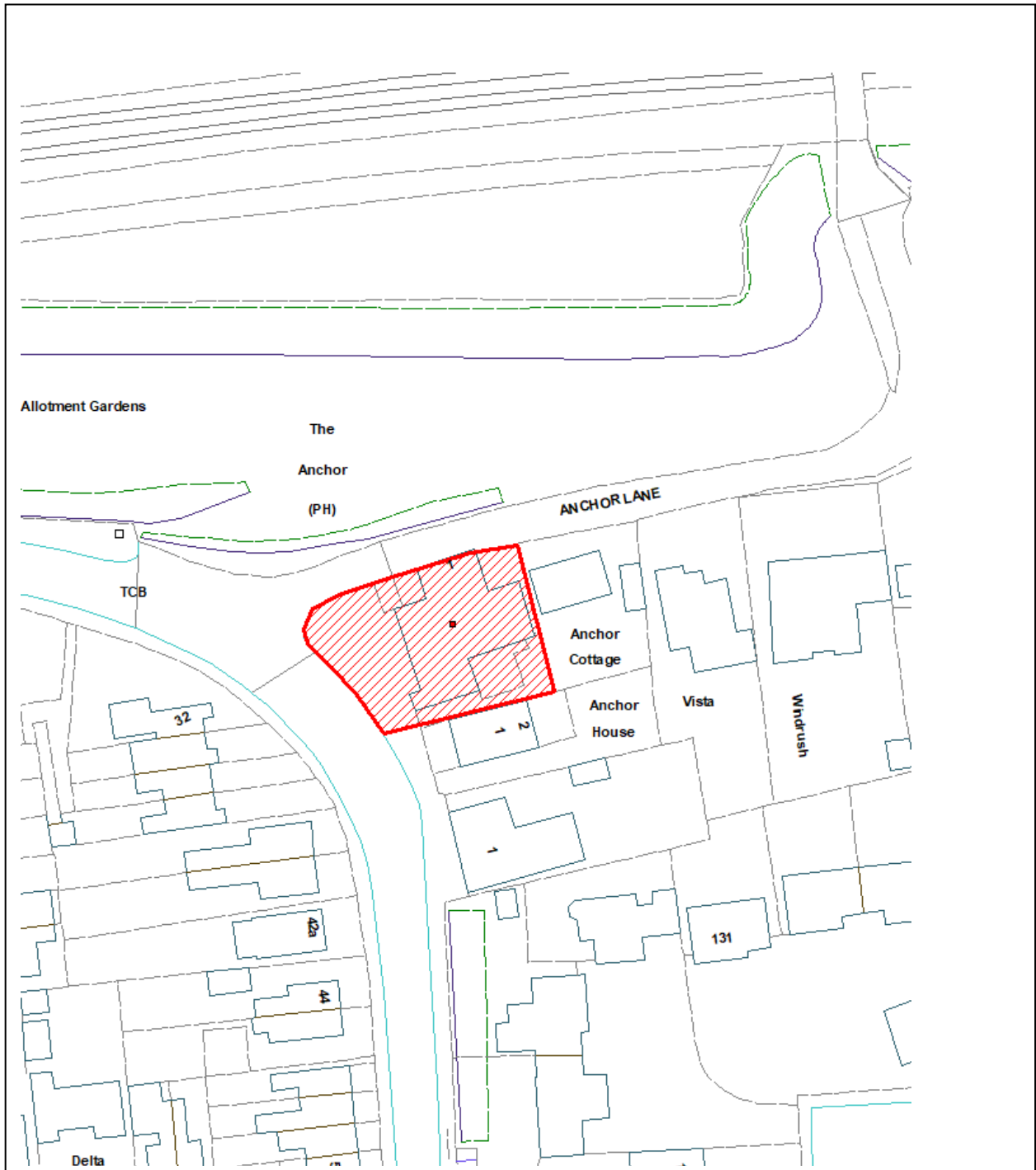


PLANNING COMMITTEE

19TH JANUARY 2021

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

**A.1 PLANNING APPLICATION – 20/00662/FUL – ANCHOR INN HARWICH ROAD
MISTLEY MANNINGTREE**



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Application: 20/00662/FUL

Town / Parish: Mistley Parish Council

Applicant: Ankerinn Ltd

Address: Anchor Inn Harwich Road Mistley Manningtree CO11 1ND

Development: Change of use of premises from a public house and residential unit to 2no. Residential units together with the associated demolition and removal of single storey attached outbuildings.

