

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	NH	04/08/2022
Planning Development Manager authorisation:	AN	5/8/22
Admin checks / despatch completed	CC	05.08.2022
Technician Final Checks/ Scanned / LC Notified / UU Emails:	ER	05/08/2022

Application: 22/00199/FUL **Town / Parish:** Mistley Parish Council

Applicant: Feng

Address: 1 Harwich Road Mistley Manningtree

Development: Proposed conversion of existing space to provide 1 bedroom self contained flat with parking and access to communal amenity area.

1. Town / Parish Council

Mistley Parish Council Not commented on this application

2. Consultation Responses

ECC Highways Dept
29.07.2022

From a highway and transportation perspective the impact of the proposal is NOT acceptable to the Highway Authority for the following reasons:

The Highway Authority will protect the principle, use of the highway as a right of free and safe passage of all highway users.

It is noted that the new proposal is for the conversion of existing space to provide 1 bedroom self-contained flat, in addition to the two existing flats, plus the existing takeaway restaurant at the front of the premises that is to be retained.

As far as can be determined from the submitted plans the proposal fails to provide sufficient turning area for the proposed parking facilities and is constrained with some of the spaces not easily accessible in accord with current Parking Standards and would force vehicles to reverse out onto Harwich Road due to the narrow access which is not wide enough for two vehicles to enter and leave the highway in a controlled manner, based on the information contained on drawing no. 1.2 C. The proposal would be very constrained due to the tandem parking spaces being proposed for the existing flats and takeaway restaurant, plus a restricted parking space for visitors with the potential for any of these vehicles to be left parked in the adjoining highway adding to the existing parking stress in this area and in the immediacy of private drives and an existing bend, causing conditions of congestion, danger, and obstruction, contrary to the interests of highway safety.

The site fronts Harwich Road which is a B' Road and Secondary Distributor in the County Council's Route Hierarchy, the function of which is to carry traffic safely and efficiently between substantial rural populations and on through routes in built up areas. The majority of

houses in the vicinity of the proposal have little or no off-street parking as a result this proposal will add additional kerbside stress, obstruction, or congestion contrary to highway safety.

Although the proposal is providing six off-street parking spaces, the overall parking layout is considered to be inadequate for the density and size of the application and would be unworkable for three flats and takeaway restaurant. The proposal if permitted would set a precedent for future similar developments which would likely lead to inappropriate parking detrimental to the general safety of all highway users and undermine the principle of seeking to discourage on-street parking in the locality.

The proposal is therefore contrary policies DM1 and DM8 contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Notes:

1. The applicant should ensure that all vehicles can enter and leave the highway in a forward gear. As per the Essex Parking Standards (Parking Standards: Design and Good Practice, Sept 2009) 6 metres should be provided behind each parking space to allow for manoeuvring, these proposals do not allow for that and would result in vehicles being shunted around to access the vehicles parked at the front of the tandem parking spaces.
2. As far as can be determined, the proposed Cycle / Powered Two-wheeler parking is not in accordance with the EPOA Parking Standards and appears to be open. The approved facility should be secure, convenient, covered and provided prior to occupation and retained at all times.
3. No details or information on whether the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack per room, 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).

3. Planning History

18/01766/FUL	Conversion of existing garage to create a new two bedroom residential unit.	Approved	24.01.2019
18/01947/FUL	Addition of first floor extension to provide additional habitable floor area.	Approved	04.02.2019
19/00788/LUEX	Continued use as A5 hot food takeaway.	Lawful Use Certificate Granted	22.07.2019
21/01607/FUL	Proposed conversion of part of the ground floor into a separate two bedroom flat, including parking and private amenity space.	Withdrawn	26.11.2021

4. Relevant Policies / Government Guidance

NPPF National Planning Policy Framework July 2021

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)

- LP4 Housing Layout
- SPL3 Sustainable Design
- HP5 Open Space, Sports & Recreation Facilities
- PPL3 The Rural Landscape
- PPL4 Biodiversity and Geodiversity
- CP2 Improving the Transport Network

Status of the Local Plan

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:

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').

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.

5. Officer Appraisal (including Site Description and Proposal)

Application Site

The application site refers to 1 Harwich Road, Mistley. The application currently comprises of Mistley Fisheries and two x two bedroom flats.

The application site is located within the settlement development boundary of Mistley.

Proposal

This application seeks planning permission for the conversion of existing space to provide 1 bedroom self-contained flat with parking and access to communal amenity area.

Assessment

1. Principle of development

The site therefore lies within the Settlement Development Boundary of Mistley as defined within the 2013-2033 Local Plan. The principle of residential development on the site is therefore acceptable subject to the relevant detailed considerations set out below.

