

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	NW	22.06.2021
Planning Development Manager authorisation:	JJ	23/06/2021
Admin checks / despatch completed	DB	24.06.2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	24.06.2021

Application: 20/01426/FUL **Town / Parish:** Harwich Town Council

Applicant: Mr David Richardson

Address: 17 George Street Harwich Essex

Development: Change of use from mixed cafe bar and residential to solely residential.

1. Town / Parish Council

Ms Lucy Ballard, Town
Clerk Harwich Town Council has no objection to this application.
Council
26.11.2020

2. Consultation Responses

Environment Agency Thank you for your consultation we have reviewed the plans
(EA) as proposed and we are raising a holding objection to the
21.04.2021 application on flood risk grounds.

Flood Risk

Our maps show the site lies within tidal Flood Zone 3a, defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' as having a high probability of flooding. The proposal is for Change of use from mixed cafe bar and residential to solely residential, which is 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 (FRA).

We have not seen evidence that you have applied the Sequential and Exception Tests. This is your responsibility and we recommend you consider them before the applicants review their FRA.

We have reviewed the submitted flood risk assessment (FRA), referenced 17 George Street Harwich CO12 3ND and do not

consider it to comply with the requirements of the PPG. In particular:

- The proposed building would be at risk of flooding internally during its 100yr lifetime by 1.45m depth in the 0.5% (1 in 200) annual probability with climate change flood event through overtopping of the existing defences, and would therefore be unsafe for the occupants.

Overcoming our Objection

The applicant can overcome our holding objection by:

- Raising finished floor levels to prevent internal flooding of the development through overtopping of the defences and the subsequent damage to people and property, by raising finished floor levels above the 0.5% (1 in 200) annual probability with latest tidal climate change on-site actual risk overtopping flood level, including a 300millimetre freeboard, to a level of 5.29mAOD. This is in line with the requirements of Paragraphs 059 and 060 of the Planning Practice Guidance, which advises that there should be no internal flooding in 'more vulnerable' developments from a design flood (0.5% (1 in 200) annual probability inclusive of climate change).

The site currently benefits from flood risk management structures which protect it from the present day 0.5% annual exceedance probability flood level (the 'design flood', as referred to in paragraph: 055, reference ID: 7-055-20140306 of the Planning Practice Guidance). However, with the addition of projected sea level rise on sea/estuary/tidal levels and other anticipated effects of climate change, these structures could overtop in the design flood, over the lifetime of the development.

The Shoreline Management Plan (SMP) policy for this area is 'hold the line' in the long term so it is possible that the flood risk management structures may be raised to maintain the required standard of protection in line with NPPF guidance for the lifetime of the development. However, the SMP policy is aspirational rather than definitive, so whether the structures are raised or reconstructed in the future will be dependent on the availability of funding. The level of funding that we can allocate towards flood risk management structure improvements is currently evaluated through Treasury cost benefit analysis, and any identified shortfalls in scheme funding requirements would require partnership funding contributions from other organisations or beneficiaries. As securing partnership funding cannot be guaranteed, we consider that the development should be safe on its own merits, i.e. through raised floor levels.

However, we recognise that there may be the potential for future, forthcoming partnership funding contributions from other organisations and beneficiaries. If the Local Authority are

confident that there is an existing or an upcoming collaborative approach to raise and secure the necessary partnership funding to meet any shortfalls in the long term, then we will look to remove our objection to the proposed development. This is because future flood risk management structures are likely to prevent the development flooding in the design flood event during the development's lifetime and will help to make the development safe.

We look forward to being re-consulted following submission of an amended FRA. If you are minded to approve the application contrary to this advice, we request that you contact us to allow further discussion and/or representations from us in line with the Town and Country Planning (Consultation) (England) Direction 2009.

Please see the technical appendix for more information on expected flood depths.

Other Sources of Flooding

In addition to the above flood risk, the site may be within an area at risk of flooding from surface water, reservoirs, sewer and/or groundwater. We have not considered these risks in any detail, but you should ensure these risks are all considered fully before determining the application.

Environment Agency
12.05.2021

Thank you for your re-consultation we have reviewed the plans as proposed and are maintaining our holding objection.

