

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Case Officer recommendation:	ML	10/01/2023
Planning Manager / Team Leader authorisation:	AN	12/01/2023
Planning Technician final checks and despatch:	ER	12/01/2023

Application: 22/01788/VOC **Town / Parish:** Harwich Town Council

Applicant: Mr S Dascalu - MandE Construction (Harwich) Ltd

Address: Land West of Vicarage Farmhouse Langley Close Dovercourt

Development: Application under Section 73 of the Town and Country Planning Act, to allow variation of condition(s) 15 (Approved plans) of 21/00894/FUL to incorporate changes via revised drawings which now include home office spaces due to more people working from home.

1. Town / Parish Council

Ms Lucy Ballard, Town
Clerk Harwich Town
Council
30.11.2022

Harwich Town Council has no objection to this application.

2. Consultation Responses

Tree & Landscape Officer
16.11.2022

The proposed changes do not alter, or otherwise adversely affect, the impact of the proposed development on the retained Oak tree situated on the application site and afforded formal legal protection by a Tendring District Council Tree Preservation Order.

ECC Highways Dept
18.11.2022

It is noted that this application concerns variation of condition 15 of original application 21/00894/FUL to incorporate changes via revised drawings which now include home office spaces. The revision does not impact the off-street parking provision for the proposed flats, therefore:

The Highway Authority does not object to the proposals as submitted.

3. Planning History

06/00911/FUL Block of 12 No. 2 bedroom flats. Refused 19.09.2006

07/00281/FUL Eight two bedroom apartments Approved 20.09.2007

11/01014/FUL Construction of a building containing 8 x 2 bedroom flats (as amended by drawing no. PD.832:102 Revision D). 22.03.2012

12/01429/FUL	Block of 8 flats comprising of 6 x 1 bed & 2 x 2 beds.	Approved	30.09.2013
16/01581/DISCON	Discharge of conditions 2 (materials), 3 (landscaping), 5 (TPO protective fencing), 6 (tree protection), 9 (bin store), 11 (protected species), 12 (CMS) and 14 (site levels) of planning permission 12/01429/FUL.	Approved	05.10.2016
17/01572/FUL	Block of 9 Flats, comprising of 7 x 1 Bedroom and 2 x 2 Bedroom.	Approved	15.01.2018
19/00618/DISCON	Discharge of condition 2) Materials - to Approved Planning Application 17/01572/FUL.	Approved	
20/01056/DISCON	Discharge of conditions 2 (materials), 3 (landscaping), 9 (bin store), 13 (cycle parking) and 14 (protected species) of approved application 17/01572/FUL.	Approved	21.09.2020
21/00894/FUL	Proposed development of 9no. Self-contained flats - 7no. One-bedroom and 2no. Two-bedroom units. (Re-submission of previously approved 17/01572/FUL).	Approved	28.07.2021
22/01788/VOC	Application under Section 73 of the Town and Country Planning Act, to allow variation of condition(s) 15 (Approved plans) of 21/00894/FUL to incorporate changes via revised drawings which now include home office spaces due to more people working from home.	Current	

4. **Relevant Policies / Government Guidance**

National:

National Planning Policy Framework July 2021 (NPPF)

National Planning Practice Guidance (NPPG)

Local:

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)

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

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

PPL4 Biodiversity and Geodiversity

PPL5 Water Conservation, Drainage and Sewerage

PPL9 Listed Buildings

CP1 Sustainable Transport and Accessibility

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

Essex Design Guide

Status of the Local Plan

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 is an area of rough ground situated to the north of a small cul-de-sac (Langley Close) and is situated to the south of the football ground. To the west is a 3-storey flat block and its car park, there's a protected mature oak tree to the south and to the east is a grade II listed cottage.

The remainder of the close comprises modern housing, mostly 2-stories in height. The site is located within the defined settlement boundary of Dovercourt and it has previous permissions (ref 12/01429/FUL, 17/01572/FUL and 21/00894/FUL) - for the erection of a 3-storey and 2-storey flat block, comprising one-bedroomed units and two-bedroomed units with parking to the front and rear of the building, and amenity space to the front, incorporating the oak-tree.

A further planning permission dating back to the early 1990's for the residential development within the close and the flatted development to the west was implemented and constructed. The application site was also the subject of that permission which proposed 3 storey flatted development on the site. However the approved flats on the site were never constructed.

The close is a well-established residential street. A public right of way runs along the northern boundary of the site.

Proposal

This proposal represents an application under Section 73 of the Town and Country Planning Act, to allow variation of condition 15 (Approved plans) of 21/00894/FUL to incorporate changes, via revised drawings, to include home office spaces within the flats. These changes necessitate several changes to the exterior of the building including;

- The insertion of a dormer window and rooflight to the 2 storey element roofspace;
- Alterations to the mansard roof form to facilitate extra accommodation;
- Insertion of Juliette balconies to the front elevation and revision to the siting of rooflights;
- Removal of windows in the west facing elevation and insertion of dummy windows;
- Removal of several windows to the rear elevation and the inclusion of a recessed balcony at roof level and a green sedum roof to the flat roof element.

The building will still contain 9 flats and would comprise seven one-bedroomed units and two two-bedroomed units, albeit now the majority of the 1 bed units also contain a small home office.