2. Design and Appearance

Adopted Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design which responds positively to local character and context. Policies SPL3 and LP4 of Section 2 of the 2013-33 Local Plan also require, amongst other things, that developments deliver new dwellings that are designed to high standards and which, together with a well-considered site layout, create a unique sense of place. Paragraph 130 of the Framework requires that developments are visually attractive as a result of good architecture, are sympathetic to local character, and establish or maintain a strong sense of place. Furthermore, Policy PPL3 of Section 2 of the Tendring District Local Plan 2013-2033 seeks to ensure that development is appropriate in its locality and does not harm the appearance of the landscape. Paragraph 127 f) of the Framework requires that planning decisions should create places with a high standard of amenity for existing and future users.

Policy LP4 part J states that to ensure a positive contribution towards the District's 'sense of place', the design and layout of new residential and mixed-use developments in the Tendring District will be expected to provide for private amenity space of a size and configuration that meets the needs and expectations of residents and which is commensurate to the size of dwelling and the character of the area.

The proposed conversion is to the ground floor rear element of the existing building which currently serves a lounge. The proposal will comprise of a kitchen/living/dining area, bedroom with an en-suite. In regards to external changes, the only amendment to the building is to the rear elevation. This application proposes to remove the existing rear window to the ground floor which serves the existing lounge and to block this up as this will serve the proposed bedroom. It is considered that the proposed removal of the window, will not cause any harm to visual amenity.

In terms of the private amenity space provided, drawing no. 1.2 Rev C demonstrates that the existing two flats and proposed flat would be served by approximately 79 square metres of communal amenity space. However when measured and when taking in consideration the useable space, the private amenity space measures approximately 75 square metres. Although Essex Design Guide states that a minimum of 25 m² should be provided for each flat, due to the location

of the private amenity space between the proposed parking spaces, the visibility from the street scene which would not be considered private and the overdeveloped nature of the site, the application fails to demonstrate how an acceptable standard of private amenity space would be achieved for the existing and future occupants of the development.

3. Impact upon Neighbouring Amenities

Section 1 Policy SP7 of the 2013-33 Local Plan requires that the amenity of existing and future residents is protected. Section 2 Policy SPL 3 Part C seeks to ensure that development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

In terms of neighbouring amenities, as there are no external changes to the building except blocking up one window, the proposed creation of an additional flat will not cause any overlooking or impact upon neighbouring amenities.

The Environmental Protection Team were consulted as part of this application and given the distance of the dwelling to the existing extraction/plant which serves the existing hot food takeaway, the Environmental Protection Team requested a noise impact assessment.

As part of the application a noise impact assessment was provided and the Environmental team were re-consulted and satisfied with the contents of the report providing the measures outlined in section 8, page 26 are adhered to.

4. Access, Parking and Highway Safety

Paragraph 108 of the National Planning Policy Framework 2021 seeks to ensure that safe and suitable access to a development site can be achieved for all users. Paragraph 111 of the Framework states that Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Policy SPL3 (Part B) of the Adopted Local Plan seeks to ensure that access to a new development site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and provision is made for adequate vehicle and cycle parking. Adopted Local Plan Policy CP2 states proposals will not be granted planning permission if there would be an unacceptable impact on highway safety, or the residual cumulative impact on the road network would be severe.

Essex Highway Authority have been consulted on this application and have stated that the new proposal is for the conversion of existing space to provide 1 bedroom self-contained flat, in addition to the two existing flats, plus the existing takeaway restaurant at the front of the premises that is to be retained.

The proposal fails to provide sufficient turning area for the proposed parking facilities and is constrained with some of the spaces not easily accessible in accord with current Parking Standards and would force vehicles to reverse out onto Harwich Road due to the narrow access which is not wide enough for two vehicles to enter and leave the highway in a controlled manner, based on the information contained on drawing no. 1.2 C. The proposal would be very constrained due to the tandem parking spaces being proposed for the existing flats and takeaway restaurant, plus a restricted parking space for visitors with the potential for any of these vehicles to be left parked in the adjoining highway adding to the existing parking stress in this area and in the immediacy of private drives and an existing bend, causing conditions of congestion, danger, and obstruction, contrary to the interests of highway safety.

The site fronts Harwich Road which is a B' Road and Secondary Distributor in the County Council's Route Hierarchy, the function of which is to carry traffic safely and efficiently between substantial rural populations and on through routes in built up areas. The majority of houses in the vicinity of the proposal have little or no off-street parking as a result this proposal will add additional kerbside stress, obstruction, or congestion contrary to highway safety.

