

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AC	22 <sup>nd</sup> April 2021
Planning Development Manager authorisation:	JJ	23/04/2021
Admin checks / despatch completed	DB	23.04.2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	ER	23/04/2021

**Application:** 21/00174/OUT **Town / Parish:** Harwich Town Council

**Applicant:** J Roberts Holdings Ltd

**Address:** Dovercourt House 23 - 25 Fronks Road Dovercourt

**Development:** Outline Application with all matters reserved for Change of Use from former Care Home (C2) to two residential dwellings (C3).

### 1. Town / Parish Council

Ms Lucy Ballard  
Town Clerk  
Harwich Town Council  
10.03.2021

Harwich Town Council has no objection to this application.

### 2. Consultation Responses

ECC Highways Dept

No Reply

UU Open Spaces  
17.03.2021

Response from Public Realm  
Open Space & Play

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

The nearest play area to the development site is Cliff Park (0.5m) which is classified as a Local Equipped Area for Play. Should any further development take place in the vicinity it would be necessary to increase the level of play provision to cope with the additional demand.

Recommendation

Due to the lack of play facilities in the area it is felt that a contribution towards play is justified and relevant to the planning application. The contribution would be used to make improvements at Cliff Park.

Officer Comment: *The applicant has entered into a UU to secure this contribution.*

Tree & Landscape Officer  
03.03.2021

There are no important trees or other significant vegetation on the application site to be affected by the development proposal.

There is little opportunity for, or public benefit to be gained by, new soft landscaping associated with the development proposal.

NHS East Essex CCG

No comments received

### 3. Planning History

93/01274/FUL	Proposed extensions to form bedrooms with en-suite w.c's, lounge, assisted bathroom, enlarged laundry/dining room and lift shaft together with internal alterations to form assisted w.c's, staff w.c. and	Approved	04.01.1994
94/00778/FUL	Amendment to planning permission TEN/93/1274 in respect of roof materials, roof pitch and introduction of flat roof adjacent to lift shaft	Approved	09.08.1994
94/01235/FUL	External store to rear of property	Approved	06.12.1994
09/00110/FUL	Single storey detached outbuilding for storage purposes.	Approved	03.04.2009
21/00172/FUL	Change of use from former Care Home (class C2) to a House of Multiple Occupancy (class C4).	Withdrawn	08.04.2021
21/00174/OUT	Outline Application with all matters reserved for Change of Use from former Care Home (C2) to two residential dwellings (C3).	Current	

### 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
EN11A	Protection of International Sites European Sites and RAMSAR Sites
HG1	Housing Provision
HG9	Private Amenity Space
LP1	Housing Supply

- ER3 Protection of Employment Land
- 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
- PP6 Employment Sites
- 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**

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. In this latter regard, as of 26<sup>th</sup> January 2021, 'Section 1' of the emerging Local Plan for Tendring (Tendring District Local Plan 2013-2033 and Beyond Publication Draft) has been adopted and forms part of the 'development plan' for Tendring.

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 10<sup>th</sup> 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.

The Council has now formally adopt Section 1 of the Local Plan, in its modified state, at the meeting of Full Council on 26<sup>th</sup> January 2021, at which point it became part of the development plan and carries full weight in the determination of planning applications – superseding, in part, some of the more strategic policies in the 2007 adopted plan.

The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) will proceed in early 2021 and two Inspectors have 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.

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.

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, 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.

With the adoption of the modified Section 1 of the emerging Local Plan, the Councils 'objectively assessed housing need' of 550 dwellings per annum has been found 'sound' and there is no housing shortfall. The Council is able to report a significant surplus of housing land supply over the 5 year requirement, in the order of 6.5 years.

## **5. Officer Appraisal**

### Site Description

Both 23 and 25 Fronks Road take the form of two substantial sized dwellings that were conjoined and subsequently converted into a care home. The properties retain their individual appearance in the street scene, with the two storey link being design subserviently. The dwellings are of an Arts and Craft style, synonymous with this part of the Tendring District. They provide an interesting and positive visual impact upon the street scene. Both properties have been significantly extended in their lifetime as a care home, providing multiple rooms. Surrounding dwellings are all of a similar scale, although of varying design and detailing. All are in private residential use.

### Description of Proposal

This is an outline application with all matters reserved for later consideration.

The development proposal consists of a Change of Use from a former care home (C2) to two dwellings (C3). In its former use the subject buildings provided to total of 23 rooms spread over two floors, along with ancillary rooms such as kitchens, lounges, etc. The proposed development will revert back to its original use as two large detached dwellings. The central link will be demolished, and in its place parking provided

### Assessment

The main planning considerations are:

- Principle of Development;
- Layout, Scale and Appearance;
- Neighbouring Amenities;
- Highway Considerations;
- Loss of Employment
- Financial Contributions - RAMS;
- Financial Contributions - COM6;
- Representations; and,
- Other Considerations.

#### 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. Further, the original use of the site was as two separate dwellings, having been converted to the conjoined Care Home in the early 1980's.

