

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	NH	15/09/2022
Planning Development Manager authorisation:	AN	15/09/22
Admin checks / despatch completed	CC	16.09.2022
Technician Final Checks/ Scanned / LC Notified / UU Emails:	ER	16/09/2022

Application: 20/00449/FUL **Town / Parish:** Harwich Town Council

Applicant: Mr Nigel Marshall

Address: 18, 18A and 18B Church Street Harwich Essex

Development: Proposed alterations to convert existing ground floor book repository (no.18) and 2 flats (18A and 18B) into two 3 storey houses.

1. Town / Parish Council

Harwich Town Council Not commented on this application.

2. Consultation Responses

Essex County Council
Archaeology
23.06.2020

The above planning application has been identified as having the potential to harm a designated heritage asset.

The proposed conversion of the above site involves a late 17th century listed building located within the historic core of Harwich and within the Conservation Area. The building was a pair of merchants houses which have a later 19th century shop front. The buildings are of high significance within the maritime town and the level of preservation of internal fixtures and fittings is unknown. The creation of the ground floor shop would have had some impact on the buildings structure and the proposed conversion back to residential may further impact on the historic frame and fabric of the building. A historic building record should be completed to ensure a record is made of the existing structure and to better understand the impact of the proposed conversion.

The following recommendations are made in line with the National Planning Policy Framework:

Building recording

1. No demolition, conversion or alterations can commence until a programme of historic building recording has been secured in accordance with a written scheme of investigation which has been submitted by the applicant, and approved by the planning authority.
2. No demolition, conversion or alterations can commence until the satisfactory completion of fieldwork in accordance with the WSI submitted.
3. The applicant will submit a historic buildings report which has been submitted and approved by the local planning authority and deposition of a digital archive with the Archaeological Data Service (ADS).

Further Recommendations:

A professional historic buildings specialist should undertake the work. A brief outlining the level of archaeological investigation will be issued from this office on request. Tendring District Council should inform the applicant of the recommendation and its financial implications.

Essex County Council
Heritage
02.08.2022

Built Heritage Advice pertaining to an application for: Proposed alterations to convert existing ground floor book repository (no.18) and 2 flats (18A and 18B) into two 3 storey houses.

This letter follows on from advice provided by Hector Martin on 11/06/2020 and my own previous consultation.

The acceptability of this application, in principle, should be based on the optimum viable use demonstrated for justification in the change of use. Tendring District Council will need to consider the marketing report on this aspect. Until proven otherwise the shop/retail use is the optimum viable use and the one most compatible with the heritage asset's conservation.

The application has addressed the concerns which have been previously highlighted and apart from the OVU there are no objections.

Should this application be approved I recommend conditions are attached requiring details of the new window, details of new render and the requirement for a scheme of archaeological building recording commensurate with a 'Level 3 Record' as detailed in Historic England Publication Understanding Historic Buildings.

3. Planning History

03/00737/FUL	(Ground Floor) Change of use to Tearoom. Build counter and stud wall to form cooking and serving area.	Approved	04.06.2003
03/00898/LBC	To erect a stud wall and counter to form cooking and serving area	Approved	25.06.2003
09/00928/FUL	Construction of external staircase, extended first floor balcony access and porch, and 1.8 metre high screened roof garden. Replacement windows and doors. Conversion of external store into garage.	Refused	09.11.2009
09/00929/LBC	Construction of external staircase, extended first floor balcony access and porch, and 1.8 metre high screened roof garden. Replace existing rear windows and convert external store into garage door and single leaf door in lieu of side window. Installation of 2 no. solar panels.	Refused	09.11.2009
16/00027/LBC	Cut a groove in the flank wall of	Approved	Application

	No18 at high level to allow the attachment of a a new lead flashing between No17 and No18 above the new roof proposed move the rear part of No17 Church Street and possible recessed flashing to vertical face if required.		Returned prior to Validation
17/01142/LBC	Attachment of roof membrane with lead flashing in new location to rendered flank wall.	Approved	22.09.2017
20/00450/LBC	Proposed alterations to convert existing ground floor book repository (no.18) and 2 flats (18A and 18B) into two 3 storey houses.	Approved	14.09.2022

4. **Relevant Policies / Government Guidance**

National Planning Policy Framework July 2021 (NPPF)

National Planning Practice Guidance (NPPG)

