



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

NPPF National Planning Policy Framework February 2019

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

COM6 Provision of Recreational Open Space for New Residential Development

EN6 Biodiversity

EN6a Protected Species

EN11A Protection of International Sites European Sites and RAMSAR Sites

HG1 Housing Provision

HG3 Residential Development Within Defined Settlements

HG9 Private Amenity Space

TR7 Vehicle Parking at New Development

EN17 Conservation Areas

EN22 Extensions or Alterations to a Listed Building

QL6 Urban Regeneration Areas

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

SP1 Presumption in Favour of Sustainable Development

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

PP14 Priority Areas for Regeneration

HP5 Open Space, Sports & Recreation Facilities

PPL4 Biodiversity and Geodiversity

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 Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF.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.

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

Orwell Terrace is a row of thirteen Grade II listed Victorian terraced residences which have mostly been converted into apartments. Built between 1851 and the late 1850's of brick with Roman cement render and Welsh slate mansard main roof range. Number 4 consists of three main storeys with an attic and basement. No. 4 Orwell Terrace is currently divided into self-contained apartments on the ground, first, second & third floors with the basement currently empty & redundant.

### Description of Proposal

The proposal is to convert the existing basement into a new two bedroom apartment. The redundant basement is accessed via a timber staircase from the shared Hall. The works proposed comprise the following:-

- The main rear wall is shown partly removed and the internal window is shown removed to allow the existing rear window opening in Bedroom 1 to be used.
- The existing internal window within the new Bedroom 1 will need to be removed to provide natural ventilation and daylight.
- The new partitions and one blocked up doorless opening (Bathroom/Kitchen/Dining) will be constructed of timber studwork so that they could be removed at a later date to reveal the historic layout of the basement.
- The existing brickwork external and party walls are to be lined with plasterboard on a lightweight metal framing system so that they could be removed at a later date to reveal the historic layout of the basement.
- The existing timber joist ceiling will be insulated between the joists to provide sound insulation and finished with a plasterboard finish to provide fire resistance.
- The ground floor entrance to the basement will be altered to provide safe access.
- The existing door at the top of the staircase will be removed and a new door installed within the existing opening into the shared Hall.
- The existing glazed Lobby entrance screen will be retained with the glass replaced with new obscure fire rated glass

### Assessment

The main planning considerations are:

- Principle of Development;
- Layout, Scale and Appearance;
- Neighbouring Amenities;
- Highway Considerations;
- Listed Building
- Conservation Area
- Financial Contributions - RAMS;
- Financial Contributions - COM6;
- Representations; and,
- Other Considerations.

#### 1. Principle of Development:

The site is located within the Development Boundary therefore there is no principle objection to the proposal, subject to the detailed considerations discussed below.

#### 2. Layout, Scale and Appearance:

The Government attach great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people. One of the core planning principles of The National

Planning Policy Framework (NPPF) as stated at paragraph 130 is to always seek to secure high quality design.

Saved Policies QL9, QL10 and QL11 aim to ensure that all new development makes a positive contribution to the quality of the local environment, relates well to its site and surroundings particularly in relation to its form and design and does not have a materially damaging impact on the amenities of occupiers of nearby properties. Emerging Policy SP1 reflects these considerations.

There are no external changes proposed.

### 3. Amenities of Existing & Future Occupiers:

The NPPF, at paragraph 17 states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In addition, 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).

It is considered that the provision of one further flat in a block of existing flats will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

Different dwelling sizes and types provide accommodation for individuals and families with a wide range of expectations and need for private amenity space. "Private amenity space" comprises a private outdoor sitting area not overlooked by adjacent or opposite living rooms or outdoor sitting areas. It will therefore not necessarily always amount to the entire rear garden. Apart from its private recreation function, private amenity space is also important in achieving well laid out development. For flats; a minimum of 25 square metres per flat should be provided communally – the garden measures approximately 29sqm.

Overall the proposal is considered to secure a good standard of amenity for future occupants of the proposed dwelling.

### 4. Highways

Paragraph 108 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. Saved Policy QL10 of the adopted Tendring District Local Plan 2007 states that planning permission will only be granted, if amongst other things, access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate. These objectives are supported by emerging Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

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.

This is an existing dwelling with no off-street parking the introduction of one additional flat is not going to have an extensive impact on the highway network. The site is within a short walk, with good footway links, of the town centre and with easy links to bus stops and two local railway station. The Highway Authority does not object to the proposals as submitted.

### 5. Listed Building

Development affecting the setting of a Listed Building can have as dramatic, and if not properly controlled, as severe an impact as unacceptable alterations to the building itself. The setting of a Listed Building is a material planning consideration when considering planning applications.

Paragraph 192 of the NPPF requires the Local Planning Authority, when determining applications for development, to take account of the desirability of sustaining and enhancing the significance of heritage assets, the positive contribution that conservation of heritage assets can make to sustainable communities and the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 196 of the NPPF requires 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, where appropriate, securing its optimum viable use.

