

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	WC	11/03/2020
Planning Development Manager authorisation:	AN	17/3/20
Admin checks / despatch completed	CC	18/3/20
Technician Final Checks/ Scanned / LC Notified / UU Emails:	JAL	18/03/2020

**Application:** 19/01464/OUT                      **Town / Parish:** Harwich Town Council

**Applicant:** Mr D Newman and Mrs LM Williamson

**Address:** Land adjacent Community Centre Long Meadows Dovercourt

**Development**                      Proposal to erect two maisonettes with parking, amenity space and access.

### **1. Town / Parish Council**

Harwich Town Council                      Harwich Town Council has no objection to this application. However, the council wish to raise that the planned development area includes a public footway and wish for this to be retained throughout development as it is frequently used by members of the public.

### **2. Consultation Responses**

ECC Highways Dept                      The information that was submitted in association with the application has been fully considered by the Highway Authority. The proposal is at the end of a Long Meadows and retains adequate room and provision for off street parking and turning, for the proposed dwellings 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. Prior to occupation of the development a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety in accordance with policy DM1.

2. No unbound material shall be used in the surface treatment of the vehicular access or driveway throughout.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1.

3. Prior to the occupation of any of the proposed dwellings, the proposed private drive shall be constructed to a minimum width of 5.5 metres for at least the first 6 metres from the back of Carriageway / Footway / Highway Boundary.

Reason: To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass

clear of the limits of the highway, in the interests of highway safety in accordance with policy DM1.

4. There shall be no discharge of surface water onto the Highway.

Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety to ensure accordance with policy DM1.

5. No development shall take place, including any ground works or demolition, until a Construction Method Statement 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 underbody washing facilities

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and Policy DM1.

6. The public's rights and ease of passage over public footpath no. 27 (Harwich) shall be maintained free and unobstructed at all times.

Reason: To ensure the continued safe passage of the public on the definitive right of way and accessibility in accordance with Policies DM1 and DM11.

7. Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8.

8. The Cycle / Powered Two-wheeler parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to occupation and retained at all times.

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

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: 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 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.

## UU Open Spaces

Response from Public Realm  
Open Space & Play

Application Details

Application No: 19/01464/OUT

Site Address: Land adjacent to Community Centre Long Meadows  
Dovercourt Essex

Description of Development: Proposal to erect two maisonettes with parking, amenity space and access

Current Position

There is currently a deficit of 12.59 hectares of equipped play in Harwich and Dovercourt.

The nearest play areas to the development site are located at Willow Way 0.2 miles from the development.

To ensure the above play area is able to cope with the additional usage from this development it would be necessary to upgrade and increase the play provision available.

Recommendation

Due to the lack of play facilities in Harwich it is felt that a contribution towards play and formal open space is justified and relevant

Any contribution received would be used to provide new equipment at:

Willow Way Play Area

### 3. Planning History

19/01464/OUT	Proposal to erect two maisonettes with parking, amenity space and access.	Current
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### 4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019

NPPG 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

QL12 Planning Obligations

HG1 Housing Provision

HG3 Residential Development Within Defined Settlements

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

COM6 Provision of Recreational Open Space for New Residential Development

COM7 Protection of Existing Recreational Open Space Including Children's Play Areas and Pitch and Non-Pitch Sports Facilities

EN6 Biodiversity

EN11A Protection of International Sites European Sites and RAMSAR Sites

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

SP6 Place Shaping Principles

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

HP3 Green Infrastructure

HP4 Safeguarded Local Greenspace

HP5 Open Space, Sports & Recreation Facilities

LP3 Housing Density and Standards

LP4 Housing Layout

PPL4 Biodiversity and Geodiversity

CP1 Sustainable Transport and Accessibility

CP2 Improving the Transport Network

### **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.

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). 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, whilst housing delivery over the last three years has exceeded requirements, the supply of deliverable housing sites going forward that the Council can demonstrate still 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.

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

### **Site Description**

The application site is land located to the north of the Community Centre, to the eastern section of Long Meadows, within the parish of Dovercourt. The site is 0.044 hectares in area and currently overgrown containing trees and vegetation such as Blackthorn, Hawthorn and Elder. To the immediate south-west is a row of lock up garages, and further on the Community Centre. The remaining areas character is heavily urbanised with residential development, although there is an area of open space to the south. The site falls within the Settlement Development Boundary for Dovercourt within both the Adopted Tendring Local Plan 2007 and the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

### **Proposal**

This application seeks outline planning permission for the erection of two residential dwellings in the form of maisonettes. The application is with all matters reserved, namely access, appearance, landscaping, layout and scale.

