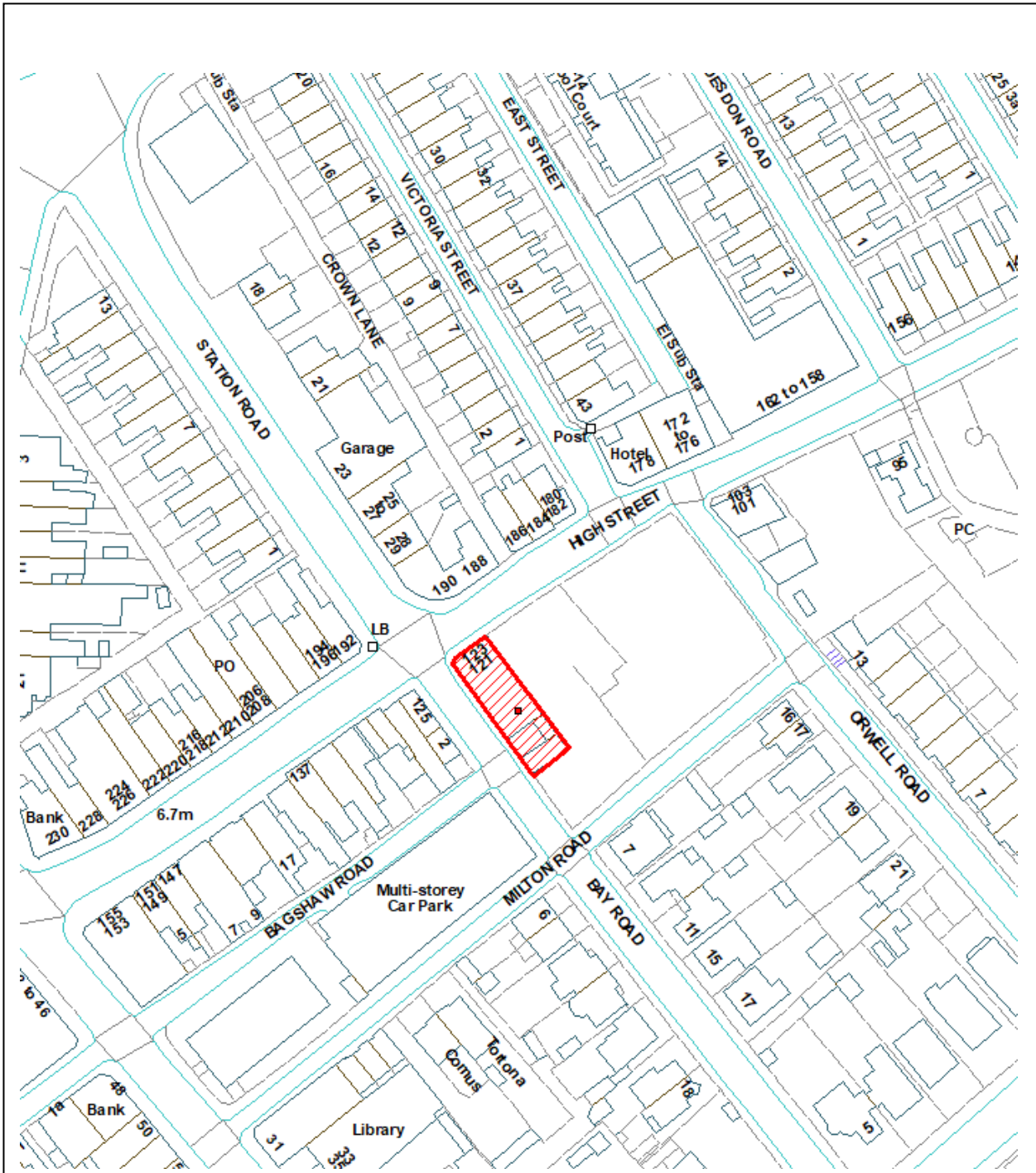


PLANNING COMMITTEE

12th April 2022

REPORT OF THE ASSISTANT DIRECTOR FOR PLANNING

A.4 PLANNING APPLICATION – 21/00386/FUL – 121 - 123 HIGH STREET HARWICH CO12 3AP



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Application: 21/00386/FUL

Town / Parish: Harwich Town Council

Applicant: Mr Marcus Clarke

Address: 121 - 123 High Street Harwich CO12 3AP

Development: Proposed retention of existing frontage and ground floor commercial unit, demolition of rear outbuildings and construction of a part two/part three storey building, to form 7no. one-bedroom self-contained units and 1no. studio self-contained unit and first floor commercial unit with associated cycle storage and refuse stores to rear.

