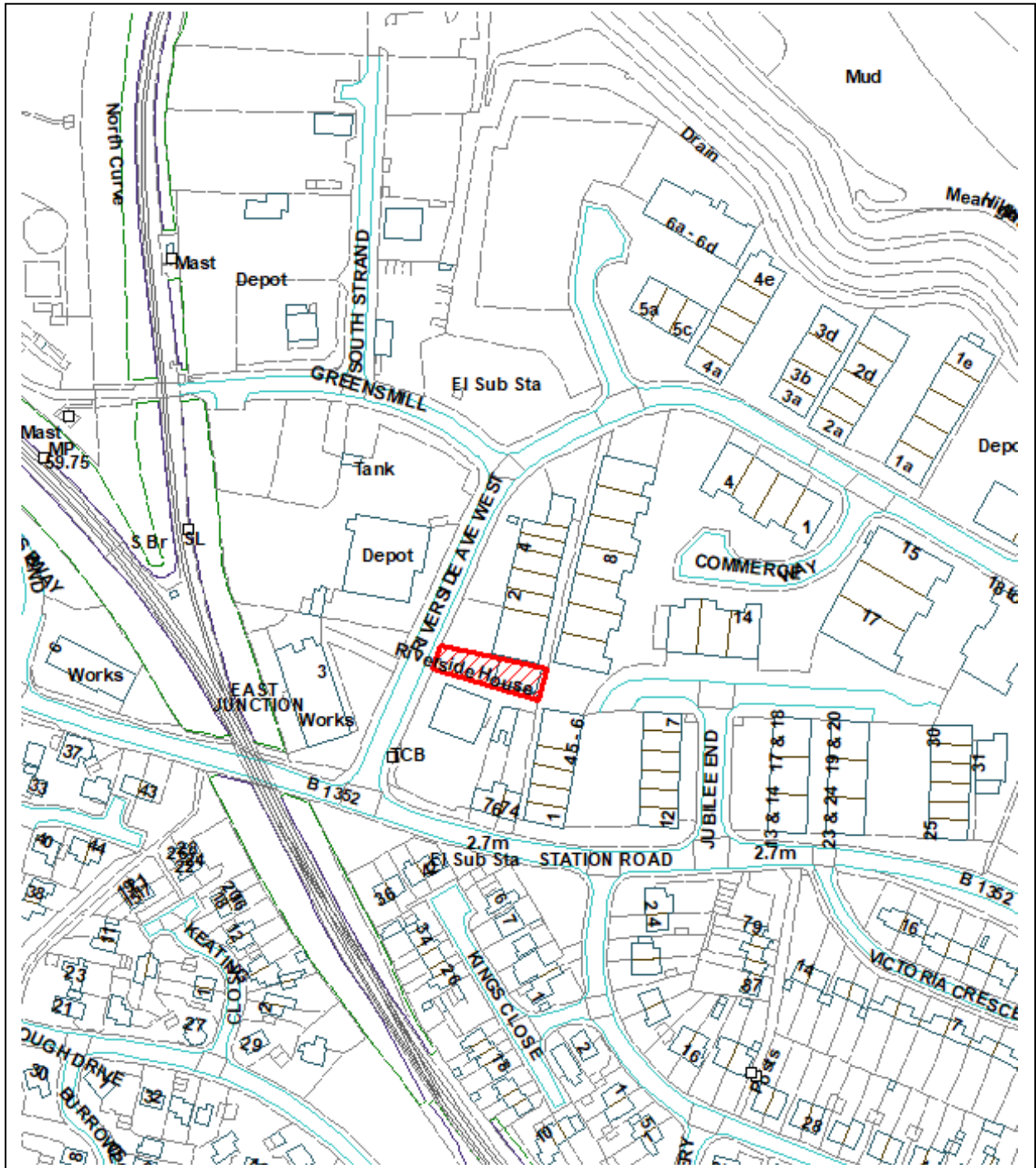


PLANNING COMMITTEE

15th December 2020

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.2 PLANNING APPLICATION – 20/00273/FUL – RIVERSIDE HOUSE RIVERSIDE AVENUE WEST LAWFORD MANNINGTREE CO11 1UN



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Application: 20/00273/FUL

Town / Parish: Lawford Parish Council

Applicant: Mr David Wood

Address: Riverside House Riverside Avenue West Lawford Manningtree Essex CO11 1UN

Development: Sub-division of first floor flat to create two flats with additional flat at second floor. Retrospective.