## Principle of the development

The site is situated within the defined settlement limits of Dovercourt, as defined within both the Adopted Tendring Local Plan 2007 and the Emerging Publication Draft (2017). It is also an area designated as Safeguarded Local Greenspace (emerging local plan) and connected to a wider area that is subject to protection in adopted local plan. It is therefore considered that whilst the development benefits from being inside the development boundary, the acceptability of the principle of the development is dependent on an assessment of the loss of green space and any other material planning considerations.

## Loss of Open Space

The site is designated as Local Safeguarded Greenspace in the emerging Tendring District Council Publication Draft and is adjacent to protected open space in the adopted Tendring District Council Local Plan 2007.

Policy COM7 of the Adopted Tendring Local Plan 2007 states development proposals will not be permitted that would prejudice the use or involve the loss of recreational open space, including children's play areas, informal open space, parks and public gardens.

Policy HP4 of the emerging Tendring District Council Publication Draft Plan does not permit the loss of Safeguarded Local Greenspace unless:

- a) The site is replaced by provision of space of equal quality and size.
- b) There is no longer a demand
- c) The site is not appropriate for other open space functions
- d) Would not result in loss of space important to visual amenity.

The NPPF (paras. 96 - 101) states that 'Existing Open space, sports and recreational buildings and land, including playing fields, should not be built on unless: a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or c) the development is for alternative sports and recreation provision' (para 97, NPPF).

The NPPF requires that local green spaces are 'in reasonably close proximity to the community it serves' and being 'demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field) tranquillity or richness of its wildlife' (para 100 of the NPPF).

The proposal would result in the loss of protected green space within the emerging local plan which, although currently overgrown, is nevertheless home to trees and vegetation and in close proximity to the community, and connected to a wider linear green corridor area which is of high ecological value. The site itself provides a home for wildlife and has a softening effect on the urban environment. It is therefore considered the loss of this area of designated local greenspace would erode the green space, thus conflicting with HP4 of the emerging local plan and the NPPF. Furthermore the applicant has not demonstrated how its loss would be replaced by equivalent or better provision, thus conflicting with the NPPF.

## Layout, 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 proposal is outline with all matters reserved, however the indicative layout shows the erection of residential dwellings in the form of two maisonettes, both serving two bedrooms. The

surrounding area has a range of different designs, with examples of detached, semi-detached and terraced properties of a single and two storey nature. Against this backdrop there is no set or defined building type that necessarily needs to be adhered to. The principle of this form of development is therefore likely to be considered acceptable within any future reserved matters application. Further, there is not a particularly strong or linear pattern of development to this section of Long Meadows, and while the layout is not being considered within this application it is considered the indicative layout will not be detrimentally harmful to the street scene.

In terms of the design of the dwellings, while the drawings submitted are indicative only they are of a relatively good design, but do appear slightly bland which would need to be addressed by incorporating some features to break up the proposals bulk at reserved matters stage.

Policy HG9 of the Saved Tendring Local Plan 2007 states that private amenity space should either be a minimum of 25 square metres per flat provided communally, or a minimum of 50 square metres private garden area for a ground floor flat or maisonette, and a minimum balcony area of 5 square metres for units above. The indicative layout shows a communal amenity area of 50 square metres and therefore adheres to the above requirements.

### Impact to Neighbouring 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'. These sentiments are carried forward in Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

Whilst the application is in outline form with all matters reserved, Officers consider that sufficient space is available on site to provide a development that, through the submission of a reserved matters application, could achieve an internal layout and separation distances that would not detract from the amenities of nearby properties or the future occupiers of the proposed dwellings.

### Tree Impacts

The application site contains several small trees comprising Hawthorn, Blackthorn and Elder. It is overgrown with brambles and other rank and ruderal vegetation.

### Highway Safety

Essex County Council as the Highway Authority has been consulted on the application and has stated that they have no objections subject to conditions.

The submitted plans show sufficient space to accommodate two off-street parking spaces for each unit with a turning area so the proposal would provide an acceptable level of parking provision (secured by condition) resulting in no material harm to highway safety.

### Biodiversity

Due to the site being heavily overgrown with mature vegetation, there was the potential for protected species to be on the site. Accordingly a Phase 1 Habitat Survey was required to identify potential ecological constraints and opportunities.

A survey was undertaken on 27 November 2019, and concluded that the proposed development was of moderate value in terms of biodiversity and connected to a wider linear green corridor of high ecological importance. The site was considered potentially suitable for a diversity of invertebrates, birds, hedgehogs and foraging bats. However, the very small size of the site meant the risk of significant impact to such species or any protected, priority or rare species individually or as a population was very low. Further surveys or mitigation were deemed unnecessary. However, to minimise any residual risk of impact to protected, priority and rare species and to maintain local ecological value, recommendations including replacement planting, habitat compensation and precautionary measures for bats, reptiles, amphibians, birds, invertebrates, and habitats are detailed later in the report and these measures could be secured by condition on any planning permission.