1. Executive Summary

- 1.1 The application has been called in by Councillor Henderson
- 1.2 The proposal is for the construction of a new part two/part three storey building to provide 8 units of residential accommodation and 1 additional commercial unit (ground floor commercial unit as well as the existing shopfront to be retained). The site is located within the settlement development boundary of Harwich and Dovercourt and the Dovercourt Conservation Area.
- 1.3 The proposed scheme has been amended in line with extensive consultation with ECC Place Services Heritage Officers and is considered to be of a size, scale and design in keeping with the Conservation Area. Subject to conditions and mitigation there are no concerns raised regarding the impact on the environment, neighbouring residential properties, the recently approved car park, area and the proposal is acceptable in regards to Highways and Parking impacts.

Recommendation:

That the Assistant Director for Planning be authorised to grant planning permission for the development subject to:-

- a) Within 6 (six) months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters (where relevant):
 - Financial Contribution towards RAMS
 - Open Space
 - Highway Contribution towards residents parking
- b) Subject to the conditions stated in section 8.2
- c) That the Assistant Director for Planning be authorised to refuse planning permission in the event that such legal agreement has not been completed within the period of 6 (six) months, as the requirements necessary to make the development acceptable in planning terms had not been secured through a s106 planning obligation.

2. Planning Policy

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

National Planning Policy Framework July 2021 (The Framework)
National Planning Practice Guidance

Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1 Plan (adopted January 2021)

SP1	Presumption in Favour of Sustainable Development
SP2	Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
SP3	Spatial Strategy for North Essex
SP4	Meeting Housing Needs
SP7	Place Shaping Principles

Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022)

SPL1	Managing Growth
SPL2	Settlement Development Boundaries
SPL3	Sustainable Design
HP5	Open Space, Sports & Recreation Facilities
LP1	Housing Supply
LP2	Housing Choice
LP3	Housing Density and Standards
LP4	Housing Layout
PPL4	Biodiversity and Geodiversity
PPL5	Water Conservation, Drainage and Sewerage
PPL8	Conservation Areas
PPL9	Listed Buildings
PPL10	Renewable Energy Generation
CP1	Sustainable Transport and Accessibility
PP5	Town Centre Uses
PP14	Priority Areas for Regeneration

Supplementary Planning Guidance:

Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy SPD 2020 (RAMS)
Essex County Council Development Management Policies 2011
Essex County Council Parking Standards Design and Good Practice Guide 2009
Tendring Provision of Open Recreational Open Space for New Development SPD 2008 (Open Space and Play SPD)

Status of the Local Plan

- 2.2 Planning law requires that decisions on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), together with any neighbourhood plans that have been brought into force.

In relation to housing supply:

- 2.3 The Framework requires Councils 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 of deliverable housing land against their projected housing requirements (plus an

appropriate buffer to ensure choice and competition in the market for land, to account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible or if housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, Paragraph 11 d) of the Framework requires granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole (what is often termed the 'tilted balance').

- 2.4 The Local Plan fixes the Council's housing requirement at 550 dwellings per annum. On 19 October 2021 the Council's Strategic Housing Land Availability Assessment (SHLAA) updated the housing land supply position. The SHLAA demonstrates in excess of a six-and-a-half-year supply of deliverable housing land. On 14 January 2022 the Government published the Housing Delivery Test (HDT) 2021 measurement. Against a requirement for 1420 homes for 2018-2021, the total number of homes delivered was 2345. The Council's HDT 2021 measurement was therefore 165%. As a result, the 'tilted balance' at paragraph 11 d) of the Framework does not apply to applications for housing.

3. Relevant Planning History

09/00084/FUL	Proposed demolition of 121/123 High Street, Dovercourt. Construction of new retail/office unit and 10 residential units.	Approved	23.04.2009
09/00141/CON	Proposed demolition of 121/123 High Street, Dovercourt.	Approved	23.04.2009

4. Consultations

Town / Parish Council

Town Clerk
Harwich Town Council
07.04.2021

Harwich Town Council objects to this application on the grounds that it is both an inappropriate and overdevelopment of the site and that it will have a significant negative impact on the privacy of existing residents in Bay Road and Milton Road. The parish council believes that the height of the proposed development is entirely out of keeping with the existing street scene.

There is inadequate parking provided and this proposal would remove off-street parking from an existing business operating on the site.