1. Executive Summary

- 1.1 The application has been referred to the Planning Committee at the request of Councillor Guglielmi by virtue of overdevelopment of the site and a lack of residential amenities.
- 1.2 The application relates to the first and second floors above a commercial food-preparation outlet which sells fish and chips at the front of the building.
- 1.3 The site is centrally located within the Lawford Settlement Development Boundary as defined within both the adopted Tendring District Local Plan 2007 and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017. The principle of residential development in this location is therefore acceptable subject to detailed design and impact considerations. It is also recognised that the site unusually lies on a trading estate which is in this case a 'Principal Business and Industrial Area' within the adopted Local Plan 2007 where employment development is directed and sought to be retained. In this case, it should be noted that the existing ground floor business (commercial food-preparation and Fish & Chip Shop), allowed on appeal in 2007, is to be retained and as such an employment generating use will not be lost from this site. Whilst it is unusual to find residential accommodation in such a location, it is material to note that the use of the first floor for residential use has already been established through the 2016 'Prior Approval' application to change the use from B1 (Business) to Residential flat. Furthermore, the site is considered highly sustainable as it is within walking distance of local shops and services and public transport (including Manningtree Railway Station).
- 1.4 The application seeks retrospective full planning permission for the conversion of the first and second floors to three flats. Adequate access to a parking/turning area exists forward of the shop-front.
- 1.5 The building benefitted from a Prior Approval notification granted in June 2016 for the conversion of the first floor into one flat. The development which was undertaken was the sub-division of the one flat into two flats and a further flat at second floor level. Other alterations undertaken were the re-orientation of the extension to the side, thereby creating a specific entrance to the flats and containing the staircases internally to the original structure and the provision of an external staircase to provide an emergency fire escape/flood evacuation refuge.
- 1.6 The development is in a location supported by Local Plan policies and material considerations and will not result in any material harm to the character of the area, residential amenities or highway safety.
- 1.7 The application is therefore recommended for approval subject to conditions and the completion of the required legal agreement.

Recommendation:

That the Head of Planning be authorised to grant planning permission for the development subject to:-

- the conditions stated in section 8.2
- A legal agreement has been completed to account for contributions towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) and toward improvements at the play area located on Heath Road, Tendring.

2. **Planning Policy**

The following Local and National Planning Policies are relevant to this planning application.

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
EN11A	Protection of International Sites European Sites and RAMSAR Sites
ER2	Principal Business and Industrial Areas
ER3	Protection of Employment Land
HG1	Housing Provision
HG9	Private Amenity Space
LP1	Housing Supply
QL3	Minimising and Managing Flood Risk
TR1A	Development Affecting Highways
TR7	Vehicle Parking at New Development

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

SP1	Presumption in Favour of Sustainable Development
SPL1	Managing Growth
SPL2	Settlement Development Boundaries

SPL3	Sustainable Design
HP5	Open Space, Sports & Recreation Facilities
LP4	Housing Layout
PP6	Employment Sites
PPL1	Development and Flood Risk
PPL4	Biodiversity and Geodiversity

Local Planning Guidance

Essex Design Guide

Essex County Council Car Parking Standards - Design and Good Practice

Status of the Local Plan

- 2.1 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.
- 2.2 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, with further hearing sessions in January 2020. The Inspector issued his findings in respect of the legal compliance and soundness of the Section 1 Plan in May 2020. He confirmed that the plan was legally compliant and that the housing and employment targets for each of the North Essex Authorities, including Tendring, were sound. However, he has recommended that for the plan to proceed to adoption, modifications will be required – including the removal of two of the three Garden Communities 'Garden Communities' proposed along the A120 (to the West of Braintree and on the Colchester/Braintree Border) that were designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033.
- 2.3 The three North Essex Authorities are currently considering the Inspector's advice and the implications of such modifications with a view to agreeing a way forward for the Local Plan. With the Local Plan requiring modifications which, in due course, will be the subject of consultation on their own right, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications – increasing with each stage of the plan-making process.
- 2.4 The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) will progress once modifications to the Section 1 have been consulted upon and agreed by the Inspector. 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:

- 2.5 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.
- 2.6 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 (which applies until such time that the figures in the new Local Plan are adopted).
- 2.7 In addition, the actual need for housing (as set out in the emerging Local Plan) 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, as recently endorsed by the Local Plan Inspector. Therefore, in weighing the benefits of residential development against the harm, the Inspector's endorsement of the lower housing requirement figure is a strong material consideration which tempers the amount of weight that can reasonably be attributed to the benefit of additional new housing to address the perceived shortfall – given that, against the Local Plan housing requirement there is, in fact, a surplus of supply as opposed to a shortfall.