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)

SP7 Place Shaping Principles

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

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

LP4 Housing Layout

PPL4 Biodiversity and Geodiversity

PPL5 Water Conservation, Drainage and Sewerage

PPL8 Conservation Areas

PPL9 Listed Buildings

PPL10 Renewable Energy Generation

PPL1 Development and Flood Risk

HP5 Open Space, Sports & Recreation Facilities

DI1 Infrastructure Delivery and Impact Mitigation

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)

Site Description

The application site refers to 18, 18A and 18B Church Street, which is a three storey building comprising of a book repository to the ground floor and 2 flats located above. The application site is located within the Conservation Area, a Grade II Listed building and within the setting of Listed buildings and within Flood zone 3.

Proposal

This application seeks planning permission for the proposed alterations to convert the existing ground floor book repository (no. 18) and 2 flats (18 A and 18B) into two 3 storey houses.

It is noted that Essex County Council SUDS were consulted by mistake on this application and as a result their comments have not been taken into consideration as they are not a statutory consultee for this scale of development.

Assessment

The main considerations for this application are:

- Principle of development
- Scale, Layout and Appearance
- Loss of Employment
- Heritage Impact
- Residential Amenities
- Trees and Landscaping

- Highway Considerations and Parking Provision
- Renewable Energy
- Foul and Surface Water Drainage
- Flood Risk
- Archaeology
- Legal Obligation - Open Space and Play Space
- Habitat Regulations Assessment
- Representations

1. Principle of development

The application site is located within the settlement development boundary of Harwich and therefore the principle of residential development is acceptable subject to the detailed consideration below.

2. Scale, Layout 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 and Beyond seek to ensure that development is appropriate in its locality and does not harm the appearance of the landscape

Furthermore, the dwellings are served by a private amenity space of a size and configuration that will appropriately meet the needs and expectations of the future occupants and which is commensurate to the size of dwelling and the character of the area, in accordance with Policy LP4 of the 2013-2033 Local Plan.

The proposed scheme looks to create two dwellings (18A - 4 bedroom and 18B - 2/3 bedroom), incorporating the ground floor into the two units above. To allow this to occur, it is proposed to reinstate the ground to first floor staircases, infill the current opening within the internal wall in the shop and reinstate the door opening to the current rear WC on the ground floor.

There are no elevational changes to the front or rear elevations of the building.

The works do involve the replacement of a window to a door which is considered a minor change and as its to the rear side elevation, it is not considered to cause any significant harm to the street scene of Church Road.

The proposal does not provide any private amenity space, however given the sustainable town centre location and proximity to public open space, it is considered that this is acceptable.

3. Loss of Employment Use

Marketing information has been submitted as part of this application and stated that the property was advertised as a commercial property with Priory Estates in November 2020. There were a number of people interested in the commercial property however feedback from the potential people stated that the layout of the shop was not suitable. It has also been confirmed by the estate agents that the property was marketed on the Priory Estate and Zoopla. The price was comparable to other properties in the locale. The Council is satisfied that the property was marketed sufficiently.

4. Heritage Impact

Paragraph 202 of the Framework adds that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

Paragraph 194 of the National Planning Policy Framework ("the Framework") requires applicants to describe the significance of any heritage assets affected. This requirement is reflected by Policy PPL9 of the Tendring District Council Local Plan 2013-2033. The policy also confirms that the development should be of a scale, design and use that respects the listed building and its setting.

Policy PPL8 of the Tendring District Local Plan 2013-2033 states that development within a Conservation Area must preserve or enhance the special character or appearance of the Conservation Area.

The application site is located within the Conservation Area and is a Grade II Listed Building.

A heritage statement has been submitted in support of this application which provides justification for the works involved and why they would be sympathetic in respect of the character of the Grade II Listed building.

The Council's Historic Environment officer has been consulted on this application and raised concerns originally with the change of use and that an enhanced heritage statement would need to be provided to justify the proposed works due to the potential damage they could cause. At the time of writing the consultee comments the team were unable to undertake a site visit due to the pandemic. A site visit was undertaken involving the applicant, Historic Environment Manager and Planning Officer when rules were relaxed to discuss the proposed plans. An amended heritage statement and plans were provided and the team were re-consulted. The team have stated that the principle should be based on the optimum viable use demonstrated for justification in the change of use which is up to TDC to assess. The amended plans have addressed the original concerns that had been previously highlighted.