1. **Executive Summary**

- 1.1 The application is referred to the Planning Committee by Councillor Coley, due to the negative impact upon the neighbours, and as the Anchor Inn is the last remaining Public House in the centre of the Parish and serves the immediate surrounding community. The Anchor Inn is integral to the Parish and has a historical and cultural benefit. The Councillor has great sympathy for the situation the licensee finds himself in during the depth of the Coronavirus Pandemic. Operating a public house in these circumstances is extremely challenging. However, everything possible must be done to retain this facility within the community. Before the Anchor is lost to the community and replaced with two dwellings there must be clear evidence that this business is no longer viable. Before this application is approved the owner must provide evidence that it has been offered for sale as a going-concern and that a sale as a Public House has been impossible.
- 1.2 This application seeks planning permission for the change of use of the premises from a public house and residential unit to two residential units with the associated demolition and removal of the single storey attached outbuildings.
- 1.3 The application site is located within the defined Settlement Development Boundary for Mistley, as defined by the Saved Tendring District Local Plan 2007 and the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).
- 1.4 It is considered that sufficient marketing information has been provided by the applicant to demonstrate that a sustained marketing campaign has been undertaken since July 2018. Supporting information demonstrates that the Anchor Inn has experienced an extended period of declining trade and has been vacant for a number of months. It is for this reason that the applicant has explored other uses for the property. The applicant has demonstrated that the proposed development complies with Policy COM3 of the Tendring District Local Plan, as the applicant has demonstrated that there is an alternative facility within walking distance and that the Anchor Inn is no longer viable and that reasonable attempts have been made to sell or let the premises for continued operation in its existing or last use without success.

- 1.5 The principle of residential development in this location is acceptable and subject to conditions there is not considered to be any material visual harm, harm to neighbouring amenities, harm to highway safety and parking provision or harm to the Conservation Area. A completed unilateral undertaking secures a financial contribution towards RAMs.
- 1.6 Mistley Parish Council recommend this application for refusal and 14 letters of objection have been received.

Recommendation: Approval

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

- a) Subject to the conditions stated in section 8.2

2. Planning Policy

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

National Policy:

National Planning Policy Framework
National Planning Policy Guidance

Local Policy:

Tendring District Local Plan 2007

QL9	Design of New Development
QL10	Designing New Development to Meet Functional Needs
QL11	Environmental Impacts and Compatibility of Uses
HG1	Housing Provision
HG6	Dwelling Size and Type
HG9	Private Amenity Space
HG14	Side Isolation
COM3	Protection of Existing Local Services and Facilities
COM6	Provision of Recreational Open Space for New Residential Development

EN6A	Protected Species
EN11A	Protection of International Sites European Sites and RAMSAR Sites
EN17	Conservation Areas
EN29	Archaeology
TR1A	Development Affecting Highways
TR4	Safeguarding and Improving Public Rights of Way
TR7	Vehicle Parking at New Development

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

CP1	Sustainable Transport and Accessibility
HP2	Community Facilities
HP5	Open Space, Sports & Recreation Facilities
LP1	Housing Supply
LP2	Housing Choice
LP3	Housing Density and Standards
LP4	Housing Layout
PPL4	Biodiversity and Geodiversity
PPL7	Archaeology
PPL8	Conservation Area
SP1	Presumption in Favour of Sustainable Development
SPL1	Managing Growth
SPL3	Sustainable Design

Status of the Local Plan

2.2 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.