3. **Relevant Planning History**

93/00030/FUL	(Unit 7 Riverside Avenue West, Lawford) Change of use to laboratory for food and water analysis	Approved	19.02.1993
05/01897/FUL	Change of use from laboratory to provide food preparation facilities together with ancillary take away and local buffet	Withdrawn	14.12.2005
06/00470/FUL	Change of use of premises to provide food preparation facility (commercial kitchen) with ancillary takeaway. Re-submission of 05/01897/FUL.	Refused Appeal Allowed	12.07.2006 07.06.2007
06/01809/FUL	First floor extension to form B1 Offices.	Approved	07.02.2007
08/00065/FUL	Variation of Condition 1 of 06/00470/FUL to extend opening hours to 07:00 to 23:00 hours on any day.	Approved	27.03.2008

16/00704/COUNOT	Change of Use from B1 (Business) to residential (1 or 2 bed flat) for the first floor area of the unit.	Prior Approval not Required	22.06.2016
20/00273/FUL	Sub-division of first floor flat to create two flats with additional flat at second floor. Retrospective.	Current	

4. Consultations

Environment Agency
20.04.2020

Thank you for your consultation dated 30 March 2020. We have reviewed the application as submitted and are raising a holding objection on Flood Risk grounds.

Flood Risk

Our maps show the application site lies within tidal Flood Zone 3, the high probability zone. Paragraph 163, footnote 50 of the National Planning Policy Framework (NPPF) requires applicants for planning permission to submit a site-specific flood risk assessment (FRA) when development is proposed in such locations. No FRA has been submitted to support this application and we are therefore raising a holding objection.

An FRA is vital if the local council is to make an informed planning decision. In the absence of an FRA, the flood risk resulting from the proposed development is unknown. The absence of an FRA is therefore sufficient reason in itself for a refusal of planning permission.

Environment Agency
04.11.2020

Thank you for your re-consultation, we have reviewed the additional documents and we are now satisfied that the holding objection to this application can be removed for this planning application because the site is currently defended and the SMP policy for this area has an aspiration for hold the line. If the SMP policy is not taken forward the development would be unsafe in the future.

ECC Highways Dept

The information that was submitted in association with the application has been fully considered by the Highway Authority. The building is set back from the public highway and will be utilising the existing vehicular access and parking spaces located at the front; with four spaces being allocated to the flats. The site is located near to existing bus facilities at Queensway on Station Road therefore:

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

UU Open Spaces
14.05.2020

No contributions is being requested from open spaces of this occasion.

5. Representations

- 5.1 One contribution was received in response to the site notice displayed on 2nd April 2020 and consultation process.
- 5.2 Councillor Guglielmi commented that, if the unpermitted development remains in-situ it will create a material planning consideration for any future application on this commercial estate; there over 100 units and if every one of them comes forward with a residential application we shall have well in excess of 200 new residential units, again with no residential amenity space.
- 5.3 It is acknowledged that the two of the three flats have been created without either the express grant of planning permission or a prior approval application. The only reason why the application for full planning permission is being recommended for approval, contrary to Policy HG9 is the granting of the prior approval application. There isn't an Article 4 Direction on the industrial estate, as such the Local Planning Authority would have to consider the lawfulness of each subsequent submission for conversion to residential in accordance with the relevant requirements of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

6. Assessment

Site Context

- 6.1 Riverside Avenue West is a mid-1970's commercial estate on the border between Lawford and Manningtree. The majority of the buildings are either single storey or two-storey with further limited space in the loft area.
- 6.2 The application site is situated on the eastern side of the main thoroughfare, close to the junction with Station Road (B132).
- 6.3 The wider area has a well-established residential settlement within walking distance to the south and a variety of shops, small supermarkets and eating establishments approximately 500m to the west, with Manningtree railway station approximately 600m to the east. The area is well developed and highly sustainable.

