 11.30pm.*

*The adjacent Alma Inn operates the same opening times as the proposed, the proposal is considered to be of an appropriate scale and nature within the locality. Although the site is located within a predominantly residential area, there is a good distance to neighbouring properties and therefore it is not considered the proposal will result in significant noise, smell, dirt or other pollution which will impact upon the adjacent neighbours. As the surrounding area is primarily residential a condition will be imposed to ensure that these times are adhered to in order to avoid any noise disturbance. It is therefore considered that the proposal is acceptable in this location.*

b) There is no unacceptable impact on amenity in terms of appearance, noise, smell, dirt or other pollution;

*The proposal is to be a restaurant served on site. Although the site is located within a residential area, there is a good distance to neighbouring properties as well as similar uses in the close vicinity.*

*An odour management plan has been submitted as part of this application and the additional documentation submitted by the applicant satisfies the Environment health concerns and therefore it is considered that the change of use will not cause any significant impact upon neighbouring amenities.*

c) Satisfactory vehicular access and adequate car parking is provided. Major new industrial or warehousing sites including transport storage operations must have direct access onto primary route network;

*Essex Highway Authority have been consulted on this application and have stated that 'the existing public house has no 'off-road' parking and nor does 26 Kings Head Street. The road is narrow and has some limited 'on street' parking for residents. The premises are located close to The Quay where there is some 'on street' parking. The site is located close to the town centre with good public transport links, therefore the Highway Authority have no objection. Due to the locality of the site, it is considered that the proposal is within a sustainable location and there are various forms of transport facilities and public car parking within the vicinity.*

d) Mains water together with mains sewerage and/or adequate waste water and trade effluent treatment facilities can be made available;

*The proposed restaurant and rooms are considered to be a medium scale business and due to the existing dwelling having access to water and sewerage, it is considered that the proposal is acceptable.*

e) The site has acceptable storage facilities. The open storage of goods, containers, waste materials or finished products will not be allowed where such activity is considered to be visually intrusive;

*The plans demonstrate a number of rooms available to provide storage of goods. This also can be shared by the neighbouring property 'The Alma'.*

f) In relation to a change of use, that the existing premises are suitable for purpose

*As the neighbouring property, 'The Alma' is a public house with rooms to the first floor, it is considered that the proposed change of use is acceptable in this location.*

g) In relation to new sites, the need for a comprehensive Design Brief, including a landscaping scheme has been considered and where necessary prepared;

*This criteria is not applicable to this application and therefore it has not been taken into consideration.*

h) Opportunities for promoting the movement of freight by rail or through the districts port are in no way comprised by the development proposal.

*This criterion is not applicable to this application and therefore it has not been taken into consideration.*

#### Flood Risk

Policy QL3 of the Tendring District Local Plan (2007) states that the Council will ensure that flood risk is taken into account, and that all planning applications for development in Flood Zone 2 & 3 will require a Flood Risk Assessment.

The site lies in Flood Zone 3 in an area where there is a high probability of flooding without local flood defences. These protect the area against a river flood with a 1% chance of this happening each year, or a flood from the sea with a 0.5% of this happening each year. The proposed use falls into 'a less vulnerable' category within the Flood Risk Vulnerability Classification. The National Planning Policy Guidance indicates that such development is appropriate but will be subject to a Flood Risk Assessment. Accordingly, the application has included a Flood Risk Assessment.

The Environment Agency have been consulted on this application and have stated that, 'the move from a dwelling house to become part of the public house and associated rooms on the higher floors does not constitute a change of vulnerability classification. Also, the proposed level of development, such as the addition of the outside grill area and internal alterations, could see this site being adequately assessed using floor risk standing advice. It is noted that the proposed extension is below the 250 sq metre area threshold which would usually necessitate our involvement. It is therefore considered that the proposed development will not cause significant impact upon flood risks.

#### Heritage Impact

Paragraph 189 of the National Planning Policy Framework ("the Framework") requires applicants to describe the significance of any heritage assets affected. This requirement is retained by draft Policy PPL9 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft. Paragraph 196 of the Framework adds that 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 securing its optimum viable use.

Policy EN17 of the Saved Plan (Development within a Conservation Area) requires that development must preserve or enhance the character or appearance of the Conservation Area. Development will be refused where it would harm the character or appearance of the Conservation Area, including historic plan form, relationship between buildings, the arrangement of open areas

and their enclosure, grain, or significant natural or heritage features. Emerging Policy PPL8 reflects this consideration.

Policy EN22 of the Saved Plan states that development involving proposals to extend or 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. These requirements are carried forward to Policy PPL9 of the Emerging Publication Draft (June 2017) which also requires the use of building materials, finishes and building techniques that respect the listed building and its setting.

Number 26 King Street is currently vacant and any works undertaken will be considered to be a positive contribution to the local area.

The Council's Historic Environment consultant has been consulted on this application and has stated that there is no objection to the proposal which provides a long term sustainable use for this heritage asset. A condition has been imposed to ensure that the applicant provides a scheme of archaeological building recording commensurate with a 'Level 3 Record' as outlined in Historic England publication 'Understanding Historic Buildings'.

It is therefore considered that the proposed works will not cause any harm to the historic fabric or character of the Listed Building or the Conservation Area, and the proposal is therefore acceptable against this criteria.

Other considerations

Harwich Town Council have no objection to this application.

