

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	JR	01.02.2022
Planning Development Manager authorisation:	JJ	01/02/2022
Admin checks / despatch completed	SH	01/02/2022
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	01.02.2022

Application: 21/00805/FUL **Town / Parish:** Harwich Town Council
Applicant: Dr Vora
Address: 48 Kingsway Dovercourt Harwich
Development: Proposed change of use of existing ground floor bank to 3 no. self-contained residential units

1. Town / Parish Council

Harwich Town Council No Comments Received

2. Consultation Responses

ECC Highways Dept
29.06.2021

It is noted that the area has existing parking and limited waiting restrictions. The location is within the town centre which offers a range of amenities within walking distance including public transport facilities including Dovercourt Railway Station to the north, therefore the Highway Authority would not deem the introduction of the proposed 3 units at this location to have a severe impact.

Therefore from a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the suggested mitigation and conditions with regard to cycle parking, Residential Travel Information Pack provision, storage of building materials off the highway and a financial contribution for residential parking schemes.

ECC Heritage
31.01.2022

Details to be submitted to show reinstated elevation and section drawings of the mouldings and new window to the front elevation. Details should seek to replicate the adjacent bay.

Environmental Protection
26.05.2021

In order to minimise potential nuisance caused by the proposal conditions are recommended in regard to vehicle movements and working hours, no burning on site and possible ventilation system.

Building Control
20.05.2021

No adverse comments at this time.

UU Open Spaces
23.06.2021

There is currently a deficit of 12.59 hectares of equipped play in Harwich and Dovercourt. The proposed development is within close proximity to Cliff Park and will see the biggest impact as a result.

Due to the lack of facilities in the area a contribution towards Open Space and Play is justified and relevant to the planning application. The contribution would be used to make improvements at Cliff Park

3. Planning History

00/01037/ADV	Fascia signage and projection sign	Refused	23.08.2000
00/01100/FUL	Replacement of cash machine in existing aperture	Approved	08.09.2000
00/01101/ADV	ATM fascia sign	Approved	08.09.2000
00/02077/FUL	Removal of front steps, demolish existing internal lobby and doors, form new internal ramp, form new glazed door, provide new auto doors, lower existing main entrance door.	Withdrawn	05.12.2000
02/02364/ADV	ATM box panel sign	Refused	04.02.2003
07/01802/ADV	Erection of 2 no. illuminated fascia signs and 1 no. illuminated projecting sign.	Approved	17.01.2008
07/01936/FUL	Change of use of first floor to two flats.	Approved	13.02.2008
20/00595/COUNOT	Proposed change of use from commercial to residential.	Determination	14.08.2020
21/00044/COUNOT	Proposed change of use to residential to accommodate four self-contained flats.	Determination	17.03.2021

4. Relevant Policies

NPPF National Planning Policy Framework July 2021
National Planning Practice Guidance

Tendring District Local Plan 2013-2033 and Beyond Section 1 (adopted January 2021)

SP1 Presumption in Favour of Sustainable Development
SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
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
LP1 Housing Supply
LP2 Housing Choice
LP3 Housing Density and Standards
LP4 Housing Layout
PP5 Town Centre Uses
PP14 Priority Areas for Regeneration
PPL8 Conservation Areas
CP1 Sustainable Transport and Accessibility

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

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

Site Description

The application site is located on the south west side of Kingsway, at the junction with Hordle Street and is within the Dovercourt town centre primary shopping area. The site comprises of a two storey building with flats at first floor. The ground floor is vacant and formerly traded as Barclays Bank. The site is located within the Dovercourt Conservation Area however the building the subject of this application is not statutorily listed.

The surrounding area consists of a mix of retail and other commercial uses fronting Kingsway with Kingsway Hall (Grade II Listed Building) and Harwich Library opposite the site. Hordle Street is residential in nature, comprising of a row of small two storey terrace dwellings on each side. Parking restrictions are in place along Hordle Street and to the front of the site, on Kingsway, preventing parking from 9am-6pm Monday to Saturdays. Short term parking bays are located further along Kingsway on both sides of the main highway.

The site is located within the Settlement Development Boundary of Harwich and Dovercourt with Dovercourt Town Centre identified as a priority area for regeneration. The site is also located Flood Zone 1 which has a low risk of flooding.

Proposal

The application seeks planning permission to convert the ground floor of the building into three self-contained residential units. Externally there would be minimal change to the building, with a replacement window and reinstatement of the window cil to the front where the cash machine was sited, additional windows to the rear, a replacement door and a roof light to the single storey element at the rear.