The site is presently designated as an employment site and the parish council does not believe that it is appropriate to turn a site at the heart of Dovercourt town centre from a viable employment site into a residential one. The proposed bin site would be inappropriate in that it is directly below two of the Juliette balconies within the proposed application (*Officer Note: these balconies have now been removed*) and would also have a significant negative impact on the planned use of the adjoining site (Old Queens Hotel). (*Officer Note: permission has been granted for the new open space and car park adjacent to the site*).

ECC Highways Dept
11.05.2021 (First
Consultation)

Objection raised re parking

ECC Highways Dept
21.02.2022 (Second
Consultation)

Following on from Amended plans received.

The site is in a town centre location where there is good transport links and is in walking distance of Dovercourt Railway Station; the Highway Authority would not deem the application of current Parking Standards necessary in this instance. It is noted that the majority of the units will be one-bedroom dwellings and parking is not available within the development and will not be specifically supplied by the North Essex Parking Partnership either as the side roads in the vicinity of the site are largely unrestricted. The town centre location means that many services are within walking distance of the proposed flats, considering these factors:

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to conditions and mitigation regarding the provision of cycle parking, Travel packs, construction management plan and a financial contribution towards residential parking scheme in the area.

UU Open Spaces
08.04.2021

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

Recommendation

No contribution is being requested on this occasion as units are only 1 bedroom.

Building Control
23.03.2021

No adverse comments at this time.

Housing Services

No comments received

Environmental Protection
06.01.2022

No objection subject to conditions regarding:

Contaminated Land mitigation, Asbestos survey, provision of a demolition and construction method statement, noise control, emission control and external lighting.

Essex County Council
Heritage
06.01.2022

The development site is located within Dovercourt Conservation Area and is in close proximity to the Grade II listed 101 and 103 Main Road (List UID: 1187917), and Orwell Terrace, Grade II listed as The Convent (List UID: 1298462).

This scheme has gone through extensive consultation with the Heritage department and they commend the applicant on their approach to collaborative working with regard to getting an appropriate design for this site in the Conservation Area.

Subject to the provision of one additional drawing (now provided), there are no objections to this application.

5. Representations

- 5.1 One representation and an objection from the Harwich Society have been received following a public consultation which included a site notice posted at the site, press advert and neighbour consultation letters sent out to the adjacent properties.

Summary of Matters Raised:

- Loss of light and overshadowing to neighbouring properties and new seating/parking area adjacent
- Loss of privacy due to balconies/windows overlooking neighbouring properties and rear gardens
- Lack of private amenity space
- Ample vacant commercial floorspace already exists in Dovercourt town centre
- Sufficient housing can be provided in the District
- Overdevelopment of the site
- Would have been better if the site could have been acquired by TDC for inclusion in the town square development
- Lack of on street parking in the area
- Lack of parking for loading and unloading building materials etc. during construction
- Health and Safety implications of loss of footpath during construction
- Additional traffic is to be diverted along Milton Road and Bay Road, when car park development commences could impact highway safety
- Car Park opposite the site is also due to be redeveloped resulting in additional disruption in the area.
- Building out of character with two storey residential properties in Bay Road
- Increase in noise and disturbance from construction work and future residents
- Increase demand on local resources such as doctors/schools/dentists etc. which are already at full capacity.

The relevant material considerations raised have been fully assessed within the main appraisal section of the report. The construction health and safety concerns and parking for delivery vehicles raised can be dealt with by the submission of a Construction Management Plan, which can be secured by condition.

6. **Assessment**

Site Context

- 6.1 The application site is located on the south eastern side of High Street, Harwich, at the junction with Bay Road, which slopes uphill towards the seafront. The site is located within the Settlement Development Boundary of Harwich and Dovercourt with Dovercourt Town Centre identified by the Council, as a priority area for regeneration. The site comprises of a commercial unit with shop front facing High Street, offices behind and a beauty salon in a wooden structure to the rear, with two parking spaces in between the two buildings. Along High Street and the adjacent part of Bay Road there are parking restrictions preventing parking between 8am-6pm Mon-Sat, however to the rear of the site and further along Bay Road there are no parking restrictions in place.
- 6.2 The surrounding area is made up of two and three storey buildings with commercial premises at ground floor and flats above fronting High Street. To the east and rear (south) of the site is an area of vacant Council owned land on which planning permission has been granted for a surface-level public car park, public toilet facilities, landscaped public open space and associated works (application ref: 21/01145/FUL). It is anticipated that this car park will replace that existing in Milton Road, which is located opposite the site on the Bay Road side. At present no details have been submitted regarding the redevelopment of the Milton Road car park site.