Flood Risk

As per policy there should be no internal flooding to more vulnerable development within its lifetime, therefore we will only remove our objection in the LPA puts it in writing that they are happy with the risk.

This application may have been approved in 2016 however at the end of 2018/early 2019 our latest coastal modelling was released which shows internal flooding and we must work to the most up to date modelled data and policies.

Emergency Planner -
Catherine Boyer-
Besant
08.06.2021

Please see following feedback on the latest version of the FWEP for 17 George Street:

Page 11 Section 11 Evacuation : 1st paragraph, add in , "leave the dwelling and move to higher ground or alternative accommodation by whatever means they have".

Page 13 Section 13 Pets and Animals : it is important to understand that not all venues that may be activated as a rest centre will take pets. This does not include Assistant Pets ie

guide dog. So having a plan for your pet/s is really important.
Page 15 Contact List : add the quick dial code in with the Environment Agency Floodline number. Add Waste Water provider, in this area it is Anglian Water.

Other than the above, I have no further comments on this FWEP.

Essex County Council
Heritage
14.04.2021

Built Heritage Advice pertaining to an application for: Change of use from mixed cafe bar and residential to solely residential.

This letter should be read in addendum to my letter of 4th February 2021.

Following the submission of additional pertaining to the building's conversion to residential, I am unopposed to this application subject to the following conditions:

- Prior to the commencement of any works, and of building recording, a Written Scheme of Investigation (WSI) shall be submitted to and approved by the Local Planning Authority.

- No demolition or conversion can commence until a programme of historic building recording commensurate with Historic England Level 2 as set out in Understanding Historic Buildings, Historic England (2016), has been secured and undertaken in accordance with a written scheme of investigation which has been submitted by the applicant, and approved by the Local Planning Authority. A bound hard copy and digital copy of the recording report will be deposited with the County Historic Environment Record prior to the occupation of the development, or within three months of the recording survey being completed, whichever is the sooner. Project details and a digital copy of the report will be uploaded to the Archaeology Data Service OASIS website by the contractor.

- Prior to the commencement of any external opening up or bricking up works, a written method statement shall be provided describing in detail the proposed method of opening to drop the sill of the window to form a door, and making good the brickwork, which should be by hand and not involve any machine cutting tools. This shall be submitted to and approved in writing by the local planning authority. The works shall be implemented in accordance with the approved method statement.

- Prior to external works a schedule of external finish materials, including the proposed brickwork and bond style and detailing of the treatment of the brickwork where the sill is to be dropped, shall be submitted to and approved in writing by the local planning authority. Works shall be implemented in accordance with the approved materials and details specified and shall be permanently maintained as such.

- Prior to installation, a schedule of drawings that show details of proposed windows, and doors in section and elevation at scales between 1:20 and 1:1 as appropriate, showing details

of glazing type, framing, glazing bars, cills, and ironmongery, shall be submitted to and approved in writing by the Local Planning Authority. Works shall be implemented in accordance with the approved details and shall be permanently maintained as such.

Essex County Council
Heritage
04.02.2021

Built Heritage Advice pertaining to an application for: Change of use from mixed cafe bar and residential to solely residential. No alterations proposed. The property is a Grade II listed former bar/restaurant Grade II listed as The Smugglers Restaurant (List UID: 1204416) and is located within Harwich Conservation Area. Following the submission of further information pertaining to the recent advertisement history of the site for use as a bar/restaurant and following the correction of a drawing error, I am unopposed to this change of use application. Should alterations be required to the interior of the listed building in order to facilitate its conversion to use as a single residential dwelling, I encourage the applicant to engage in a Pre-Application with the Local Planning Authority to discuss their proposals.

UU Open Spaces
09.12.2020

Response from Public Realm
Open Space & Play

Application Details

Application No: 20/01426/FUL

Site Address: 17 George Street Harwich Essex CO12 3ND

Description of Development Change of use from mixed café bar and residential to solely residential
Current Position

There is currently a deficit of -12.67 hectares of equipped play in Harwich and Dovercourt.

Recommendation

Although there is a deficit of equipped play in Harwich and Dovercourt, it is not felt that this development will have any impact on the current deficit.