The proposal would provide:

- 1 no. 1 bed 2 person flat – 54.67m²
- 1 no. 1 bed 2 person flat – 51.86m²
- 1 no. 3 bed 6 person flat – 106.60m²

Principle of Development

The application site is located within the settlement development boundary of Harwich and Dovercourt in the adopted Local Plan 2013 – 2033. 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.

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. This policy discourages the conversion of ground floor units to uses outside those defined within Use Class E (commercial, business and service uses), with residential accommodation more commonly seen at first floor level or above.

However the new prior approval Class MA, which came into effect on 1st August 2021, allows for buildings under Use Class E (the use class in which the ground floor of the building falls within, being previously a bank) to a residential use up to a maximum floorspace of 1500sqm. The criteria also stipulates that the building must have been vacant for at least 3 months, within the use class E for a minimum of two years previously and is applicable in a Conservation Area. This class of prior approval however does not allow for any external changes to be carried out and separate planning permission would be required for the external alterations.

This direction of policy from Central Government, with the increase in flexibility of the new Use Class E and the introduction of the prior approval Class MA, indicates a tolerance to residential accommodation at ground floor within main town centres (subject to the conditions and criteria of Class MA) and can be considered to provide a viable (albeit un-confirmed) fall-back position of some weight for the proposed development.

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.

The application is accompanied by marketing information for the ground floor of the building, which has been vacant for more than 4 years since its closure in September 2017. The building is now of an untidy appearance, which is detrimental to the character and appearance of the Conservation Area. There is, as identified above, technical conflict with Policy PP5, however having regard to the above considerations and the fact that the site is within the Dovercourt Conservation Area, sited opposite a Grade II Listed building, the renovation including the bringing back into use of the building, albeit for residential purposes, is considered to be acceptable and would support policy objectives with regard to regeneration of the area and help to support the vitality and viability of the town centre, subject to the detailed considerations outlined below.

Layout, Scale and Appearance including impacts on the Conservation Area

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).

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. Policy PPL8 seeks to preserve or enhance the character or appearance of the Conservation Area.

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.

Within the Dovercourt Conservation Area review document, the bank building is described as a Queen Anne style property with many attractive decorative features enlivening red brick facades above what may be a painted faience ground floor with pilasters.

The external alterations are small in scale, involving the replacement of doors, new window openings and a new rooflight to the roof of the single storey element which are all to the rear of the building. The replacement window to the front elevation and the reinstatement of the window cil have the most visual impact on the Conservation Area. Careful reinstatement of these features would improve the appearance of the building and result in a positive impact on the Conservation Area. Details of this reinstatement and the new glazing can be secured by condition to ensure that there is no harm to the Conservation Area or the setting of the Listed Building opposite.

The internal layout of each of the three flats adhere to 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.

Therefore the proposal is acceptable and policy compliant in these regards.

Parking and Highway Safety

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.

The Council's adopted Parking Standards states that a three bedroom property should be provided with two parking spaces and a one bedroom property should be provided with one space. Each space should measure 5.5m x 2.9m. There is no provision within the site to provide any off street parking. However the site is considered to be within a sustainable location extremely good transport links by bus and train along with a wide range of amenities within walking and/or cycling distance of the site. Therefore a reduction in car parking provision in a location such as this is not considered to be of a concern. 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, storage of building materials off the highway and a financial contribution for residential parking schemes the proposal is considered to be acceptable by the Highway Authority

With regard to the financial contribution of £3000 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

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 not considered that the financial contribution would be directly related to the development as it is for a possible introduction of any future residents parking scheme for the surrounding roads and is subject to any scheme being put forward by the North Essex Parking Partnership. Furthermore the contribution would be returned to the applicant if a scheme is not forthcoming at the end of the 4-year period, from the date of first occupation.

As the proposal is for the conversion of an existing building to 3 flats in a central town centre area, where provision of off street parking is not provided for the majority of the surrounding dwellings and flats, the financial contribution is not considered to be fairly and reasonably related to the scale and kind of development proposed. Therefore it is considered by officers that this request for a contribution would not meet these three tests and this financial contribution has not been requested.

Residential Amenity

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.

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.

No adverse residential amenity impacts are considered to arise from the conversion of the building. The additional windows and doors are to the rear and are at ground floor level only. A Building regulations application would be required for the conversion works and this would take into account soundproofing requirements for the three flats. The layout of the proposed dwelling is such that all habitable rooms are served by adequate daylight and outlook.

There is a small rear yard area which is enclosed by a gate accessed from Hordle Street which is considered to be of an adequate size for refuse and cycle storage. Whilst this is the only area of outside amenity space, given the central location of the building and the close proximity to the coast and open green space, the lack of amenity space is not considered to be a robust reason for refusal, given the existing flatted uses at the site and in the immediate vicinity.