When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

The Listing is described as:-

TM2531 ORWELL ROAD, Dovercourt 609-1/7/198 (North East side) 20/06/72 Nos.1-13 (Consecutive) and The Convent

Formerly known as: Banksea House Dovercourt. Terrace of marine residences now mostly flats with attached railings. 1851 to late 1850s. Brick with Roman cement render and Welsh slate Mansard roof over main range, flat roofs over end blocks. PLAN: main range (Nos 1-12) of 3 storeys with attics and basements and NW and SE blocks of 4 storeys with basements. EXTERIOR: the main range consists of 12 houses in handed pairs. The centre of each pair breaks forward slightly forming a regular series of recesses and projections. Each projecting part has 2 segmental-roofed dormers now with mixture of windows, the originals being double-hung sashes with margin glazing and single vertical glazing bar, the upper sash curved. Each party wall is taken above the mansard with long party wall stacks. Plain parapet now pierced with mixture of semicircular and rectangular cut-outs to dormers. Prominent cornice on brackets and pulvinated frieze. Second floor has 2 narrow unsubdivided double-hung sash windows with plaster moulded surrounds. First floor has 2 similar deeper windows with semicircular-headed moulded surround and set in slight recess. Ground floor, as elsewhere in complete complex, has Doric pilasters, entablature and cornice forming base. This treatment is carried round paired, projecting flat-roofed porches each with a semicircular arch-headed window in its flanks. Iron bootscraper beside each front door. Front doors of Nos 1, 2 & 5-9 have 2 vertical panels, Nos 3 & 4 have 6 raised-and-fielded panels. Others are C20. Elevation of recessed part has 2 similar dormers. Second floor has 2 square double-hung sash windows with margin glazing, central vertical glazing bars and moulded plaster frames. First floor has 2 aedicule pedimented windows with eared, upward-tapering architraves. These have margin glazing and central horizontal glazing bar to each sash. These reach to floor level and each has a projecting balcony on brackets with X-pattern iron railings between rectangular corner piers (formerly with ball finials). Ground floor has tripartite arrangement of central and 2 narrow double-hung sash windows with margin glazing set between pilasters. Similar arrangement to basement but with small panes. Wing walls project between each unit within recessions with pier and wrought-iron railings linking with porches and enclosing basement area. These have adorned 'halberds' as main supports with scroll backstays and minor bars have pronounced spearheads. Stone-paved terrace with granite curbing, fronts Nos 1-12 with remnants of iron railings at northern end. Each unit has stone step from road level and iron coal-shute cover to cellar beneath. The 2 larger end units are taken up to 4 storeys with flat-leaded roofs behind parapets. The pilaster base treatment is carried through and each block has banded giant pilaster and quoin treatment to corners. The south-west facade of The Convent has similar cornice carried through below 4th floor and this is broken and arched over a window of 3rd floor where facade breaks forward slightly. Third floor has 2 square double-hung sash windows with 2 vertical glazing bars and one narrow double-hung sash, all with plaster frames. The second floor has one narrow and 2 wide double-hung sashes with pilasters and straight entablature and floor level sills on consoles enclosing apron panels. First floor has one narrow double-hung sash and 2 with semicircular-headed pediments. Single projecting porch on ground floor. The seaward elevation of The Convent employs similar motifs but with more variety and windows of 2nd and 3rd floors are

linked. One half of this facade projects with banded pilasters/quoins and with projecting pilastered canted bay with pilasters and balustrade. The SW elevation of No.13 employs similar motifs with the centre of 3 window range breaking forward slightly and with projecting similar porch and separate terrace/steps. The NE elevation, overlooking Cliff Park is treated as an unbroken range but with The Convent and No.13 breaking forward and surmounted by pediments. General arrangement of facades is similar to SE but with continuous stone balcony at 1st-floor level, supported on pierced brackets and breaking forward at end pavilions. This has simple iron handrail (By Coopers of Ipswich). First-floor windows have aedicules with pediments as elsewhere. Ground floor treatment has large frame French windows between pilasters. INTERIORS of Nos 7 & 8 (still single houses) remain substantially intact. Narrow but elegant well staircases with winder corners, continuous curved soffits, continuous hardwood handrails and alternating iron balustrade of oval loops with anthemion motif and foliate sticks. Variety of richly applied cornices of neo-classical patterns including guilloche and egg-and-dart, varied from room to room and unit to unit. Plaster ceiling roses, plaster skirtings and contemporary panelled doors and moulded architraves. Cornice to porch of No.8 has standing leaves. Standard pattern marble fireplaces with shelf on consoles, white on first floor and black to main ground floor room. The interior of The Convent is similar but on a larger scale with staircase bridging over a lower flight to reach 3rd floor. This house has semicircular arches within entrance lobby and on first-floor landing with free-standing lintel with rounded decorations. Attics have soft water cisterns to collect water from roofs. Rear gardens are Bagshaw MP, the only completed part of Dovercourt New Town. This monumental project was designed by WH Lindsey, a London architect. Bagshaw was declared bankrupt in 1859 and the necessary land was broken up. The project as built was loosely based on that part of Lindsey's scheme, but the name of a Dovercourt architect, Horace Darken, appears on sale documents.