Therefore, no contribution is being requested on this occasion.

ECC Highways Dept
06.01.2021

Due to the current COVID-19 restrictions the observations below are based on submitted material, google earth image dated April 2009 and previous visits to the area. The site is in

a town centre location and it is noted that the premises has part residential use; there is good public transport links close to the premises including Harwich railway station; the Highway Authority would not deem the application of current Parking Standards necessary in this instance.

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

1. 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.

2. Prior to occupation of the proposed dwellings, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack per dwelling, 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.

3. 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: 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.

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 - Development Management Team
Ardleigh Depot,
Harwich Road,
Ardleigh,
Colchester,
CO7 7LT

Third Party No Comments were received.

3. Planning History

96/01414/FUL	Internal alterations and bricking up of fire exit door, new front door	Withdrawn	11.11.1996
96/01415/LBC	Internal alterations to kitchen, new front door, blocking up of rear fire exit	Withdrawn	11.11.1996
97/00448/LBC	Painted window surrounds, watergoods, fascia/facade and signage	Approved	20.05.1997
04/02431/LBC	Internal refurbishment, including new flooring, opening up of fireplace, removal of internal walls, blocking up of openings, creation of new openings.	Approved	14.02.2005
05/00401/LBC	Fitting of service lift from kitchen to ground floor.	Approved	29.04.2005
20/01427/LBC	Change of use from mixed cafe bar and residential to solely residential.	Current	

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework February 2019
National Planning Practice Guidance

Adopted Tendring District Local Plan 2007 (part superseded)

QL1 Spatial Strategy

QL2	Promoting Transport Choice
QL3	Minimising and Managing Flood Risk
QL9	Design of New Development
QL10	Designing New Development to Meet Functional Needs
QL11	Environmental Impacts and Compatibility of Uses
QL12	Planning Obligations
ER3	Protection of Employment Land
HG1	Housing Provision
HG3	Residential Development Within Defined Settlements
HG9	Private Amenity Space
COM6	Provision of Recreational Open Space for New Residential Development
EN6	Biodiversity
EN6A	Protected Species
EN11A	Protection of International Sites European Sites and RAMSAR Sites
EN12	Design and Access Statements
EN17	Conservation Areas
EN22	Extensions or Alterations to a Listed Building
TR7	Vehicle Parking at New Development

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

Section 1: North Essex Authorities' Shared Strategic Section 1 Plan, adopted January 2021

SP1	Presumption in Favour of Sustainable Development
SP2	RAMS
SP4	Meeting Housing Needs
SP6	Infrastructure & Connectivity
SP7	Place Shaping Principles

Section 2: Emerging

SPL1	Managing Growth
SPL2	Settlement Development Boundaries
SPL3	Sustainable Design
PP2	Retail Hierarchy
PPL1	Development and Flood Risk
PPL8	Conservation Areas

PPL9 Listed Buildings

CP1 Sustainable Transport and Accessibility

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide

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 26th 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 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.

The Council has now formally adopt Section 1 of the Local Plan, in its modified state, at the meeting of Full Council on 26th 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 (including Site Description and Proposal)

Site Description

The application site is located on the northern side of George Street with a secondary elevation on Golden Lion Lane. The building is an end of terrace three storey building located in an area entirely characterised by residential dwellings and flats. The site is outside the defined Town Centre Boundary of Harwich, although within the Harwich settlement boundary as shown within the existing and emerging local plans. The building is Grade II Listed and also within the Harwich Conservation Area.

The host building, has in recent times been run as a licenced catering business. However, there has been no trade taking place in the building since June 2018. Since the 1990s it has traded under a number of different names including; The Golden Lion, The Lion, Blazers, The Smugglers and more recently Treo. All under different ownership. It has been explained in supporting information submitted as part of this application that as a result of worsening trading conditions and loss making within the business the owners of 'Treo' ceased trading and placed the business into voluntary liquidation in June 2018. No information or evidence have come forward to dispute or question this position put forward by the Applicants.

Previously the ground floor and first floor were used as restaurant and cafe space and the second floor was used as residential flat. The basement was a storage area.