- 2.3 Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) has been examined by an Independent Planning Inspector who issued his final report and recommended 'main modifications' on 10th December 2020. The Inspector's report confirms that, subject to making his recommended main modifications (including the removal from the plan of two of the three 'Garden Communities' proposed along the A120 i.e. those to the West of Braintree and on the Colchester/Braintree Border), the plan is legally compliant and sound and can proceed to adoption. Notably, the housing and employment targets in the plan have been confirmed as sound, including the housing requirement of 550 dwellings per annum in Tendring.
- 2.4 The Council is now making arrangements to formally adopt Section 1 of the Local Plan in its modified state and this is expected to be confirmed at the meeting of Full Council on 26th January 2021 – at which point will become part of the development plan and will carry full weight in the determination of planning applications – superseding, in part, some of the more strategic policies in the 2007 adopted plan. In the interim, the modified policies in the Section 1 Local Plan, including the confirmed housing requirement, can be given significant weight in decision making owing to their advancement through the final stages of the plan-making process.
- 2.5 The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) is now expected to proceed in 2021 and two Inspectors have already been appointed by the Secretary of State to undertake the examination, with the Council preparing and updating its documents ready for the examination. In time, the Section 2 Local Plan (once examined and adopted in its own right) will join the Section 1 Plan as part of the development plan, superseding in full the 2007 adopted plan.
- 2.6 Where emerging policies are particularly relevant to a planning application and can be given 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.
- 2.7 In relation to housing supply:
- 2.8 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.
- 2.9 At the time of this decision, the supply of deliverable housing sites that the Council can demonstrate technically falls below 5 years – but this is only because, until the

modified Section 1 Local Plan is formally adopted at the end of January 2021, housing supply has to be calculated against a housing need figure derived through the government's 'standard methodology' – a figure that is significantly higher than the 'objectively assessed housing need' of 550 dwellings per annum in the Section 1 Plan and confirmed by the Inspector in his final report to be sound. Because of this technicality, the NPPF still requires 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.

2.10 However, because the housing land supply shortfall is relatively modest when applying the standard method prescribed by the NPPF and significant weight can now be given, in the interim, to the sound policies in the modified Section 1 Plan (including the housing requirement of 550 dwellings per annum), the reality is that there is no housing shortfall and, on adoption of the Section 1 Plan, the Council will be able to report a significant surplus of housing land supply over the 5 year requirement, in the order of 6.5 years. Therefore, in weighing the benefits of residential development against the harm, the Inspector's confirmation of 550 dwellings per annum as the actual objectively assessed housing need for Tendring is a significant material consideration which substantially tempers the amount of weight that can reasonably be attributed to the benefit of additional new housing – particularly in the consideration of proposals that fall outside of the settlement development boundaries in either the adopted or the emerging Section 2 Local Plan.

3. **Relevant Planning History**

95/01303/CON	Demolition of single storey sections of existing building	Approved	13.12.1995
95/01304/FUL	Alterations and improvements	Approved	13.12.1995
05/00477/FUL	First floor side extension to extend living accommodation.	Approved	27.05.2005
15/01572/FUL	Creation of a one bedroom dwelling within part of the public house that was previously used for bed and breakfast purposes.	Refused	10.12.2015
20/00662/FUL	Change of use of premises from a public house and residential unit to 2no. residential units together with the associated demolition and removal of single storey attached outbuildings.	Current	
20/01190/ACV	Nominated and recorded on the List of Assets of Community Value held and maintained by		17.10.2020

Tendring District Council.

4. Consultations

Essex County Council Heritage
25.08.2020

The building is a non-designated heritage asset and is located in Manningtree and Mistley Conservation Area.

ECC Heritage have no objections to this application.

Essex County Council Archaeology
28.07.2020

The above planning application has been identified on the weekly list as having the potential to harm a non-designated heritage asset.

The Essex Historic Environment (HER) Record shows that the building proposed for conversion is a historic public house which is depicted on the 1st edition OS map and so must predate c.1870. It is located within the historic settlement of Mistley and within the Conservation Area. The Anchor Inn is a two storey building comprising two abutting ranges. The older range fronts Harwich Road and has sash windows. The building is clad in white painted timber weatherboarding with slate roofs and a veranda along the northern range. The application fails to provide any information on the survival of any historic features within the building.