Although the proposal is providing six off-street parking spaces, the overall parking layout is considered to be inadequate for the density and size of the application and would be unworkable for three flats and takeaway restaurant. The proposal if permitted would set a precedent for future similar developments which would likely lead to inappropriate parking detrimental to the general safety of all highway users and undermine the principle of seeking to discourage on-street parking in the locality.

5. Financial Contributions - Open space and play space

The Council's Open Spaces Strategy (2017) identifies the nature of any existing surpluses and deficiencies and provides size and quality standards for the provision of future open spaces and green infrastructure in the District. This is reflected in the Policies HP3, HP4 and HP5 of the 2013-2033 Local Plan. Specifically, Policy HP 5 states that, where new development would be better served by existing open space within an accessible distance, a financial contribution in lieu of on-site provision will be sought towards any necessary improvement or expansion of existing facilities. There is currently a deficit of -3.00 hectares of equipped play/formal open space in Mistley.

No contribution is being requested on this occasion.

6. Financial Contributions – RAMS

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

This 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 sited approximately 0.3 km from the Stour and Orwell Estuaries Ramsar and SPA. In accordance with Natural England's advice there is no requirement to consult them due to the specified mitigation. New housing development within the Zol 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 completed unilateral undertaking has been provided to secure this legal obligation and to ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with policies Policy PPL4 of the Tendring District Local Plan 2013-2033 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

7. Other Considerations

Mistley Parish Council supports this application.

One letter of objection has been received raising the following concerns:

- Concerns over parking

This concern has been addressed within the report.

- Concerns over air quality

In regards to the concern raised, as stated above the proposal is over development therefore is refused.

- Concerns over Emergency Access

In regards to concern, this falls under building regulations.

6. Recommendation

Refusal - Full

7. Reasons for Refusal

- 1 Paragraph 127 f) of the National Planning Policy Framework 2021 requires that planning decisions should create places with a high standard of amenity for existing and future users.

Policy LP4 part J of the Adopted Local Plan states that to ensure a positive contribution towards the District's 'sense of place', the design and layout of new residential and mixed-use developments in the Tendring District will be expected to provide for private amenity space of a size and configuration that meets the needs and expectations of residents and which is commensurate to the size of dwelling and the character of the area.

Drawing no. 1.2 Rev C demonstrates that the existing two flats and proposed flat would be served by approximately 79 square metres of communal amenity space. However when taking in consideration the useable space, the private amenity space measures approximately 75 square metres. Although Essex Design Guide states that a minimum of 25 m² should be provided for each flat, due to the location of the private amenity space between the proposed parking spaces, the visibility from the street scene which would not be considered private and the overdeveloped nature of the site, the application fails to demonstrate how an acceptable standard of private amenity space would be achieved for the existing and future occupants of the development.

- 2 Paragraph 108 of the National Planning Policy Framework 2021 seeks to ensure that safe and suitable access to a development site can be achieved for all users. Paragraph 111 of the Framework states that Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Policy SPL3 (Part B) of the Adopted Local Plan seeks to ensure that access to a new development site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate and provision is made for adequate vehicle and cycle parking. Adopted Local Plan Policy CP2 states proposals will not be granted planning permission if there would be an unacceptable impact on highway safety, or the residual cumulative impact on the road network would be severe.

The proposal fails to provide sufficient turning area for the proposed parking facilities and is constrained with some of the spaces not easily accessible in accord with current Parking Standards and would force vehicles to reverse out onto Harwich Road due to the narrow access which is not wide enough for two vehicles to enter and leave the highway in a controlled manner, based on the information contained on drawing no. 1.2 C. The proposal would be very constrained due to the tandem parking spaces being proposed for the existing flats and takeaway restaurant, plus a restricted parking space for visitors with the potential for any of these vehicles to be left parked in the adjoining highway adding to the existing parking stress in this area and in the immediacy of private drives and an existing bend, causing conditions of congestion, danger, and obstruction, contrary to the interests of highway safety.

The site fronts Harwich Road which is a B' Road and Secondary Distributor in the County Council's Route Hierarchy, the function of which is to carry traffic safely and efficiently between substantial rural populations and on through routes in built up areas. The majority of houses in the vicinity of the proposal have little or no off-street parking as a result this proposal will add additional kerbside stress, obstruction, or congestion contrary to highway safety.

Although the proposal is providing six off-street parking spaces, the overall parking layout is considered to be inadequate for the density and size of the application and would be unworkable for three flats and takeaway restaurant. The proposal would set a precedent for future similar developments which would likely lead to inappropriate parking detrimental to the general safety of all highway users and undermine the principle of seeking to discourage on-street parking in the locality.

8. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

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