- 6.3 The site is located within the Dovercourt Conservation Area however the building the subject of this application is not statutorily listed. The special character and appearance of the Dovercourt Conservation Area derives from parts of the town centre most closely associated with its early development as a seaside resort. These include Orwell Terrace (opposite the site), as erected by John Bagshaw, and the adjacent Cliff Park Gardens created from his former private garden after his bankruptcy. The High Street and the station approaches retain an interesting blend of 19th and early 20th century architecture. High Street forms the core of the area, shoppers and traffic contributing to its character. Cliff Park Gardens leads on to Beacon Hill, where an important coastal defence site is now a Scheduled Ancient Monument and a wildlife habitat. The site is also located Flood Zone 1 which has a low risk of flooding.

Proposal

- 6.4 The application seeks planning permission to construct a part two storey/part three storey building to form 7 one bedroom self-contained residential units, 1 studio unit and a commercial unit (Class E/Beauty Salon use) at first floor. The front shop part of the existing building is to be retained, including the commercial (Class E use), with an additional door to the eastern side to facilitate access to the third floor. Enclosed cycle storage and refuse stores are located to the rear at ground floor.
- 6.5 The building measures approximately 9.4m wide and 30.4m deep, with an eaves height of some 9m and a maximum height of 12m.
- 6.6 The proposal would provide:

Ground Floor

83.6sqm Class E space
1 no 1 bed 2 person unit – 69sqm
Covered area with 8 lockers and 21 cycle spaces
Two bin stores, residential and commercial

First floor

42.3sqm of Class E/beauty salon space
1 no. 1 bed 2 person flat – 51sqm
1 no. 1 bed 2 person flat – 56sqm
1 no. 1 bed 2 person flat – 65sqm

Second Floor

1 no. 1 bed 2 person flat – 51sqm
1 no. 1 bed 2 person flat – 56sqm
1 no. 1 bed 2 person flat – 65sqm
Studio unit 1 bed 1 person - 42.1sqm

- 6.7 The proposed materials are facing brickwork to match local vernacular and white render, slate roof tiles, timber sash windows, Voussoir Brick lintels and black powder coated aluminium rainwater goods.

Principle of Development

- 6.8 Policy SPL2 seeks to encourage sustainable patterns of growth and carefully control urban sprawl, each settlement listed in Policy SPL1 (with the exception of the Tendring Colchester Borders Garden Community) is defined within a 'Settlement Development Boundary' as shown on the relevant Policies Map and Local Map. The application site is located within the settlement development boundary of Harwich and Dovercourt, which is classified as a Strategic Urban settlement having a larger populations and a wide range of existing infrastructure and facilities, making it the most sustainable location for growth.

- 6.9 Heritage matters aside (considered later in the report), Policy SPL2 states that within the Settlement Development Boundaries, there will be a general presumption in favour of new development subject to detailed consideration against other relevant Local Plan policies (including heritage matters) and any approved Neighbourhood Plans.
- 6.10 Policy PP5 states that within Town Centre boundaries proposals for development or change of use for 'main town centre uses' as well as residential development will be permitted where they comply with other relevant policies in this Local Plan and support the vitality and viability of the town centre.
- 6.11 Additionally Policy PP14 identifies Dovercourt Town Centre as a priority area for regeneration and seeks to focus investment in social, economic and physical infrastructure and initiatives to improve vitality, environmental quality, social inclusion, economic prospects, education, health, community safety, accessibility and green infrastructure along with preserving and/or enhancing the heritage assets of these areas, including the at risk conservation area of Dovercourt, in which the site is located.
- 6.12 Therefore it is considered that there is strong policy support for the principle of the proposed development in this location, within the defined settlement development boundary and would support the Council's regeneration objective for Dovercourt Town Centre and the Conservation Area, subject to the detailed considerations relevant to this proposal as set out below.

Layout, Scale and Appearance including impacts on the Conservation Area and nearby Listed Buildings

- 6.13 The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. (Para 126 NPPF).
- 6.14 Policy SP7 states that all new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs. Policy SPL3 seeks to provide new development which is well designed and maintains or enhances local character and distinctiveness.
- 6.15 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act imposes a statutory duty on the Local Planning Authority to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act states that special attention should be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.
- 6.16 Policy PPL8 seeks to preserve or enhance the character or appearance of the Conservation Area. Policy PPL9 states that proposals for new development affecting a listed building or its setting will only be permitted where they will protect its special architectural or historic interest, its character, appearance and fabric.
- 6.17 Within the Dovercourt Conservation Area review document, the application building, located on the corner of Bay Road referred to as the old Harwich Printing Company offices, is described as a single storey building with a stuccoed side elevation to Bay Road and a period shop front to the High Street.
- 6.18 The design of the new building has been carefully considered, with the applicant working closely in conjunction with ECC Place Services, Heritage Officers to achieve a high quality well designed building, with many distinct and harmonising features including extensive detailing

which befits a building of this size within this sensitive Conservation Area location and is considered to significantly enhance the character and appearance of the Conservation Area. The original ground floor front and side elevation is to be retained and restored. The traditional design has drawn reference from the buildings across the High Street in terms of height, fenestration detailing, materials and the original shop front, including the mouldings have been retained.