The building itself currently retains its commercial appearance and the immediate and wider area is predominantly residential in character. The land is close to the seafront and within Flood Zone 3a.

Proposal

Change of use from mixed cafe bar and residential to solely residential. In terms of the proposed internal layout, the basement on the lower ground floor will remain as is. At ground floor level, the bar / dining area will be changed to living accommodation, including a Kitchen and storage area. The internal staircase will provide unobstructed internal access to the first floor where it is proposed to locate three bedrooms and a bathroom. The second floor shall remain as is, with two bedrooms, a living room and a kitchen. Externally the alterations are limited to converting the ground floor shop front to a residential façade with smaller windows, including a secondary entrance on the ground floor. To the rear of the building, the first-floor access door shall be converted to a bathroom window.

The main planning considerations are:

- Principle of Development
- Amenity of future residents, parking and refuse storage considerations
- Impact to heritage assets

- Loss of an employment use
- Flood risk
- Legal Obligation – Recreational Impact Mitigation
- Legal Obligation – Open Space/Play Space Contribution
- Other Considerations

Principle of Development

The application site lies inside of the Harwich Settlement Development Boundary as defined within the adopted Tendring Local Plan 2007 and the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017.

Policy QL1 (Spatial Strategy) sets out the spatial strategy and defines a hierarchy of settlements, seeking to concentrate new development within the larger urban areas of the District; seeking to concentrate development within settlement development boundaries.

Policy QL2 seeks to promote sustainable forms of transport choice.

Draft policy SPL2 also refers to settlement boundaries and indicates that new development should be within these settlement boundaries.

The host site is clearly within the settlement boundary of Harwich. The conversion to a residential unit would contribute, albeit minimally, to housing provision. The site is not designated as Town Centre location under policy ER31 with regard to retaining the vitality of a commercial centre. Considering the principle of the proposal in isolation, the proposal is acceptable with regard to strategic Policies QL1, QL2 and emerging Policy SPL2.

The detailed development management policies associated with this proposal are assessed in turn below.

Amenity of future residents, highways/parking and refuse storage considerations

Policies QL10 and QL11 of the adopted Local Plan are concerned with such matters as ensuring adequate daylight, outlook and privacy and of not having a materially damaging impact on other amenities of neighbours of nearby properties.

Policies SPL3 and SP7 of the recently adopted section 1 of the TDC Local Plan to 2033 reinforces these objectives.

The proposed dwelling would have a small outdoor courtyard measuring some 7 sqm and also a separate store area measuring some 12 sqm, also there is no off street parking proposed. The outdoor amenity space is well below the required standard for a 5 bedroom house (that being 100sqm). However due weight is given to the fact that the proposal is a conversion scheme and the site is in a very sustainable town centre location, and such small garden areas are not uncommon in high density central urban locations. Many of the nearby residential dwellings share similarly small outdoor spaces, while the flatted developments in the area often have no private outdoor space – as such quantum of external amenity space provided is not considered to be out of character for the area. The

storage area is effectively in what would be the garden space. If the owner so wished, they could remove this area and provide more garden space if required. The host site is some 100m from an outdoor park area to the southeast, known as Harwich Low Lighthouse. On balance, the lack of outdoor amenity space is deemed acceptable on this occasion.

In relation to the lack of off street parking concerns, there are no objections from ECC Highways subject to conditions. The family dwelling house is likely to have less impact on parking in the area than the former restaurant use. Some of the conditions suggested by ECC highways is considered by officers not to be necessary in light of the conclusion that the impact will be less than a fully functional restaurant. The site is in a highly sustainable location, with on street parking available. Therefore, Officers have no objections to Highways grounds and the application is deemed acceptable on Policy HG9, TR1A and TR7.

The proposed dwelling benefits from 5 bedrooms ranging from 11.5 sqm to 17.8sqm metres. All the rooms have access to their own bespoke window. The Technical housing standards -nationally described space standards (19 May 2016), deals with internal space within new dwellings. It sets out requirements for the Gross Internal (floor) Area of new dwellings at a defined level of occupancy as well as floor area.