Planning History

- 6.4 The site's use changed from a laboratory to a part commercial food-preparation/part take-away in 2006. The ground floor of the building still trades as a Fish & Chip shop and no changes are proposed to this use.
- 6.5 In June 2016, under application 16/00704/COUNOT the Prior Approval for the change of use from B1 (Business) to residential (1 or 2 bed flat) for the first floor area of the unit was deemed not to be required.

Proposal

- 6.6 In November 2016 works commenced on the conversion of the first floor to residential. The development which resulted was the subdivision of the single flat at first floor to two separate 2-bedroom flats and a further 1-bedroom flat in the loft space.
- 6.7 In addition to the internal conversion to residential flats, the one-and-a-half storey extension, having a footprint around 9.6sqm to the side (housing the staircase to the upper parts) was demolished. This footprint was replaced with an extension housing a clear entrance to the building and internalising the staircase. A further external staircase has been erected for the purposes of providing a fire-escape route and flood-risk safety platform.

Principle of Development

- 6.8 The site is located within the Lawford/Manningtree Development Boundary and as such there is no in principle objection to the proposal. However, the site does fall within a 'Principal Business and Industrial Area' as defined within the adopted Local Plan, where Policy ER2 seeks to direct employment development and Policy ER3 seeks to retain it for this purpose; similarly emerging Local Plan Policy PP6 (Employment Sites) seeks to safeguard employment uses on existing employment sites and only support non-employment uses where it can be demonstrated that the alternative use will not have an adverse impact on the primary employment uses or result in land use conflict. In this case, the employment use on the site (a commercial food preparation and Fish and Chip Shop allowed on appeal in 2007) is to be retained at ground floor level for such purpose and as such an employment generating business will not be lost from the site. There is not, in this instance, considered to be a level of conflict between the ground floor use and residential uses above that would make it unacceptable.

Appearance

- 6.9 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.
- 6.10 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.
- 6.11 In regards to the external changes to the property, these comprise the replacement small front/side extension, the new staircase and three rooflights to each of the north and south elevations.
- 6.12 In regards to the front/side extension; this is approximately 0.8m wider than the built form it replaced (2.2m versus 1.4m) and clearly demarks the entrance to the flats; this results in a less-cluttered façade.
- 6.13 In regards to the new external staircase; this is of 'open' form and only the upper safety handrail would be visible in the public domain. On the grounds that the locale has a distinctly commercial nature, the introduction of a staircase is not considered to introduce an alien feature which would harm either the host building or wider streetscene in general.
- 6.14 In terms of the rooflights, the right hand roofslope is entirely masked from public view by the bulk of the adjacent building, glimpses of the roofslope are possible from the north-east approach from within the estate but they are of a scale and appearance which would not cause harm to either the host building or wider streetscene in general.

Highway Safety/Parking

- 6.15 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.

- 6.16 The Council's current Parking Standards require that for dwellings with 3 bedrooms a minimum of 2 parking spaces be provided per unit. The preferred bay size for cars is 5.5 metres by 2.9 metres and the minimum bay size is 5 metres by 2.5 metres. In this case, the flats will comprise 2 x 2 bed and 1 x 1 bed, so below the 3 bed requirement for 2 spaces. The site is in a main urban area with good access to public transport, so accordingly 1 space per dwelling can be applied to this proposal.
- 6.17 The information that was submitted in association with the application has been fully considered by the Highway Authority. The building is set back from the public highway and will be utilising the existing vehicular access and parking spaces located at the front; with four spaces being allocated to the flats. The site is located near to existing bus facilities at Queensway on Station Road and the impact of the proposal is acceptable to the Highway Authority.