#### Financial Contribution - Recreational Disturbance

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.

The application scheme proposes two dwellings on a site that lies within the Zone of Influence (Zoi) being approximately 1,130 metres from the Hamford Water Ramsar and SPA. Since the development is for two dwellings, the number of additional recreational visitors would be limited and the likely effects on Hamford Water from the proposed development alone may not be significant. However, new housing development within the Zoi would be likely to increase the number of recreational visitors to Hamford Water and in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured 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.

#### Financial Contribution - Open space and Play Space

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". These sentiments are carried forward within emerging Policy HP5.

In line with the requirements of saved Policy COM6 and emerging Policy HP5 the Council's Open Space Team have been consulted on the application to determine if the proposal would generate the requirement for a financial contribution toward public open or play space.

They have confirmed there is currently a deficit of 12.59 hectares of equipped play in Harwich and Dovercourt. The nearest play areas to the development site are located at Willow Way 0.2 miles from the development. To ensure the above play area is able to cope with the additional usage from this development it would be necessary to upgrade and increase the play provision available. Any contribution received would be used to provide new equipment at Willow Way Play Area. A contribution is therefore justified but this has not been provided, this therefore forms a reason for refusal.

#### Other considerations

Harwich Town Council has confirmed no objection to this application. However, the council wish to raise that the planned development area includes a public footway and wish for this to be retained throughout development as it is frequently used by members of the public.

Two representations have been received objecting to the proposal. One objection states just object with no detail, the other raises concern about congestion and lack of parking in the area, especially at school pick up times. If this goes ahead they would like a driveway put on their council rented property.

#### Conclusion



On the grounds of loss of open space, the proposal is considered to be contrary to planning policy HP4 of the emerging local plan and the NPPF (paras. 96-101) and is therefore recommended for refusal.

## **6. Recommendation**

Refusal - Outline

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

- 1 The application site lies within an area designated as Safeguarded Local Greenspace under emerging Policy PPL4 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017). The site also lies immediately adjacent to existing open space protected under saved Policy COM7 in the adopted Tendring District Council Local Plan (2007).

The National Planning Policy Framework (2019) states that 'Existing Open space, sports and recreational buildings and land, including playing fields, should not be built on unless: a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or c) the development is for alternative sports and recreation provision'. Local green spaces should be 'in reasonably close proximity to the community it serves' and being 'demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field) tranquillity or richness of its wildlife'.

Emerging Policy HP4 does not permit the loss of Safeguarded Local Greenspace unless: a) The site is replaced by provision of space of equal quality and size; b) There is no longer a demand; c) The site is not appropriate for other open space functions; and d) Would not result in loss of space important to visual amenity.

Adopted Policy COM7 states development proposals will not be permitted that would prejudice the use or involve the loss of recreational open space, including children's play areas, informal open space, parks and public gardens.

The proposal would result in the loss of protected green space within the emerging local plan which, although currently overgrown, is nevertheless home to trees and vegetation, in close proximity to the community, and connected to a wider linear green corridor area which is of high ecological value. The site itself provides a home for wildlife and has a softening effect on the urban environment. It is therefore considered the loss of this area of designated local greenspace would erode the quality and quantity of available green space; furthermore the applicant has not demonstrated how its loss would be replaced by equivalent or better provision, thus conflicting with emerging Policy HP4 and the National Planning Policy Framework (2019). The absence of a five year housing land supply would not outweigh this harm to the environmental sustainability of the proposal.

- 2 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.

The application scheme proposes two dwellings on a site that lies within the Zone of Influence (Zoi) being approximately 1,130 metres from the Hamford Water Ramsar and SPA. Since the development is for two dwellings only, the number of additional recreational visitors would be limited and the likely effects on Hamford Water from the proposed development alone may not be significant. However, new housing development within the

Zol would be likely to increase the number of recreational visitors to Hamford Water and in combination with other developments it is likely that the proposal would have significant effects on the designated site. Mitigation measures must therefore be secured 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.

- 3 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". These sentiments are carried forward within emerging Policy HP5.

There is currently a deficit of 12.59 hectares of equipped play in Harwich and Dovercourt. The nearest play area to the development site is located at Willow Way 0.2 miles from the development. To ensure the above play area is able to cope with the additional usage from this development it would be necessary to upgrade and increase the play provision available. Any contribution received would be used to provide new equipment at Willow Way Play Area. A contribution is therefore justified but this has not been provided the proposal is therefore contrary to adopted Policy COM6 and emerging Policy HP5.

## 8. Informatives

- 1) Application Refused Following Discussion - Where there is no Way Forward

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. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

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