Whilst the technical housing standards document has not been formally adopted by the local planning authority, it is considered a useful guide. All the bedroom sizes are equal to or in excess of, the of the national standards.

In relation to Policy QL10, 'Designing New Developments to Meet Functional Needs'. The first two criteria relate to highway matters which are not strictly relevant to this proposal given the town centre location. The third criterion is that safe and convenient access for people with mobility impairments is available. This is not the case with the host application. However, given that the property forming the site is a Listed Building, and its location next to a public pavement, it is considered that this could not reasonably form a reason for refusal. The fourth criterion is that the development contributes to community safety. By having a dwelling on the High Street there would be informal surveillance of the public realm after the normal working day and the proposal is considered to have some limited merit in this regard. The fifth criterion is that there is orientation to ensure adequate daylight, outlook and privacy. Officers consider the arrangements acceptable in this case given the internal design and levels of natural light. The sixth criterion is that provision is made for functional needs including private amenity space, waste storage, separation and recycling facilities, servicing, vehicle and cycle parking. Again, given the sustainable location the lack of parking spaces on site is considered on balance acceptable, furthermore, a bike could be stored in the ground rear storage area. Therefore, no objection is raised. The final criterion relates to utility services, there is water, gas and electrics supplied to the building. No objection is raised.

The proposals are also considered acceptable with regards Policy QL11 which states that all new development should be compatible with surrounding land uses and minimise any adverse environmental impacts. The first criterion relates to the scale and nature of the development; officers consider a residential dwelling in this highly residential location is acceptable in principle. The proposals, subject to planning condition, has the ability to enhance the appearance of the Listed Building and the Conservation Area more widely. The second criterion relates to the development retaining the privacy, daylighting and other amenities of nearby properties. Given there are no extensions results in no overshadowing or loss of light issues. There are no new first floor windows other than a rear first floor bathroom window that will be conditioned to be obscured glazed.

The fenestration belonging to all the other elevations is not objectional. The existing use is commercial at ground and first floor, with residential at the first-floor level. The proposed change is not expected to increase overlooking or loss of privacy concerns to neighbouring properties, especially given the current use. The proposal is considered acceptable with regard residential amenity concerns. The use of obscured glass to the first-floor rear bathroom, is recommended as a planning condition. The third criterion relates to ensuring no harm to the historic environment. ECC Heritage do not object to the proposals put forward subject to planning condition, as such no objection is raised. The final two points relate to the amenity of future occupiers, this has been assessed above and has been demonstrated to be sound.

Impact to heritage assets

Policy QL9 requires all new development to make a positive contribution to the quality of the local environment and protect or enhance local character.

Policies SPL3 and SP7 of the recently adopted section 1 of the TDC Local Plan to 2033 reinforces these objectives.

The proposals concern the following heritage assets:

- The host building (the Grade II listed 'The Smugglers Restaurant' (List UID: 1204416))
- Harwich Conservation Area.

Policy EN17 states that development within a Conservation Area must preserve or enhance the character or appearance of the Conservation Area. The policy goes on to say that development will be refused where a number of criteria are not met. Policy EN22 requires that development involving proposals to alter a Listed Building will only be permitted where the special character and appearance or setting of the building would be preserved or enhanced. Emerging policy PPL 8 and at PPL 9 support this approach. Section 16 of the NPPF is concerned with conserving and enhancing the historic environment.

ECC Heritage has been consulted regarding the proposal. ECC Heritage have confirmed that they have no objections to the proposals subject to conditions on the Written Scheme of Investigation (WSI), a programme of historic building recording, a written method statement, details of external materials, doors and windows. Officers accept all these conditions other than the Written Scheme of Investigation. This relates more to archaeological finds and since this is a conversion of an existing building, the suggested condition is neither necessary nor relevant.

The proposals subject to condition has the ability to be a sympathetic alteration to this prominent elevation in the streetscape. Proposals that would maintain or improve the character of the Conservation Area and maintain or enhance the setting of the Grade II host building. Therefore, the application is supported on heritage grounds.

As such the proposal is in accordance with Policies EN17 and EN22 and the Government advice regarding conserving and enhancing the historic environment as set out at section 16 of the NPPF. Also, adopted Policy QL9, emerging policy SPL3 and SP7.