7 letters of objection have been received raising the following concerns;

- Insufficient parking, leading to health and safety issues, problems for vehicles assessing the road and danger to pedestrians, cyclists and other road users.

*The Highway Authority has been consulted on this application and the Authority have no objection to the proposal.*

- Noise pollution - there is already excessive noise produced by the users of the Alma Inn due to the current opening hours, particularly at the weekends, this will only be increased by the addition of the restaurant, the fact that the applicant has failed to provide any details on opening hours raises serious concerns over the length of time residents will be disrupted.

*The above concern has been addressed within the report. An opening hour's condition has been imposed on the permission to ensure that the use of the site is appropriate to the locality and to safeguard the amenities of local residents.*

- Odour - The Kamodo Joe Cooker uses lumpwood charcoal and is used for grilling, smoking and cooking. No odour management plan has been submitted and it is highly feasible that the such heavy industrial equipment in a small residential garden will produce excessive and unpleasant odours that will have a detrimental impact on the residents living nearby.

*The concern above has been addressed within the report above.*

- Fire Risk - Using the above heavy industrial cooking units in a small residential garden surrounded by listed buildings containing wood and in close proximity constitutes a fire risk, especially in view of the number of residential buildings destroyed by fires in Old Harwich.

*Fire precautions are matters controlled by building regulations and therefore fire risk is not a material planning consideration.*

- Potential for adverse impact on or harm to the surrounding conservation area

*The concern above has been addressed within the report.*

- Loss of the dwelling

*Although the proposal results in the loss of dwelling, the site is currently vacant and the change of use will allow for the Listed Building to be put into use.*

- Lack of validity of supporting documents

*Additional documentation has been provided throughout the application process and these are available to view on the TDC website.*

- Concerns raised if an outside grill is installed in the garden, the smell would undoubtedly have coming in the neighbouring living room and bedrooms. Extractor fans and chimneys are noisy and unsightly.

*The concerns above have been addressed within the report.*

- Concerns over parking and people parking outside The Alma on double yellow lines as they cant find parking.

*Highway concerns have been addressed within the report.*

- Concerns over flooding in a flood zone

*The above flood risk concern has been addressed within the report.*

- Change of use of this Grade 2\* building defined by its status as 'a building of National Importance' conflicts with the councils own Town Centre policies.

*Although the proposal results in the loss of dwelling, the site is currently vacant and the change of use will allow for the Listed Building to be put into use.*

- Noise pollution and disturbance - impact upon adjacent neighbour which overlooks the courtyard.

*The above concern has been addressed within the report. Although the neighbouring property may overlook the courtyard, a condition has been imposed to restrict the opening times of the restaurant to minimise the impact upon neighbouring amenities.*

- Current extractor fan, exposed more now vegetation has been removed. No planning permission or odour management plan in place for The Alma.

*The removal of vegetation is at the owner's discretion. If there are any concerns in relation to the current extractor fan, this is a planning enforcement issue. An odour management plan has been submitted as part of this application.*

## **6. Recommendation**

Approval - Full

## **7. Conditions / Reasons for Refusal**

- 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 No. 747/18/1A - Ground Floor Plan Proposed
- Drawing No. 747/18/2B - First Floor Plan Proposed
- Drawing No. 747/18/3B - Second Floor Plan Proposed
- Drawing No. 747/18/4 - Sections and Elevations
- Drawing No. 747/18/SY1A - Proposed Material Removal - Ground Floor - Scanned 19 August 2019
- Drawing No. 747/18/SY2A - Proposed Material Removal - First Floor - Scanned 19 August 2019
- Drawing No. 747/18/SY3A - Proposed Material Removal - Second Floor - Scanned 19 August 2019.
- Conservation Engineers Report scanned 24 September 2019.
- Archaeological Interpretative Survey of 24, 25 (The Alma), 26 Kings Head St, Harwich by David Martin FSA IHBC and Barbara Martin dated 2019
- Supplementary information to support the Design & Access Statement V4 dated 20th January 2020
- Flood Risk Assessment and Evacuation Plan scanned 11 October 2019

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

- 3 The use hereby permitted shall not operate outside the following times;

Monday to Thursday 10am - 12.30am;  
Friday and Saturday 10am - 1.30am;  
Sunday 12pm - 11.30pm.

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

- 4 The hereby approved development shall only be implemented in full accordance with the agreed Flood Risk & Evacuation Plan (scanned 11 October 2019). The Flood Warning Evacuation Plan shall remain in force for the duration of the occupation period and shall remain a live document and be updated where required.

Reason - The site is at risk from flooding and a detailed evacuation plan is essential to safeguard future occupiers of the development.

- 5 No development, demolition or conversion can commence until a Level 3 programme of historic building recording has been secured by the submission of a written scheme of investigation which has been approved by the planning authority.

Reason - To preserve the record of a listed building due to the works involved in the development.

- 6 Following completion of the historic building recording the applicant will submit to the local planning authority a report (to be submitted within six months of the completion of recording, unless otherwise agreed in advance with the Planning Authority).

Reason - To preserve the record of a listed building due to the works involved in the development.

## 8. Informatives

## Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

## Highways

Prior to commencement of the development, the areas within the curtilage of the site for the purpose of loading / unloading / reception and storage of building materials and manoeuvring of all vehicles, shall be clear from the highway. No vehicles undertaking deliveries shall remain parked within the highway for longer than necessary and kept to a minimum for the duration of the refurbishment.

Informative 2: 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

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