- 6.19 The application site is adjacent to the recently approved car park, public toilet facilities, landscaped public open space and associated works under application ref: 21/01145/FUL, which would much improve this derelict and vacant site after the demolition of the Queens Hotel and associated buildings following extensive fire damage in 2011. However this results in a very open area to the east of the site, along the High Street to the junction with Orwell Road and views of the Grade II Listed Buildings, 101 and 103 Main Road and Orwell Terrace are highly visible from the site and vice versa.
- 6.20 Proposals for new development affecting a listed building or its setting will only be permitted where they will protect its special architectural or historic interest, its character, appearance and fabric (Policy PPL9). Submitted drawing No. SK-001 Rev A shows the setting of the new building in relation to the Listed Building Orwell Terrace which is a five storey building, across the approved open space/car park. Nos. 101 and 103 Main Road is a three storey building. The proposed building of a similar three storey nature and traditional design is considered to make significant improvements to the character of the Conservation Area and the overall regeneration of this area. Therefore it is not considered that the proposed building would lead to substantial harm to the setting of these nearby Listed Buildings and would positively contribute to the renewed vitality of this area of the High Street.
- 6.21 Due to the prominence of the building within the Conservation Area the Heritage Officer concludes that the overall success of the scheme will be realised through the use of high quality materials and fixtures and as such has recommended conditions to be added to any grant of planning permission to require samples of all external materials, details and drawings of all external doors, windows, rainwater goods, balconies and the eaves and shopfront detailing to be submitted and agreed by the Local Planning Authority and to also undertake and submit a scheme of archaeological building recording at least commensurate with a 'Level 2 Record' as outlined in Historic England guidance Understanding Historic Buildings.
- 6.22 The internal layout of the proposed units are in excess of the requirements in the Governments' Technical housing standards – nationally described space standards (2015), in terms of their overall gross internal area (GIA) and bedroom sizes in terms of width and floor space. From the details submitted all habitable rooms have external windows maximising the natural light to the main habitable living areas.
- 6.23 The applicant has stated that the current businesses (offices, estate agents and beauty salon) on site would be accommodated within the new building, which is in line with the objectives of Policy PP5 which would see main town centre uses remain on the site and provide an active frontage to the High Street elevation.
- 6.24 Therefore the proposal is considered to be acceptable and policy compliant in these regards.

Parking and Highway Safety

- 6.25 Paragraph 110 of the NPPF seeks to ensure that safe and suitable access to a development site can be achieved for all users. Policy SP7 seeks new development to include parking facilities that are well integrated as part of the overall design. Policy SPL3 seeks the provision for adequate vehicle and cycle parking and Policy CP1 seeks to encourage more sustainable modes of transport, such as walking, cycling and public transport. The Essex County Council Parking Standards 2009 set out the parking requirements for new development.

- 6.26 The Council's adopted Parking Standards states that one bedroom properties should be provided with one off street car parking space. Each space should measure 5.5m x 2.9m.
- 6.27 There is no provision made within the proposed scheme to provide any off street parking for the units – there is therefore conflict with the above mentioned Parking Standards. However the site is considered to be within a sustainable location with extremely good transport links by bus and train along with a wide range of amenities within walking and/or cycling distance of the site. A reduction in car parking provision in a location such as this is not considered to be of a concern, particularly as the units are only one-bedroom max 2 person occupancy. A large indoor secure area is allocated for cycle parking (21 spaces with 2 electric cycle charging points) and 1 locker per unit is also provided.
- 6.28 Furthermore the Highway Authority has been consulted on this application and subject to conditions and mitigation regarding provision of cycle parking, Residential Travel Information Pack provision, the submission of a Construction Management Plan and a financial contribution for residential parking/waiting schemes the proposal is considered to be acceptable by the Highway Authority.
- 6.29 With regard to the financial contribution of £5000 which has been requested, paragraph 57 of the NPPF states that:
- Planning obligations must only be sought where they meet all of the following tests:
- a) necessary to make the development acceptable in planning terms;
 - b) directly related to the development; and
 - c) fairly and reasonably related in scale and kind to the development
- 6.30 The proposal is considered to be acceptable in planning terms given that the site is in close proximity to a wide range of facilities within walking distance and a number of public transport opportunities. It is considered that the financial contribution would be directly related to the development as it will go towards the introduction of any future waiting restriction/resident parking scheme in the vicinity of the building and/or side roads subject to any scheme being put forward by the North Essex Parking Partnership or considered a requirement should inconsiderate parking arise as a result of the development.
- 6.31 As the proposal is for a new building of 8 residential units, it is considered that the contribution is fair and reasonable in relation to the scale and size of development in this central town centre area, where provision of off street parking is minimal. Therefore it is considered by officers that this request for a contribution would meet these three tests and this financial contribution has been requested as part of the signed Unilateral Undertaking in relation to this development.