Loss of an employment use

Policy ER3 states that the Council will ensure that land in employment use will normally be retained for that purpose. The text of the policy goes on to require the applicant to demonstrate that the employment use is no longer viable for any form of employment use.

A marketing report has been submitted as part of this application. This report indicates the building has been marketed since 2015 from various estate agents. A brief summary of events since this time is given as follows:

In 2015, TW Gaze marketed the premises for offers in excess of £400,000. There were no viewings or offers made during this engagement. As a result of the lack of interest the property was placed with PPS at the significantly lower asking price of £275,000 in August 2016 which generated only three viewings, none of which developed into offers.

As a result of worsening trading conditions and loss making within the business the then owners ceased trading and placed the business into voluntary liquidation in June 2018.

Between August 2018 and August 2020 the former owners employed Boydens as agents to try and sell the business / property with an initial guide price of £200,000. In December 2019 and again in January 2020 the property was auctioned by Essex Auctions but no bids were made on either occasion.

During the final period that Boydens were the estate agent, the price was further reduced to £150,000 but still no buyers were prepared purchase the unit.

The applicant has suggested that throughout the entire 5 year period each of these agents actively sought prospective buyers via a range of different advertising including;

- o Branch advertising boards
- o Company websites
- o Affiliate websites
- o Email and postal circulation lists to prospective commercial property / business buyers
- o Rightmove
- o Zoopla

Officers have no reason to dispute this evidence even though first hand confirmation from the Estate Agents who undertook the marketing appear to be not readily available or provided with the information. Notwithstanding this, a series of Right Move Screen shots and Agency marketing leaflets have been submitted with the application helping to validate the marketing claims.

The documents submitted with this application include:

- 1) TW Gaze Memorandum of Sale
- 2) PPS Memorandum of Sale (front page)
- 3) Rightmove listing – Guide price of £200,000, posted Nov 2018 and reduced to £150,00 in Aug 2020
- 4) Auction House Property Listing
- 5) Marketing timeline letter

It seems the marketing on the premises ceased in August 2020.

Appendix 3a of the adopted Local Plan indicates that a 6 month time frame could be considered acceptable for such marketing. The marketing clearly has taken place well beyond this time frame. The applicant is of the opinion that the property has received sufficient market exposure and based on the lack of demand from retailers and the feedback received to date, they are of the view that it is evident the unit is not suitable for occupation as a commercial unit.

The lack of recent marketing is understandable. The effects of Covid 19 during the last year has significantly reduced demand for such commercial ventures.

However, Officers would also add that a new (Class E) use class has been brought in from 1 September 2020. This allows for a wide range of uses including retail, food and drink, financial services, gyms, healthcare, nurseries, offices and light industry into a single Class E use class. Therefore, there is a much wider range of uses that could occur in the building within Class E. However, again due to the effects of Covid 19 it seems reasonable to conclude that there is at least a reduced demand for such units (compared to pre-covid times). Also, due weight is given to the area's predominant residential character.

Therefore, the loss of an employment use under policy ER3 is not a reason to refuse the application in this instance as the exemption criteria of policy ER3 have been adequately demonstrated.

A requirement of Policy ER3, in addition to marketing evidence to the effect that the site is commercially unwanted, is that the applicant will normally be expected to provide a suitable alternative site, or a financial contribution to the Council's employment, training or regeneration programmes and initiatives. This is only required on larger sites ie allocated employment areas or out of town retail spaces, this not being applicable for this proposal and it is considered to be unreasonable to insist on such provision or financial contribution in this instance.

As the site is not located within the Town Centre boundary therefore the development does not have to be assessed against Policy ER31.

Overall, the proposal is considered acceptable with regards Policy ER3.

Flood risk

Policy QL3 is concerned with minimising and managing flood risk. The application site lies within Flood Zone 3a, which is land defined by the planning practice guidance as having a high probability of flooding. The National Planning Policy Framework (paragraph 163, footnote 50) states that an FRA must be submitted when development is proposed in such locations.