Flood Risk

- 6.18 The site lies within Flood Zone 3, this land is assessed as having a 1 in 100 or greater annual probability of river flooding (>1 %), or a 1 in 200 or greater annual probability of flooding from the sea (>0.5%) in any year. These flood zones refer to the probability of river and sea flooding, ignoring the presence of defences. Paragraph 155 of the NPPF states inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.
- 6.19 The Environment Agency (EA) acknowledge that the site lies within tidal Flood Zone 3, defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' as having a high probability of flooding. The proposal is for the conversion of the first and second floor to three flats, which are classified as a 'more vulnerable' development, as defined in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance (PPG). Therefore, to comply with national policy the application is required to pass the Sequential and Exception Tests and be supported by a site specific Flood Risk Assessment.
- 6.20 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states "If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."
- 6.21 The planning history for the site indicates that a Prior Approval for the conversion of the first floor to a residential flat was granted under planning reference 16/00704/COUNOT. One of the attributes of the Prior Approval is that development under Class O is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to (amongst others) flooding risks on the site.
- 6.22 Neither compliance nor non-compliance with adopted planning policies forms any part of the assessment of such submissions; if the site is located within a flood zone, the only requirement is that a site-specific flood risk is submitted. This was done in the case of the submission and the Environment Agency confirmed their satisfaction with the document.
- 6.23 There are no limitations contained within Class O which would have prevented the conversion to three flats; the only matter which prevents the current scheme from being a viable submission under Class O is that the submission is made 'prior to commencement'. The development is retrospective and a Class O prior approval submission for the conversion would not therefore be valid.
- 6.24 It is therefore considered that, as the outcome of a prior approval would have likely been that the prior approval would not have been required for three flats in addition to the Environment

Agency having no objection to the scheme; these material considerations have sufficient enough weight to make a recommendation which is not in accordance with the development plan.

Amenities of Existing & Future Occupiers

- 6.25 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).
- 6.26 The site in an entirely commercial area and does not introduce any additional windows or built form which would have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 6.27 As detailed above, Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states *"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."*
- 6.28 In reference again to 16/00704/COUNOT, neither compliance nor non-compliance with adopted planning policies forms any part of the assessment of such submissions.
- 6.29 The proposed flats have no amenity space; again as the outcome of a prior approval would have likely been that the prior approval would not have been required for three flats, the determination of which does not require the provision of amenity space; this material consideration has sufficient enough weight to make a recommendation which is not in accordance with the development plan.

Recreational Disturbance Avoidance and Mitigation Strategy (RAMS)

- 6.30 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.
- 6.31 The application scheme proposes three new dwellings on a site that lies within the Zone of Influence (Zoi) being approximately 292m from Stour and Orwell Estuaries SPA and Ramsar. Since the development is for 3 dwellings 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.
- 6.32 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.

7. Conclusion

- 7.1 The site lies within the settlement boundaries of Lawford and as such the principle of residential development in this locality is supported by Local Plan policy and material considerations. Conversely, it is also recognised that the site unusually lies on a trading estate which is recognised as a 'Principal Business and Industrial Area' within the adopted Local Plan 2007 where employment development is directed and sought to be retained. In this case, it should be recognised that the existing ground floor business (commercial food-preparation and Fish & Chip Shop), allowed on appeal in 2007, is to be retained and as such an employment generating use will not be lost from this site. Whilst it is unusual to find residential accommodation in such a location, it is material to note that the use of the first floor for residential use has already been established through the 2016 'Prior Approval' application to change the use from B1 (Business) to Residential flat. Furthermore, the site is considered highly sustainable as it is within walking distances of local shops and services and public transport (including Manningtree Railway Station).
- 7.2 The proposal does not amount to any visual harm, harm to residential amenities nor harm to highway safety that would warrant refusal of planning permission. The application is therefore recommended for approval.

8. **Recommendation**

- 8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives and the prior completion of a section106 legal agreement with the agreed Heads of Terms, as set out in the table below:

CATEGORY	TERMS
Financial contribution towards RAMS.	£125.58 per dwelling

8.2 Conditions and Reasons

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.

2. The development hereby permitted shall be carried out in accordance with the following approved plans: RMJ/DW/03A, RMJ/DW/04A and RMJ/DW/05A; received 1st December 2020.

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

8.3 Informatives

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.

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Highways – reduced parking standards

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.

Highways – works affecting the highway

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

9. Additional Considerations

Public Sector Equality Duty (PSED)

- 9.1 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
- A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
 - B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
 - C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.
- 9.3 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.

- 9.4 It is considered that the recommendation to grant permission in this case would not have a disproportionately adverse impact on a protected characteristic.

Human Rights

- 9.5 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 9.6 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).
- 9.7 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Finance Implications

- 9.8 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.
- 9.9 The New Homes Bonus (NHB) is one local finance consideration capable of being a material consideration to which the weight given shall be determined by the decision maker. The NHB is a payment to local authorities to match the Council Tax of net new dwellings built, paid by Central Government over six consecutive years. In this instance, it is not considered to have any significant weight attached to it that would outweigh the other considerations.

10. Background Papers

- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report) also form background papers. All such information is available to view on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.