Residential Amenity

- 6.32 The NPPF, Paragraph 130 maintains that policies and decisions should result in new development that creates places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
- 6.33 Policy SPL3 seeks new development that is designed and orientated to ensure adequate daylight, outlook and privacy for future and existing residents, provision is made for adequate private amenity space, waste storage and recycling facilities and the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
- 6.34 The nearest neighbours to the proposed building are located across Bay Road, opposite the building and across the new seating area and Milton Road to the rear. Windows to the rear

elevation have been kept to a minimum and would serve the main living area of just two of the proposed units. Furthermore the proposed balconies to the Bay Road elevation have been removed and replaced with sash windows, thus reducing any perceived or actual overlooking to the residents opposite. Balconies are retained to the eastern elevation which would overlook the new car parking area and is some distance away from the residential dwellings in Orwell Road.

- 6.35 Therefore the proposal is not considered to impact on the residential amenity of these neighbouring properties and would provide a good level of amenity for the future occupiers, in that all habitable rooms are served by adequate daylight and outlook.
- 6.36 There is a small access way to the rear to facilitate access to the cycle parking, with a refuse compound accessed from Bay Road. There is no communal amenity space provided within the site, however given the central location of the building and the close proximity to the coast and open green space, including the new public space area adjacent to the building, the lack of amenity space provision is not considered to be a robust reason for refusal in this town centre location.

Class E uses in a residential area

- 6.37 The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 introduced a new use class:-

Class E. Commercial, Business and Service which encompasses the use, or part use, for all or any of the following purposes:-

- (a) for the display or retail sale of goods, other than hot food, principally to visiting members of the public,
- (b) for the sale of food and drink principally to visiting members of the public where consumption of that food and drink is mostly undertaken on the premises,
- (c) for the provision of the following kinds of services principally to visiting members of the public—
 - (i) financial services,
 - (ii) professional services (other than health or medical services), or
 - (iii) any other services which it is appropriate to provide in a commercial, business or service locality,
- (d) for indoor sport, recreation or fitness, not involving motorised vehicles or firearms, principally to visiting members of the public,
- (e) for the provision of medical or health services, principally to visiting members of the public, except the use of premises attached to the residence of the consultant or practitioner,
- (f) for a crèche, day nursery or day centre, not including a residential use, principally to visiting members of the public,
- (g) for—
 - (i) an office to carry out any operational or administrative functions,
 - (ii) the research and development of products or processes, or
 - (iii) any industrial process,
being a use, which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

- 6.38 Whilst it is acknowledged that the proposed building is sited in a Town Centre location comprising of a mix of uses in the immediate vicinity, a Class E use proposed within the building at ground and first floor encompasses a wide range of uses which would be in close proximity to the residential units, therefore it is considered necessary to assess the Class E uses with regard to their impact on residential amenity. Overall the majority of the uses as outlined above are deemed to be acceptable in this location. However as Class E includes such a wide range of

uses some of which could have the potential to adversely impact on the residential amenities of the future occupiers of the residential units, due to the possibility of early morning, late night and weekend operations. Therefore it is considered reasonable in the circumstances of this case to limit the opening hours of the commercial units (to between 07:00 and 22:00 Monday to Friday, 08:00 and 22:00 on Saturdays and 9:00 and 18:00 on Sundays and Bank Holidays) in order to prevent any adverse impacts on the amenity of the future occupiers. This can be secured by way of a condition to any grant of planning permission.