It is therefore considered that the proposed works will not cause any harm to the historic fabric or character of the Listed Building or the character or appearance of the Conservation Area, and the proposal is therefore acceptable against this criteria.

5. Residential 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. Paragraph 127 f) of the Framework requires that planning decisions should create places with a high standard of amenity for existing and future users.

The majority of the works are internal and therefore will not cause any impact to neighbouring amenities.

The change from the ground floor window to door is not considered to cause any significant harm to the neighbouring amenities due to the minor nature of the change at ground floor level.

6. Trees and Landscaping

Paragraph 131 of the NPPF sets out the importance of trees and the contribution they make to the character and quality of urban environments. It states that planning policies and decisions should ensure that opportunities are taken to incorporate trees in developments and that existing trees are retained wherever possible. Policy LP4 relates to housing layout and states; to ensure a positive contribution towards the District's 'sense of place', the design and layout of new residential developments will be expected to incorporate and maximise the use of green infrastructure, verges, trees and other vegetation.

There are no trees or other significant vegetation on the application site and little scope or opportunity for new planting to be secured as part of any approved planning permission.

7. Highway Considerations and Parking Provision

Paragraph 108 of the National Planning Policy Framework 2019 seeks to ensure that safe and suitable access to a development site can be achieved for all users. Policy SPL3 Part B of Section 2 of the Tendring District Local Plan 2013-2033 and Beyond 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.

Furthermore, Policy PPL10 of the Local Plan states that proposals for new development should consider the potential for renewable energy generation, appropriate to the site and its location, and should include renewable energy installations, or be designed to facilitate the retro-fitting of renewable energy installations.

The EPOA Parking Standards 2009 require that for dwellings with 2 or more bedrooms, a minimum of 2 parking spaces is required. Parking spaces should measure 5.5 metres by 2.9 metres and garages, if being relied on to provide a parking space, should measure 7 metres by 3 metres internally. The proposed plan shows a garage and parking bays.

Essex Highways Authority have no objections to this application subject to conditions. The Travel plan condition is not considered reasonable as there is no increase in the number of residential units proposed. Essex Parking standards require two parking spaces for a two bedroom or more dwelling. Due to the sustainable location of the application which is in close proximity to Harwich train station, as well, as bus stops and a taxi rank and car parks within the vicinity, it is considered that the parking arrangements are acceptable.

8. Renewable Energy

Policy PPL10 addresses the renewable energy generation and energy efficiency measures for residential development involving the creation of one or more dwellings. Measures including solar panels, heat pumps and electric car charging points should be considered for all new dwellings.

Paragraph 112 e) of the Framework states that applications for development should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations. A condition will be imposed to request an electric charging point is to be implemented.

9. Foul and Surface Water Drainage

Paragraph 174 of the Framework states that planning policies and decisions should contribute to and enhance the natural and local environment by preventing new development from contributing to unacceptable levels of water pollution. Furthermore, Paragraph 185 of the Framework states that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects of pollution on the natural environment.

Adopted Policy PPL5 of Section 2 of the Adopted Local Plan states that all new development must make adequate provision for drainage and sewerage. Private sewage treatment facilities will not be permitted if there is an accessible public foul sewer. Where private sewage treatment facilities are the only practical option for sewage disposal, they will only be permitted where there would be no harm to the environment, having regard to preventing pollution of groundwater and any watercourses and odour.

The application form accompanying the application has stated that the development would be connected to the existing public foul sewer. This is in accordance with the above policy requirements and is therefore considered to be acceptable.

10. Flood Risk

Paragraph 159 of the National Planning Policy Framework (NPPF) (2021) states inappropriate development in areas at risk of flooding should be avoided by directing development away from

areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

Paragraph 167 of the NPPF (2021) says that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere, and where appropriate, applications should be supported by a site-specific flood-risk assessment.

Policy PPL1 (Development and Flood Risk) of the adopted Tendring District Local Plan (2022) states that all development proposals should include appropriate measures to respond to the risk of flooding on and/or off site. In addition, within Flood Zones 2 and 3, development proposals must be accompanied by a Flood Risk Assessment.

The application site falls within Flood Zone 3, which is the most significant area of flooding risk, with a 1 in 100 or greater annual probability of river flooding or a 1 in 200 or greater annual probability of flooding from the sea in any year.