The starting point in terms of accessing the acceptability of the development in question from a flood risk perspective is the application of the sequential test. In terms of the sequential test, Paragraph 164 of the NPPF says:

Applications for some minor development and changes of use (footnote 51 relevant) should not be subject to the sequential or exception tests but should still meet the requirements for site-specific flood risk assessments set out in footnote (50).

- *Footnote 50* A site-specific flood risk assessment should be provided for all development in Flood Zones 2 and 3. In Flood Zone 1, an assessment should accompany all proposals involving: sites of 1 hectare or more; land which has been identified by the Environment Agency as having critical drainage problems; land identified in a strategic flood risk assessment as being at increased flood risk in future; or land that may be subject to other sources of flooding, where its development would introduce a more vulnerable use.
- *Footnote 51* This includes householder development, small non-residential extensions (with a footprint of less than 250m²) and changes of use; except for changes of use to a caravan, camping or chalet site, or to a mobile home or park home site, where the sequential and exception tests should be applied as appropriate.

Therefore, a FRA is required (this is submitted), but the Sequential Test is not required because the proposal constitutes a change of use/repurposing an existing building as per the NPPF and the relevant guidance in the Planning Practise Guidance (PPG). The applicant has also demonstrated through the marketing information and on the balance of probability that it is unlikely for a less vulnerable use to come forward.

At present there is a holding objection from the Environment Agency regarding this application. However, the EA are prepared to withdraw their objection if the Local Authority's, Emergency Planner is satisfied with the safety risk of the development. The email received from the Emergency Planner on the 08.06.2021 confirmed the acceptance of the Emergency Evacuation Plan.

Turning to paragraph 155 of the NPPF, it states where development is necessary in high-risk flooding areas (such as in this case given the lack of interest in a commercial usage), the development should be made safe for its lifetime without increasing the risk of flooding elsewhere. Emergency Evacuation Plan demonstrates the development can be safe for the lifetime of the development. The specifics, especially in the context of the EA concerns, can be summarised as follows:

The current ground level of the site is 3.62AOD and the finished floor level (FFL) on the ground floor is 3.84m AOD. The FFL on the first floor is 6.80AOD.

A Flood Risk Assessment has been submitted. This indicates if flood defences remain in operation, then the site peak flood level during the future 1:200 year flood event may reach 4.99m AOD (Metres above ordnance datum). While in a once in a 1000 year flood the level would be 5.36m AOD.

The tidal defences are expected to be maintained in this area due to the numbers of people living nearby.

To combat this perceived threat from flooding, the applicant has ensured that all the sleeping accommodation is on first floor level. Also, there is upper floors to seek refuge, while there is a cellar for some of the water to drain into in the event of a flood. The building is surrounded by hard surfaces so there is not likely to be an issue of 'scour' at the site. The EA in comments suggested raising finished floor levels to prevent internal flooding of the development. As mentioned above, sleeping accommodation is located on the upper floors and there is unobstructed internal access (via the staircase) to upper floors, as such it is

considered unreasonable to insist upon the Applicant exploring the potential to raise the floor level of the ground floor at the host building, as the ceilings are low in this Listed Building, making such a suggestion disproportionate, unrealistic and potentially overly costly relative to the proposal and the ultimate goal (which is to create one residential unit).

The Emergency Evacuation Plan is not objected to by the LPA's Emergency Planner. Given the information has been submitted in accordance with the NPPF requirements, Officers consider the development acceptable in this instance.

It is considered that the public realm shall benefit from a high quality residential development, bringing extra footfall to local businesses – very minor weight is attributed to this benefit and due regard is given to the loss of the commercial premise found to be acceptable. It is regretful that the application is in a location where flooding could take place and officers acknowledge that in the event of a flood the emergency services has the potential to be further stretched should this unit change to residential, however as per the NPPF and PPG, the sequential test is not required in this context as such the principle of a change of use to residential is acceptable from a flood risk (sequential test) perspective. The applicant has submitted a comprehensive Emergency Evacuation Plan and Flood Risk Assessment. Overall, Officers consider the measures taken to mitigate the flood risk as acceptable and therefore on balance, hold no objection to the development via Policy QL3, subject to conditions.