Financial Contribution - Open Space and Play Space

Policy HP5 expects all new development to contribute to or provide open space provision, therefore a financial contribution in lieu of on-site provision may be sought which can be used towards any necessary improvement or expansion of existing, or the delivery of new, open spaces and/or sports facilities in the local area.

There is currently a deficit of -12.59 hectares of equipped play in Harwich and Dovercourt. The proposed development is within close proximity to Cliff Park and this area will see the biggest impact as a result, particularly as amenity space is limited at the development. Due to the lack of facilities in the area a contribution towards Open Space and Play is therefore considered to be justified and relevant to the planning application. The contribution would be used to make improvements at Cliff Park.

Such a contribution meets the tests under Paragraph 57 of the Framework and the necessary Unilateral Undertaking has been completed. The proposal therefore complies with Policy HP5 along with the Open Space and Play SPD.

Financial Contribution - Recreational Disturbance (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.

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 336 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.

The contribution is secured by the unilateral undertaking 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.

Consultation responses

One representation has been received from The Harwich Society following a public consultation which included a site notice posted at the site, press advert and neighbouring consultation letters sent out to the adjacent properties.

Summary of Matters Raised:

- Commercial uses are preferred in this town centre location
- Lack of amenity space and parking for occupiers.

These matters raised have been considered in the main appraisal section of the report.

Conclusion

Whilst there is policy conflict in terms of the requirements of Policy PP5, having regard to the other material planning considerations outlined above, on balance it is considered that the proposed development is acceptable and broadly consistent with the direction of travel of National guidance and legislation, again as identified above. In addition, weighing significantly in favour is the fact that the ground floor will be brought back into a viable use with this at risk conservation area location and this benefit will further outweigh the policy conflict. Whilst the aim behind Policy PP5 is to safeguard the vitality and viability of primary shopping areas, the ground floor has been vacant for over 4 years and marketing attempts for a replacement Class E use have been unsuccessful, resulting in a long term unoccupied building, which adversely impacts on the vitality and viability of the town centre. Therefore in the absence of material harm resulting from the proposal and the significant benefit to the wider Conservation Area of the renovation and ongoing use of this building in a sustainable location, the application is recommended for approval.

6. Recommendation

Approval – Full

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 plan: SHEET 1 OF 1 REV 02 DATED JAN 22

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

3. Prior to installation, drawings to a scale of not less than 1:20 fully detailing the new windows, doors and rooflight along with the surrounds to be used and indicating; materials, cross sections for glazing bars, sills, heads etc., method of opening and method of glazing along with drawings detailing the elevations and section drawings of the mouldings and window cil reinstatement works to the front elevation must be submitted to and approved in writing by the Local Planning Authority. The approved works shall be installed/carried out in complete accordance with the approved details.

Reason - The application relates to a building within a Conservation Area and therefore such details are necessary in order to preserve and enhance the historic character and integrity of the building.

4. Prior to the commencement of the external works, details of all external materials to be used, with particular regard to the re-decoration of the front and side elevation, must be submitted to and approved in writing by the Local Planning Authority. The works must be carried out in complete accordance with the approved details.

Reason - The application relates to a building within a Conservation Area and therefore such details are necessary in order to preserve and enhance the historic character and integrity of the building.

5. The flat roof to the rear of the development hereby approved shall not at any time be used as a balcony or sitting out area neither shall any balustrade, railings, wall or other means of enclosure be erected on any part of the roof.

Reason - To ensure the development has an acceptable design and protects the amenities of neighbouring occupiers

6. All new rainwater goods should be painted black metal or black powder coated metal and shall be permanently maintained as such.

Reason - The application building is located within a conservation area and therefore such details are necessary in order to preserve and enhance the historic character and integrity of that building.

7. 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.

8. 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 promoting sustainable development and transport.

9. 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

10. No vehicle connected with the works shall arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours are restricted to between 08:00 and 18:00 Monday to Friday, between 08:00 and 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 - In the interests of residential amenity

11. No materials produced as a result of the site development or clearance shall be burned on site.

Reason - In the interests of residential amenity

8. Informatives

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.

Should a mechanical ventilation system be required to be installed within the building, further information in relation to predicted noise levels and relevant mitigation techniques, in order to comply with the relevant guideline values, such as those outlined in BS8233:2014 - Guidance on sound insulation and noise reduction for buildings, and any relevant mitigation techniques, will be required to ensure the proposal can meet relevant criteria in respect of internal noise levels.

Highway Informatives

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.

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

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.

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