Public Houses are facing a high rate of loss through demolition and conversion in recent times and the origin, structure and evolution of the heritage asset should be preserved by record prior to its conversion.

The following recommendations are made in line with the National Planning Policy Framework:

RECOMMENDATION: Historic building record.

1. No demolition or conversion can commence until a historic building record has been secured and undertaken in accordance with a Written Scheme of Investigation, which has been submitted by the applicant, and approved by the planning authority.

2. Following completion of the historic building record, the applicant will submit to the local planning authority a report ready for deposition with the EHER.

Further Recommendations:

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

ECC Highways Dept
30.07.2020

Due to COVID-19 restrictions, no site visit was undertaken in conjunction with this planning application. The information submitted with the application has been thoroughly assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material, google earth photo dated May 2019. It is noted that the entire forecourt of the property is currently in use for parking in association with the present use of the premises and this will

form the main parking area for the two residential units, other than the provision of a small amount of landscaping immediately in front of the existing building.

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

1. The proposed development shall not be occupied until such time as a domestic car parking for a minimum of two vehicles has been provided for each residential unit in accordance with the Parking Standards, details to be agreed with the Local Planning Authority. The agreed car parking shall be retained at all times for such purpose.

Reason: To ensure that on street parking of vehicles in the adjoining streets/roads does not occur and that appropriate parking is provided in accordance with Policy DM8.

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

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

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

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

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

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

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

Informative 1: 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.

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

5. Representations

5.1 Mistley Parish Council have commented on this application and have stated that they recommend refusal. Refusal being on the grounds of there being no evidence to demonstrate that the public house has been marketed and no evidence of the business being un-viable under an improved business case - possibly with a different public house owner. The change of use would be a loss of amenity in the community as this is the only public house in the Village. The Committee asked for District Councillor Coley to "call-in" the application such that it is determined by the LPA's Planning Committee as opposed to an Officer delegated decision.

5.2 14 letters of objection have been received with a summary below:

- Pub unviable due to unwelcoming landlord
- Trade wound down and asking an unrealistic price for potential purchasers
- Pub a focal point of the community in Mistley
- Landlord has a record of winding down pubs to allow for redevelopment
- 150 year old pub could be up to 260 years old
- New local development will ensure the pub is viable
- No local need for two residencies on the site
- No need for any more houses

6. Assessment

Site Context

6.1 This is a long established public house situated on a prominent corner plot at a right angle bend in the road at the junction of Harwich Road with Anchor Lane, which is an unmade road running down the northern boundary of the site and onwards in an easterly direction to serve a number of residential properties.

6.2 The site is within the Manningtree and Mistley Conservation Area and lies in an elevated position. The land drops sharply down to the north and west towards the Stour estuary, with rough ground and allotments separating Anchor Lane and the shoreline to the estuary.

- 6.3 The main part of the building, currently utilised as a public house, is a two storey twin flank gabled design, with a two-storey gable fronted pitch-roofed element incorporating veranda to the front to its northern side. The building is clad in white painted weatherboarding. There are a number of single storey attached structures to the rear which appear to have been added at varying recent times which it is proposed should be demolished.
- 6.4 Part of the ground floor is currently the Public House element of the building whilst part that located alongside Anchor Lane, together with the first floor in its entirety is currently in use for residential purposes.
- 6.5 The public house is currently vacant.

Planning History

- 6.6 Planning permission was refused under planning application reference 15/01572/FUL for the creation of a one bedroom dwelling within part of the public house that was previously used for bed and breakfast purposes. The application was refused as the proposal was contrary to Policy ER3 of the Tendring District Local Plan 2007 as the supporting evidence did not demonstrate that other forms of employment had been explored and a sustained marketing campaign had been undertaken. The second reason for refusal related to the lack of private amenity space provided.

Proposal

- 6.7 This application seeks planning permission for the change of use of premises from a public house and residential unit to 2no. Residential units together with the associated demolition and removal of single storey attached outbuildings.