- 6.39 The existing use to the rear of the building is a beauty salon and it is proposed that this use is moved to the new first floor unit of the proposed building, to maintain the operation of the existing building. A beauty salon use is classed as a Sui Generis use and therefore would not be included under the general Class E use. However in its operation is it considered to be of a very similar nature to a shop, hairdressers or medical/health service, being a unassuming operation with low noise levels and generally compatible in close proximity to residential properties.
- 6.40 Therefore for clarity purposes and in the interests of residential amenity as well as maintaining the viability of this town centre location, it is considered reasonable to add a condition to any grant of planning permission outlining the permitted uses and opening hours for both the first and ground floor commercial units.

Financial Contribution - Recreational Disturbance (RAMS)

- 6.41 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.
- 6.42 This new residential development lies within the Zone of Influence. The site is not within or directly adjacent to one of the European designated sites, but is approximately but is approximately 273 metres from the Stour and Orwell Estuaries RAMSAR and SPA. The Council's Habitats Regulation Assessment has concluded that, with the proposed mitigation, the project would not have an Adverse Effect on the Integrity of the sites included within the Essex Coast RAMS and therefore the proposal is in accordance with the Essex Coast RAMS SPD.
- 6.43 The contribution is to be secured by the unilateral undertaking to be completed in relation to this application. Therefore there is certainty that the development would not adversely affect the integrity of European Designated Sites in accordance with PPL4 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Ecology and Biodiversity Implications

- 6.44 Policy PPL4 seeks to protect and enhance the local biodiversity and geodiversity. The site is not of any specific designation, it is in a built-up area and has very low to no biodiversity value. The building is currently occupied and there is a high level of human activity and movement in and around the building. Whilst the proposed development would intensify the built form within the site, given the town centre location it is not considered that the proposal will result in a loss in biodiversity and mitigation is secured to ensure the development would not adversely affect the integrity of European Designated Sites in accordance with PPL4 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017 (as outlined above).

7. Conclusion

7.1 It is considered that the proposed development is consistent with the National and Local Plan Policies identified above. In the absence of material harm resulting from the proposal the application is recommended for approval subject to conditions and a Unilateral Undertaking.

8. **Recommendation**

8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives and the prior completion of a Unilateral Undertaking legal agreement.

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 strict accordance with the following approved plans and reports:

Drawing No: P-001 Rev F – Proposed Floor Plans
Drawing No: P-002 Rev D – Roof Plan
Drawing No: P-003 Rev E – Proposed Elevations
Drawing No: P-004 Rev E – Proposed site relationship Bay Road
Drawing No: P-005 Rev A – Proposed Site Plan
Drawing No: SK-001 Rev A – Proposed perspective

3. Prior to the commencement of development, a Demolition and Construction Management Plan, including method statements shall be submitted to, and approved in writing by, the Local Planning Authority. The approved plan and method statements shall be adhered to throughout the construction period. The Plan shall provide for:

- the parking of vehicles of site operatives and visitors,
- loading and unloading of plant and materials,
- storage of plant and materials used in constructing the development,
- wheel and underbody washing facilities.
- The following noise control measures:
 - The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.
 - The selection and use of machinery to operate on site, and working practices to be adopted will, as a minimum requirement, be compliant with the standards laid out in British Standard 5228.
 - Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).
 - If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Pollution and Environmental Control prior to the commencement of works.
- The following emission control measures:
 - All waste arising from the demolition process, ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.

- No materials produced as a result of the site development or clearance shall be burned on site.
- All reasonable steps, including damping down site roads, shall be taken to minimise dust and litter emissions from the site whilst works of construction and demolition are in progress.
- All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety

4. Prior to the commencement of development a scheme of archaeological building recording at least commensurate with a 'Level 2 Record' as outlined in Historic England guidance understanding Historic Buildings - A Guide to Good Recording Practice must be undertaken and submitted to the Local Planning Authority.

Reason: To maintain a record of this historic building within the Conservation Area.

5. Prior to the commencement of above ground works samples of all external materials to be used in the development, including but not limited to brick (and pointing), render (including colour), presented on 1mx1m boards along with full details of windows, doors, balconies, rainwater goods and any other external fixtures must be submitted to and agreed by the Local Planning Authority. The approved materials only are to be used in the development. No development shall be commenced until a schedule of external finish materials including hard surface treatments, roof tiles, brick and brick masonry bond shall be submitted to and agreed, in writing, by the Local Planning Authority. Such materials as may be agreed shall be those used in the development and permanently maintained as such.

Reason - To ensure materials are of a very high quality to respect the Conservation Area

6. Prior to the commencement of any above ground works, detailed drawings showing the finish of the front and side eaves detail and the shopfront alterations must be submitted to and approved by the Local Planning Authority. All works must be carried out as per the approved details.