#### 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.

As this is an outline application with all matters reserved, no details have been finalised in regards to siting, scale or design. Notwithstanding this; the only external changes which are proposed through the reversion is the demolition of the rather unsightly link which joins the buildings together. For this reason the proposal is considered to respect the character of both the individual dwellings and wider streetscene in general.

#### 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).

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.

Private amenity space shall be provided to new dwellings in accordance with the following standards:- a three or more bedroom house - a minimum of 100 square metres; two bedroom house - a minimum of 75 square metres; one bedroom house - a minimum of 50 square metres. In accordance with the policy requiring the area to not be overlooked by adjacent or opposite living rooms or outdoor sitting areas, the proposed dwellings would have sufficient private amenity space available if they were three-bedroom properties.

As this is an outline application with all matters reserved, no details have been finalised in regards to external appearance including the precise allocation of outdoor amenity areas for the respective dwellings – this will be covered at REM stage and there appears to be sufficient space to provide high quality external amenity space. Notwithstanding this; the only external changes which are proposed through the reversion is the demolition of the rather unsightly link which joins the buildings together. In addition, reversion back to two separate dwellinghouses is likely to significantly reduce the level of activity associated with a large Care Home.

Overall the proposal is considered to secure a good standard of amenity for all existing and future occupants of land and buildings

## 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.

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.

The proposal not only results in a significant reduction for parking requirement but, in removing the link between the buildings, a new driveway is proposed which would be an improvement over the existing parking provision.

## Protection of Employment Land:

The District Council considers that in an area under pressure for residential development and where appropriate new employment sites in villages and towns are hard to find, there is a pressing need to protect existing employment sites and premises. The protection of employment land, sites and premises through the implementation of Policy ER3 forms an important part of the Plan's economic and sustainable development strategy. In order to assist with economic regeneration objectives and to maintain a balance between the location of jobs and homes within different parts of the District the retention of employment land, sites and premises is seen as vital. The consideration of the importance of safeguarding employment land is also reflected in Emerging Policy PP6. In such instances, in order to demonstrate that other forms of employment use have been fully explored, documentary evidence will be required to demonstrate that a proper and sustained marketing campaign, at current market value, for either continued or alternative employment purposes has been undertaken. Important factors in evaluating the appropriateness of such a campaign will be the length of time it has been pursued and the prevailing market conditions. Examination of documentation of enquiries and responses will be expected. The marketing campaign will have to be agreed between the determining authority and applicant(s) before it begins. This should include the following: length of campaign; asking price; sales particulars; and number, frequency and source of advertisements.

The care home closed when the operator went into liquidation in March 2020. The liquidators immediately put the building up for sale, to which it was advertised up until December 2020. In December, with no offers forthcoming, the building was put up for auction. Whilst the Planning Authority do not consider that an appropriate marketing campaign has been adequately demonstrated the following facts are prudent in determining that the loss of commercial use is appropriate in this specific case. The commercial use was permitted at a time when appropriate levels of parking were not as crucial as they are now, having considered the types of alternative commercial uses which *could* be appropriate for these buildings, all would require a high demand for off-street parking (for example; hotel, bed & breakfast et al). The Authority are satisfied that, in this case alone, the loss of commercial activity and a return to residential is entirely appropriate in this area where the vast majority of properties are in domestic use – these considerations weigh in favour of the development proposal.

## 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 two new dwellings on a site that lies within the Zone of Influence (Zol) being approximately 756m from Stour And Orwell Estuaries SPA and Ramsar. Since the development is for two 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 Zol 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.

#### 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, to include play space.

There is currently a deficit of 12.59 hectares of equipped play in Harwich and Dovercourt, which makes this contribution necessary and reasonable.

The nearest play area to the development site is Cliff Park (0.5m) which is classified as a Local Equipped Area for Play. Should any further development take place in the vicinity it would be necessary to increase the level of play provision to cope with the additional demand since the buildings will be returned to single family dwellings.

#### Representations:

At the point of submission; an alternative use for the buildings was proposed which raised a very high degree of concern with local residents. However; in many of the letters objecting to application 21/00172/FUL statements of support for the current proposal were included. Thirteen of the letters include support or having no objection.

The Town Council have no objection and this is noted.

One letter of objection has been received which makes reference to a future proposal to convert the two dwellings in to an HMO. In response to this, an application for planning permission would be required to convert a dwelling in to an HMO of the size proposed – although application 21/00172/FUL was withdrawn and not refused; it was made very clear that the Planning Authority would not support such a proposal.

#### 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 - Outline

## **7. Conditions**

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the later.

Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2 Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

- 3 The development hereby permitted shall be carried out in accordance with the following approved plan: 20-006-PL-03, received 18th January 2021.

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

- 4 Approval of the details of the access, appearance, layout and scale (the 'reserved matters') shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

## **8. Informatives**

Application Approved Without Amendment:

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 - Public Open Space:

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: public open space in accordance with saved Policy COM6.

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.



<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