Principle of Development

- 6.8 The application site falls within the Settlement Development Boundary for Mistley in both the 2007 Adopted Local Plan and the Emerging 2013-2033 Tendring Local Plan Publication Draft.
- 6.9 Paragraph 85 of the National Planning Policy Framework (2019) states planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.
- 6.10 Supporting information demonstrates that the Anchor Inn has experienced an extended period of declining trade and has been vacant for a number of months. It is for this reason that the applicant has explored other uses for the property.
- 6.11 Saved Policy COM3 of the adopted Local Plan seeks to protect community facilities. The policy has three limbs, of which one (either a, b or c) must be met to justify the loss of an existing community facility.
- 6.12 To comply with Policy COM3 applicants must demonstrate their compliance with one limb of the policy (a, b, or c). Here it is notable that the Mistley Thorn (High Street,

Mistley, Essex CO11 1HE) is located approximately 370 metres from the property and therefore the application can demonstrate compliance with COM3a.

- 6.13 The proposal will see the change of use of the Public House (Sui Generis) and Residential (C3) into Residential (C3).
- 6.14 Information has been supplied to demonstrate that a sustained marketing campaign has been undertaken.
- 6.15 The marketing information submitted can be summarised as follows:
- The marketing for the public house commenced in mid July 2018 through to the present day;
 - The property was marketed by Christie & Co (a leading specialist company dealing with the sale of public houses) on a freehold basis for offers in the region of £425,000.
 - Christie & Co has 70,000 users and the sales particulars were emailed to 1650 potential applicants;
 - Christie & Co has confirmed that although 10-15 applicants viewed the sale particulars online per week, which resulted in a number of conversations with potential applicants, it did not generate any offers for the property. All potential applicants were made aware of the potential for alternative business uses that may be suitable subject to any necessary planning permission being obtained; and
 - Correspondence is also submitted from a firm of Chartered Accountants which states that the Public House has incurred losses for the last 8 years despite every effort being made to make the business successful. Indeed, in December 2019 the business was de-registered for VAT due to declining turnover.
- 6.16 It is, therefore considered that the information supplied has demonstrated that the site is no longer viable or suitable for any form of employment use.
- 6.17 Consequently, the applicant has demonstrated that there are alternative facilities within walking distance (COM3a); that the facility is no longer viable; and that reasonable attempts have been made to sell or let the premises for continued operation in its existing or last use without success (COM3c).
- 6.18 As such, the principle of residential development here is acceptable as the scheme has demonstrated that there will be no unnecessary loss of a community facility. The site lies within a sustainable location and the principle of residential development is acceptable subject to the detailed considerations as set out below.

Asset of Community Value

- 6.19 The Localism Act 2011 gave communities a number of rights to help them take greater control over the way their local area develops and the way services are provided. One of these rights is to help communities keep buildings or land which they value in community use if they are disposed of by the owner. This may be a public building such as a community centre or a police station, or it may be a privately owned building such as a shop or a pub. This right is known as the community right to bid and buildings or land which are protected are known as 'assets of community value' (ACV).