Legal Obligation – Recreational Impact Mitigation

Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation. The contribution is secured by unilateral undertaking.

The application scheme proposes a new dwelling on a site that lies within the Zone of Influence (Zoi) being approximately 85m from the Stour and Orwell Estuaries RAMSAR. New housing development within the Zoi would be likely to increase the number of recreational visitors to the 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 proportionate financial contribution has been secured in accordance with the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) requirements.

The proposal is therefore considered to be complainant to Policies EN6 and EN11a of the Saved Tendring District Local Plan 2007, Policy PPL4 of the emerging Tendring District Local Plan 2013- 2033 and Beyond Publication Draft and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Legal Obligation – Open Space/Play Space Contribution

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".

It has been confirmed in writing that no contribution is being requested from Open Spaces on this occasion. Accordingly, the proposal is acceptable with regard to Policy COM6.

Conclusion

For the reasons set out above, the proposal is considered to represent a sustainable form of development and it has been demonstrated that the proposal will not result in any material environmental, social or economic harm that warrants refusal of planning permission that could be sustained at appeal. When assessed against the policies in the adopted and emerging local plans and also the NPPF taken as a whole to proposal constitutes a sustainable development proposal and is recommended for approval subject to conditions

6. Recommendation

Approval

7. Conditions

- 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; Drawing No.

Date Received	Number	Title
25 Mar 2021	17gs13v1	Amended existing and proposed second floor plan
25 Mar 2021	17gs12v1	Amended existing and proposed first floor plan
25 Mar 2021	17gs11v1	Amended existing and proposed ground floor plan
25 Mar 2021	17gs10v1	Amended existing and proposed basement floor plan
25 Mar 2021	End518 02b	Amended existing and proposed elevations
25 Mar 2021		Amended design/ heritage and access statement
21 May 2021		Amended flood warning and evacuation plan

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

3. Prior to the commencement of any external opening up or bricking up works, a written method statement shall be submitted to and approved in writing by the local planning authority specifying in detail the proposed method of opening and making good the brickwork, which should be by handheld tools and not involve any machine cutting tools. This written method statement shall thereafter be implemented in accordance with the approved method statement.

Reason: In order that the special architectural and historic interest of this Listed Building and Conservation Area is safeguarded

4. Prior to external works being undertaken a schedule of external finish materials, including the proposed brickwork and bond style and detailing of the treatment of the brickwork where the sill is to be dropped, shall be submitted to and approved in writing by the local planning authority. Works shall be implemented in accordance with the approved materials and details specified and shall be permanently maintained as such.

Reason: In order that the special architectural and historic interest of this Listed Building and Conservation Area is safeguarded

5. Prior to installation of any new windows, a schedule of drawings that show details of proposed windows, and doors in section and elevation at scales between 1:20 and 1:1 as appropriate, showing details of glazing type, framing, glazing bars, cills, and ironmongery, shall be submitted to and approved in writing by the Local Planning Authority. Works shall be implemented in accordance with the approved details and shall be permanently maintained as such.

Reason: In order that the special architectural and historic interest of this Listed Building and Conservation Area is safeguarded

6. 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 of the residential unit hereby approved and retained at all times.

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

7. 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.

8. Copies of the 'Amended flood warning and evacuation plan' received by the Local Planning Authority on the 21 May 2021 shall be made available to all residents of the hereby approved dwelling house.

Reason: In the interest of resident safety during times of flooding.

9. No bedrooms or sleeping accommodation shall be installed / created within the basement or ground floor, for the life time of the development.

Reason: In the interest of resident safety during times of flooding.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order) or the details provided within approved plans. The proposed first floor rear bathroom windows shall be non-opening unless; the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed. The window shall be glazed with obscure glass with a degree of obscurity equivalent to Pilkington level 5 and shall be permanently maintained thereafter as obscure glazed.

Reason - To safeguard the amenities of the adjoining premises from overlooking and loss of privacy.

8. Informatives

1. 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.

2: 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.

3: 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 - Development Management Team
 Ardleigh Depot,
 Harwich Road,
 Ardleigh,
 Colchester,
 CO7 7LT

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

YES

NO