Reason: To maintain the integrity of the original building within the Conservation Area

7. Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Pollution and Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.

Reason: In the interests of residential amenity

8. Prior to the occupation of the commercial units hereby approved, no extraction, air conditioning or refrigeration equipment shall be installed, unless express planning permission has been obtained. Any equipment approved shall be satisfactorily installed and maintained in the approved form and operational manner thereafter.

Reason - In the interest of neighbouring residential amenity.

9. The commercial uses hereby permitted shall be limited to Class E use (ground floor only) and Class E and Beauty Salon use (Sui Generis use - first floor only) as defined in The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (or any Order

revoking and re-enacting that Order with or without modification) and the commercial units shall operate between the hours of 07:00 and 22:00 Monday to Friday, 08:00 and 22:00 on Saturdays and 9:00 and 18:00 on Sundays and Bank Holidays.

Reason - To ensure that the use is appropriate within this mixed commercial and residential location, in the interests of residential amenity

10. Prior to first occupation of the residential units hereby approved, the Cycle parking and locker area must be provided as indicated on Drawing No. P-001 F. The approved facility shall be retained in perpetuity.

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

11. Prior to first occupation of the residential units hereby approved, 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: Due to the lack of parking provision at the site this would promote sustainable development and alternative transport options in the area

12. No vehicle connected with the development hereby approved shall arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Mondays to Saturdays (finishing at 13:00 on Saturdays) with no working of any kind permitted on Sundays or any Public/Bank Holiday whilst construction works and alterations are being carried out.

Reason: To protect the amenity of nearby residential premises and to protect the health of nearby residents and site workers

13. Prior to or during construction, if any unexpected ground conditions are encountered during the following processes must be followed:
 - a. All site works at the position of the suspected contamination will stop and the Local Planning Authority and Environmental Health Department will be notified as a matter of urgency.
 - b. A suitably trained geo-environmental engineer should assess the visual and olfactory observations of the ground and the extent of contamination and the Client and the Local Authority should be informed of the discovery.
 - c. The suspected contaminated material will be investigated and tested appropriately in accordance with assessed risks. The investigation works will be carried out in the presence of a suitably qualified geo-environmental engineer. The investigation works will involve the collection of solid samples for testing and, using visual and olfactory observations of the ground, delineate the area over which contaminated materials are present.
 - d. The unexpected contaminated material will either be left in situ or be stockpiled (except if suspected to be asbestos) whilst testing is carried out and suitable assessments completed to determine whether the material can be re-used on site or requires disposal as appropriate.
 - e. The testing suite will be determined by the independent geo-environmental specialist based on visual and olfactory observations.
 - f. Test results will be compared against current assessment criteria suitable for the future use of the area of the site affected.
 - g. Where the material is left in situ awaiting results, it will either be reburied or covered with plastic sheeting.

- h. Where the potentially contaminated material is to be temporarily stockpiled, it will be placed either on a prepared surface of clay, or on 2000-gauge Visqueen sheeting (or other impermeable surface) and covered to prevent dust and odour emissions.
- i. Any areas where unexpected visual or olfactory ground contamination is identified will be surveyed and testing results incorporated into a Verification Report.
- j. A photographic record will be made of relevant observations.
- k. The results of the investigation and testing of any suspect unexpected contamination will be used to determine the relevant actions. After consultation with the Local Authority, materials should either be: o re-used in areas where test results indicate that it meets compliance targets so it can be re-used without treatment; or o treatment of material on site to meet compliance targets so it can be re-used; or o removal from site to a suitably licensed landfill or permitted treatment facility.
- l. A Verification Report will be produced for the work.

Reason - to protect the health of site workers and end users

- 14. An asbestos survey should be carried out prior to the construction works. Any asbestos containing materials must be safely removed by a qualified contractor.

Reason: to protect the health of site workers and end users

- 15. No external lighting shall be installed at the site unless express planning permission has been obtained.

Reason: to protect the amenity of nearby residential dwellings

9. Informatives

9.1 Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Highway Informatives:

- 9.2 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.
- 9.3 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
- 9.4 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.

- 9.5 The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

10. Additional Considerations

Public Sector Equality Duty (PSED)

- 10.1 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:
- 10.2 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- 10.3 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
- 10.4 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 10.5 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.
- 10.6 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.
- 10.7 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

- 10.8 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.
- 10.9 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).
- 10.10 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

- 10.11 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.
- 10.12 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.

11. Background Papers

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