- 6.20 The Localism Act requires local authorities to keep a register of these community assets so that if an owner decides to sell a listed property, the community is given the opportunity to bid to buy it and keep its community use. It is not the purpose of such a designation to prevent the redevelopment or change of use of an ACV in perpetuity.
- 6.21 The first element introduces a 6 week interim period, which will apply in all cases; from the point when the owner notifies the Local Authority. This will allow community interest groups to make a written request to be treated as a potential bidder. If none come forward within this prescribed period, the owner is free to sell their asset at the end of the 6 week period. If a community interest group as defined in regulation 12 of the Regulations (referring to the bodies in paragraph (1) (d) to (g) of regulation 5) does make a request during this interim period, then a full 6 month moratorium (again from the point the owner notifies the Local Authority) will operate. During this period, the owner may continue to market and negotiate sales, but may not exchange contracts (or enter into a binding contract to do so later). There is one exception. The owner may sell to a community interest group during the moratorium period. After the moratorium period – either the 6 weeks if there has been no community interest, or the full 6 months – the owner is free to sell to whomever they choose and at whatever price, and no further moratorium will apply for the remainder of a protected period lasting 18 months (running from the same start date when the owner notified the local authority of wishing to sell). The process and lengths of the moratorium periods are contained in section 95 of the Act.
- 6.22 If the nomination is accepted the Council will include the asset on the ACV list, give notice of its inclusion to the nominator, owner, freeholder, leaseholders and lawful occupiers, include the listing on the Local Land Chargers Register and enter a restriction on the Land Register.
- 6.23 An application was made by Mistley Parish Council on 14 August 2020 to nominate the Anchor Inn as an Asset of Community Value. The Council notified the relevant parties of the nomination. The proposal was heard at the Council's Cabinet Meeting on 9 October 2020 and agreed that the proposal met the criteria and it was added to the Council's ACV List. A restriction on the Land Register Title Document for the property has yet to be confirmed.
- 6.24 The inclusion of the site as an ACV is a material planning consideration but not in itself a reason to withhold planning permission for a change of use of the premises. However, as stated above, notwithstanding any planning permission that may be granted, the ACV designation means that before any sale of the premises it must follow the procedures set down in the Localism Act 2011 in terms of the right for the community to 'bid' to buy the premises to retain its community use.

Design, Layout and Appearance

- 6.25 Paragraphs 127 and 170 of the National Planning Policy Framework (2019) states that developments should function well and add to the overall quality of the area, be visually attractive as a result of good architecture, layout and appropriate and effective landscaping, be sympathetic to local character and history, including the surrounding built environment and landscape setting and planning policies and decisions should contribute to and enhance the natural and local environment by, inter alia, recognising

the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services.

- 6.26 Saved Policies QL9, QL10 and QL11 of the adopted Tendring District Local Plan 2007 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. Policy SPL3 of the emerging Tendring District Local Plan Publication Draft 2017 carries forward these sentiments stating that all new development must make a positive contribution to the quality of the local environment and protect or enhance local character.
- 6.27 The proposed development involves the conversion of the public house and residential to the first floor to a one bedroom dwelling and a three bedroom dwelling.
- 6.28 The plans provided demonstrate that there will be some changes to the fenestration to the ground floor rear elevation and the introduction of a door to the side elevation as well as changes to the rear of the building where the external façade will be provided with white painted weatherboarding to match the remainder of the building. The changes are considered acceptable in terms of design and appearance.
- 6.29 Policy HG9 of the Tendring District Local Plan 2007 states that for houses with three or more bedrooms a minimum of 100 square metres of private amenity space is required, for a two bedroom dwelling, a minimum of 75 squares is required and for a one bedroom dwelling, a minimum of 50 square metres is required.
- 6.30 The plans provided demonstrate that there is approximately 50 square metres of private amenity space provided for the one bedroom dwelling and approximately 100 square metres for the three bedroom dwelling. The proposed development therefore complies with Policy HG9 of the Tendring District Local Plan 2007.

Impact to Neighbouring Amenities

- 6.31 The NPPF, in 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 Tendring District Local Plan (2007) 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'.
- 6.32 The only external changes to the rear elevation are to the ground floor rear elevation and the white painted weatherboarding. The rear first floor windows are being retained, it is therefore considered that the proposal will not cause any additional impact upon the neighbouring amenities to the rear.

Highway Safety and Parking Provision

- 6.33 County Highways have noted that the entire forecourt of the property is currently in use for parking in association with the present use of the premises and this will form the main parking area for the two residential units, other than the provision of a small amount of landscaping immediately in front of the existing building. Accordingly, they have no objections subject to conditions relating to car parking area, cycle parking,

residential travel pack and storage of materials. The cycle parking condition will not be imposed as there is sufficient space within the private amenity space to provide cycle parking. The application is for a minor application and therefore a residential travel pack would not be reasonable. The storage of building materials will be imposed as an informative.