As initially submitted there was sufficient concern that the application, by not including a Heritage Statement failed to adequately demonstrate an understanding of the designated heritage asset as expected by paragraph 189 of the NPPF. Further, the changes that would have resulted from the proposal's attempt to fit two bedrooms into the eastern end of the property would result in a substantial loss of the historic floorplan, the loss of at least one if not two historic windows, and the loss of a large area of wall. These losses and potential harm, combined with the blocking up of interior openings and one of the casements to the casement windows at the north side of the basement is missing and boarded up, contribute to the loss of the historic floorplan and harm being caused to the significance of the designated heritage asset as a significant component of its architectural and historic significance is derived from an ability to read the historic layout of the basement.

Following extensive negotiations and discussing, a Heritage Statement was submitted that provided additional information along with photographs of the existing interior and exterior. Amended plans were submitted on 13<sup>th</sup> May that showed changes to the layout including retaining the existing opening in the new bathroom area as well as retaining the existing glazed lobby entrance screen. In addition the rear wall was shown as mostly retained with only a small area removed to provide natural ventilation and daylight to bedroom 1. The existing internal window to this section of wall is retained. The proposed internal layout of the basement uses all the existing walls and openings with new removable partitioning used only where necessary. As the historic layout of the basement is now not altering there is no objection to the development.

## 6. Conservation Area

Heritage assets range from sites and buildings of local historic value to those of the highest significance. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations. The character of an area is made up not only by individual buildings but also their relationship to each other and the sense of place that they create. The setting of a building is therefore a material consideration when assessing the suitability of development proposals in Conservation Areas.

Paragraph 192 of the NPPF requires the Local Planning Authority, when determining applications for development, to take account of the desirability of sustaining and enhancing the significance of heritage assets, the positive contribution that conservation of heritage assets can make to

sustainable communities and the desirability of new development making a positive contribution to local character and distinctiveness.

When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

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.

Dovercourt Conservation Area covers those parts of the town centre most closely associated with its early development as a seaside resort. These include Orwell Terrace as erected by John Bagshaw, and the adjacent Cliff Park Gardens created from his former private garden after his bankruptcy, and the High Street and the station approaches with their interesting blend of 19th and early 20th century architecture. High Street forms the core of the Area, shoppers and traffic contributing to its character. Cliff Park Gardens leads on to Beacon Hill, where an important coastal defence site is now a Scheduled Ancient Monument and a wildlife habitat.

By the time of the First Edition 6" Ordnance Survey Sheet of 1874, Dovercourt has a Marine Parade, a considerable amount of development either side of its High Street, a Station and Hotel, and a new straight road connecting it with the town centre of Harwich. Much of the building was created by Mr John Bagshaw, MP for Harwich, whose grandiose plans for Dovercourt New Town, stimulated by the coming of the railway, included the laying out of promenade walks, the development of Orwell Terrace and Gardens and the construction for himself of a palatial residence called Cliff House.

The park stands in front of Orwell Terrace which would overlook the park more strongly if it were not for mature trees and a large bank - possibly of building spoil - which is the setting for more mature trees at the seaward end. The Orwell Terrace frontage to the park is now a buttressed brick wall which sits on top of an older brick wall and screens a rather rough grassy lane: only vestiges of the original garden frontages of Orwell Terrace remain. The porch and the basement remains of the property at the seaward end of the terrace, while the blank gable of the next house has been rendered with some rough channelling. The site of the end property is surrounded by rough boarding and is a significant visual problem in a prominent location like this. The frontages to Orwell Terrace itself are immensely impressive, with massive and distinctive cast ironwork complementing the stucco elevations.

There are no changes to the external appearance proposed, as such the proposal will preserve the character of the conservation area.

## 7. Recreational Disturbance Avoidance and Mitigation Strategy (RAMS)

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 contribution is secured by unilateral undertaking.

The application scheme proposes a new dwelling on a site that lies within the Zone of Influence (Zoi) being approximately 351metres from Stour and Orwell Estuaries Special Protection Area. Since the development is for 1 dwelling only, the number of additional recreational visitors would be limited and the likely effects on Stour and Orwell Estuaries 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 Stour and Orwell Estuaries 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 unilateral undertaking has been prepared to secure this legal obligation. This will ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with 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.

## 8. Public Open Space

Paragraph 54 of the National Planning Policy Framework (2019) states Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Paragraph 56 of the NPPF states planning obligations must only be sought where they are necessary to make the development acceptable in planning terms, directly relate to the development and fairly and reasonably relate in scale and kind to the development.

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. The outcome of the consultation is that no contribution is being requested from Open Spaces on this occasion.

## 9. Representations

No representations have been received.

### Conclusion

For the reasons set out above, the proposal is considered to represent a sustainable form of development in a location supported by national and local plan policy that will not result in any material environmental or residential harm that warrants refusal of planning permission.

## 6. Recommendation

Approval - Full

## 7. Conditions / Reasons for Approval

- 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: 3441-PA-11-B and 3441-PA-12, received 13th May 2020.

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

## 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.

### Legal Agreement Informative - Recreational Impact Mitigation

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: mitigation against any recreational impact from residential developments in accordance with Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

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?</b>		NO
<b>Are there any third parties to be informed of the decision?</b>		NO