However, it is acknowledged that the proposed application is for the change of use from a book shop and two flats to 2 three bedroom dwellings with no habitable rooms being proposed to the ground floor. The Environment Agency were consulted on this application and stated that the proposal is outside of their consultation requirements and therefore the National Flood Risk Standing Advice applies. It is therefore considered that there will be no increase in vulnerability at the site and the flood risk to the proposed development remains the same as the risk faced by the existing development.

11. Archaeology

As part of the planning application, Place Services Archaeology team have been consulted on this application and have stated that the proposed conversion of the above site involves a late 17th century listed building located within the historic core of Harwich and within the Conservation Area. The building was a pair of merchants houses which have a later 19th century shop front. The buildings are of high significance within the maritime town and the level of preservation of internal fixtures and fittings is unknown. The creation of the ground floor shop would have had some impact on the buildings structure and the proposed conversion back to residential may further impact on the historic frame and fabric of the building. A historic building record should be completed to ensure a record is made of the existing structure and to better understand the impact of the proposed conversion. The team have therefore recommended conditions being imposed to the permission relating to a programme of historic building recording, Fieldwork in accordance with the WSI and a historic building report.

12. Legal Obligation - Open Space and Play Space

Paragraph 55 of the NPPF states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

DLP Section 2 Policy HP 5 states that the Council will work with partners and sports providers across the district to maintain, expand and improve the quality and accessibility of public open space, sports and recreational facilities of different types and will aim to achieve and exceed standards set out in the Council's 2017 Open Spaces Strategy or any future update. TDLP Section 2 Policy DI1 states that all new development should be supported by, and have good access to, all necessary infrastructure. Where a development proposal requires additional infrastructure capacity to be deemed acceptable, mitigation measures must be agreed with the Local Planning Authority and the appropriate infrastructure provider. Such measures may include financial contributions towards new or expanded facilities and the maintenance thereof. For the purposes of this policy, the widest reasonable definition of infrastructure and infrastructure providers will be applied.

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

Therefore no contribution is being requested on this occasion.

13. Habitat Regulations Assessment

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. Mitigation measures must be secured prior to occupation.

As the proposed development involves the change of use of two existing flats to two dwellings, it is not considered reasonable to request a contribution towards RAMS.

14. Representations

Harwich Town Council have not commented on this application.

No letters of representation have been received.

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 plans and documents:

- Drawing No. 2021/67/03 - Proposed South Elevation
- Drawing No. 2021/67/01 - Proposed Ground and First Floor Plans
- Drawing No. 2021/67/02 - Proposed Second Floor Plan
- Drawing No. 2021/67/04 - Proposed West Elevation
- Marketing Report - Scanned 02 August 2022
- Heritage Statement - Scanned 02 August 2022
- Design and Access, Heritage and Flood Risk Assessment - scanned 31 March 2020

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

- 3 No demolition, conversion or alterations can commence until a programme of historic building recording has been secured in accordance with a written scheme of investigation which has been submitted by the applicant, and approved by the planning authority.

Reason - In the interests of Archaeology.

- 4 No demolition, conversion or alterations can commence until the satisfactory completion of fieldwork in accordance with the WSI submitted.

Reasons - In the interest of preserving any potential archaeology

- 5 The applicant will submit a historic buildings report which has been submitted to and approved by the local planning authority and deposition of a digital archive with the Archaeological Data Service (ADS).

Reason - In the interests of preserving any potential archaeology

- 6 All new hard surfaced areas shall be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the site.

Reason - In the interests of sustainable development and to ensure that run-off water is avoided.

- 7 Prior to above ground works, a scheme for the provision of electric vehicle charging facilities for the dwellings hereby approved shall have first been submitted to and approved in writing by the local planning authority. Thereafter the charging facilities shall be installed in a working order prior to first occupation of the development.

Reason - In order to promote sustainable transport.

- 8 No vehicle connected with the works to 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

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

Reason - To protect the amenity of nearby residential premises

8. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Highways

1: 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

2: 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.

3: As Edith Road is classified as a Private Road, the applicant should therefore be requested to demonstrate the rights of pass and repass to the proposed development site exist in perpetuity and that the applicant also has the necessary permissions to make a vehicular connection to Edith Road.

4: 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