- 6.34 Furthermore, the Council's Adopted Parking Standards require that for a dwelling with one bedroom, one parking space is required or for a dwelling with two or more bedrooms that a minimum of two parking spaces are required. Parking spaces should measure 5.5m x 2.9 metres and garages, if being relied on to provide a parking space, should measure 7m x 3m internally.
- 6.35 A parking feasibility plan has been provided to demonstrate that both dwellings will be served by two parking spaces both measuring 5.5 metres by 2.9 metres in line with Essex Parking Standards.

Trees and Landscaping

- 6.36 There are no trees or other significant vegetation on the application site. A soft landscaping condition will be imposed to facilitate a degree of new planting that would soften and enhance the character and appearance of the Conservation Area.

Heritage Impact

- 6.37 Policy EN17 of the Tendring District Local Plan 2007 and Policy PPL8 of the Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document (July 2016) state that development within a Conservation Area must preserve or enhance the special character or appearance of the Conservation Area.
- 6.38 The ECC Historic Environment Team have been consulted on this application have stated that the building is a non-designated heritage asset and is located in Manningtree and Mistley Conservation Area. However, they have no objections to the proposed works from a heritage perspective.

Archaeology

- 6.39 ECC Place Services Archaeology Team have identified this application as having the potential to harm a non-designated heritage asset. The Essex Historic Environment (HER) Record shows that the building proposed for conversion is a historic public house which is depicted on the 1st edition OS map and so must predate c.1870. It is located within the historic settlement of Mistley and within a Conservation Area. The 'Anchor Inn' is a two-storey building comprising two abutting ranges. The older range fronts Harwich Road and has sash windows. The building is clad in white painted timber weatherboarding with slate roofs and a veranda along the northern range. The application fails to provide any information on the survival of any historic features within the building.
- 6.40 Public Houses are facing a high rate of loss through demolition and conversion in recent times and the origin, structure and evolution of the heritage asset should be preserved by record prior to its conversion. Conditions will be imposed to ensure that no demolition or conversion can commence until a historic building record has been

secured and undertaken in accordance with a Written Scheme of Investigation. A condition will also be imposed following completion of the historic building record a report will be submitted to the LPA.

Legal Obligations – Open Space

- 6.41 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"*.
- 6.42 No contribution is requested from the TDC public realm team in this instance.

Habitat Regulations Assessment

- 6.43 Following Natural England's recent advice and the introduction of Zones of Influences around all European Designated Sites (i.e. Ramsar, Special Protection Areas and Special Area of Conservation). Within Zones of Influences (which the site falls within) Natural England are requesting financial contributions to mitigate against any recreational impact from new dwellings.
- 6.44 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.
- 6.45 The application scheme proposes a new dwelling on a site that lies within the Zone of Influence (Zoi) being is approximately 0.3km away from Stour and Orwell Estuaries RAMSAR and SPA.
- 6.46 In accordance with Natural England's advice there is no requirement to consult them due to the specified mitigation.
- 6.47 New housing development within the Zoi would be likely to increase the number of recreational visitors to the Stour Orwell Estuary 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.
- 6.48 A completed unilateral undertaking has been received to secure the financial contribution required to mitigate against any recreational impact from the new dwelling and to 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 is located within the settlement development boundary and is considered to represent a sustainable form of development that accords with the aims of national and local plan policy.
- 7.2 Officers consider that sufficient marketing information has been submitted which demonstrates that a sustained marketing campaign has been undertaken. The proposed conversion to two dwellings is acceptable in terms of design and appearance, there is no harm to neighbouring amenities, the development complies with highway safety and parking provision and there is no impact upon the Conservation Area. Conditions have been recommended with regards to Archaeology and a completed unilateral undertaking has been received to secure a financial contribution towards RAMs. 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 informative 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 development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans and document:

- Site Plan and Block Plan scanned 28th May 2020
- Drawing Number 2014/5 – Ground Floor as Proposed
- Drawing Number 2014/6 Rev A – First Floor as Proposed
- Drawing Number 2014/7 – Proposed Front/Rear Elevations
- Drawing Number 2014/8 – Proposed Side Elevations
- Drawing Number 2014/9 - Parking Feasibility Plan
- Marketing Information scanned 28th May 2020
- Planning Statement scanned 28th May 2020
- Additional Information from Agent scanned 07 December 2020

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

3. Prior to the commencement of development, a Construction Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The Construction Method Statement shall provide for:

- safe access to/from the site;
- the parking of vehicles of site operatives and visitors;
- the loading and unloading of plant and materials;
- the storage of plant and materials used in constructing the development;
- wheel washing facilities;
- measures to control the emission of dust and dirt during demolition and construction;
- a scheme for recycling/disposing of waste resulting from demolition and construction works;
- details of hours of deliveries relating to the demolition and construction of the development;
- details of hours of site clearance or construction;
- a scheme to control noise and vibration during the demolition and construction phase, including details of any piling operations.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

Reason - In the interests of residential amenity and highway safety.

4. No above ground works shall take place until a plan indicating the positions, design, materials and type of boundary treatment to be erected shall be submitted to and approved by the Local Planning Authority. The approved boundary treatment shall be implemented before the dwellings hereby permitted are occupied and retained in this approved form unless otherwise agreed in writing by the Local Planning Authority.

Reason - In the interests of providing adequate privacy for occupiers of the development and neighbouring residential properties and in the interests of visual amenity.

5. Notwithstanding the provisions of Article 3, Schedule 2 Part 1 Classes A, B, C and E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), there shall be no additions or alterations to the dwelling or its roof, nor shall any buildings, enclosures, swimming or other pool be erected except in accordance with drawings showing the design and siting of such additions and/or building(s) which shall previously have been submitted to and approved, in writing, by the Local Planning Authority.

Reason - In the interests of residential amenities.

6. All new parking areas and areas of hardstanding shall be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area within the site.

Reason - In the interests of sustainable development and to minimise the risk of surface water flooding.

7. No demolition or conversion can commence until a historic building record has been secured and undertaken in accordance with a Written Scheme of Investigation, shall be submitted to and approved in writing by the Local Planning Authority.

Reason -The proposed development is located within an area with potential for below ground archaeological deposits

8. Following completion of the historic building record, the applicant is required to submit a report ready for deposition with the Essex Historic Environment Record, which shall be submitted to and approved in writing by the Local Planning Authority

Reason -The proposed development is located within an area with potential for below ground archaeological deposits

9. Prior to the commencement of any above ground works, a scheme of hard and soft landscaping works for the site shall be submitted to and approved, in writing, by the Local Planning Authority. The scheme shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 Trees in relation to design, demolition and construction.

Reason - To enhance the visual impact of the proposed works

10. All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason - To ensure that the landscaping scheme is suitably implemented within an appropriate timescale.

11. The proposed development shall not be occupied until such time as a domestic car parking for a minimum of two vehicles has been provided for each residential unit in accordance with the Parking Standards, details to be agreed with the Local Planning Authority. The agreed car parking shall be retained at all times for such purpose.

Reason- To ensure that on street parking of vehicles in the adjoining streets/roads does not occur and that appropriate parking is provided

12. No development shall take place until the ground conditions on the site have been subject to a Risk Assessment. This will enable Tendring District Council to decide whether the site is suitable for its proposed use prior to any development taking place.

Reason- There are a number of areas of contaminated land within and surrounding this site.

8.3 Informatives

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.

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.

Highways Informatives

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

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.

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

Environmental Protection

The Risk Assessment

This will incorporate a 'phase one' assessment in the form of a desktop study/site walkover report. This will include a review of previous investigations; previous uses; potential sources of contamination; and potential pathways and receptors. If necessary, this shall be followed up by a 'phase two' risk assessment that shall incorporate a detailed intrusive investigation referring to the phase one study.

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:
 - 9.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
 - 9.3 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
 - 9.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 9.5 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.
- 9.6 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.
- 9.7 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

- 9.8 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.
- 9.9 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).
- 9.10 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

- 9.11 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.
- 9.12 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.