The scheme retains 11 parking spaces the majority of which are located to the rear of the site and an amenity area surrounding the building as before.

All other aspects of the proposals remain as previously approved.

Policy Implications

The application site is located within the defined Development Boundary as defined by the adopted Tendring District Local Plan 2013-2033.

The site is a 'committed' one by virtue of the earlier approvals that have been implemented and therefore the principle of a development of this quantum and scale is well established.

Design and Appearance

The proposed design, as previously approved, is of a conventional pitched roof design with a 'link' between the 2 and 3-storey elements with stairs within the central part.

The proposal retains the L-shaped footprint of the approved scheme and the central stairs, along with 3-storey element, comprises of a mansard roof incorporating rear dormers and a balcony area to allow the use of the attic as accommodation. The materials of buff facing brickwork, cream render and brown pantiles to the roof are acceptable and relate appropriately to the local vernacular.

The general bulk and massing of the building remains as approved and is similar to the existing flats to the west. Moreover, the height of the flats would relate appropriately to the existing building to the west by being only marginally higher at ridge level.

The 2-storey element is located near to the listed building to reduce the impact here and the 3-storey element is sited closer to the existing 3 storey flat-block.

The main changes to the building relate to the provision of a small pitched roof dormer to the east facing roof slope of the two-storey element, the re-configuration of the mansard roof and the provision of a rear balcony element. The dormer would be set back in views from the street scene and, due to its scale, would not dominate the roof slope. Views of the dormer would also be further obscured by the presence of the mature Oak tree. The roof changes and various alterations to the window styling/positioning, including the insertion of Juliette balconies, would not harm the overall appearance of the development.

Therefore, the design of the building remains an appropriate response to the character of built form in the vicinity and is considered to be acceptable.

Impact on the Listed Cottage

As indicated above, the 2-storey element of both the approved scheme and the current one is placed at the eastern end of the site to minimise the impact on the listed cottage, and with the low ceiling height within the new development, the intervening open space and the frontage tree, there would be no appreciable impact on the setting or character of the listed building.

The proposed 2-storey element, has the ridge running at 90 degrees to the road (and the gable-end of the cottage) and as a result, the eaves of the proposed building are low-in-scale, and the roof pitches away from the cottage thereby further reducing the impact.

The 3-storey element is sufficiently distant from the cottage such that it would have no appreciable impact.

The 1990's permission shows a 3 storey flatted development set further forward within the plot which would limit views of the listed cottage as you enter the close from the west. The scheme now proposed shows the property set back to protect these views and to safeguard the protected tree. As a consequence, the proposed scheme represents a significant enhancement, in terms of the impact upon the listed cottage, over the 1990's permission.

Impact on Protected Tree

The site contains a substantial mature oak tree (The subject of a TPO) on the frontage of Langley Close and close to the listed cottage.

The previous scheme was drawn up to ensure that the tree would be unharmed by the development and as the current proposal does not increase the footprint of the building the development would not harm the future health of the tree.

The tree forms a feature of the amenity area for the flats, and it frames the main entrance to the building and as a result, the development will appear visually acceptable in relation to the tree.

The Council's Tree Officer has reviewed the submitted details and has no objections.

Highway Safety

The changes proposed do not impact upon the approved parking layout or access location. Essex County Council Highways therefore have no objections to the development.

Residential Amenities

Whilst the revisions now include a rear facing balcony area, as the balcony is recessed and set behind a proposed section of mansard roof any views across private amenity space in the vicinity would be limited.

Overall, the development has no appreciable changes as compared to the approved scheme apart from the insertion of an east facing dormer and 2 no. rooflights situated in two-storey element. In this respect the dormer would consist of obscure glazing and the rooflights are situated above a stairwell and bathroom high in the roofslope and therefore provide no intrusive views out over the neighbouring garden.

In other respects, the development would have no greater impact than the approved scheme, and the addition of Juliette balconies to various aspects of the building will not create any greater impact on residential amenity in terms of loss of privacy.

The development is significantly distant from surrounding dwellings such that there would be no loss of amenity from privacy, over-looking, loss of light or noise.

Legal Obligations

RAMS

The previous permission secured a unilateral undertaking to secure a RAMS payment. The development has commenced and the RAMS contribution has been paid in full. As such there is no requirement to secure a deed of variation to the existing undertaking.

Public Open Space:

No Public Open Space contribution was sought as part of the previous permission.

Other Considerations

Harwich Town Council raises no objections.

5 letters of representation have been received from local residents which state:-

- Loss of privacy and windows from flats will overlook gardens of listed cottages (window facing listed cottage will be obscure glazed to retain privacy).
- Insufficient car parking provision (parking is considered to be acceptable given the housing mix proposed of predominantly 1 bed units).
- Not in keeping with the listed building
- Protected tree will be harmed (minimal intrusion into the RPA and the Council's Tree Officer has no objections).
- Street will lose its character with flats next to a listed building (Flats are a characteristic of this section of the road and the site has previous permission for flats).
- Will devalue property (not a material planning consideration).
- Loss of privacy to opposite properties (distance of 25m from flats to rear elevation of properties opposite would retain resident's privacy).
- Poor siting of refuse store (located in an acceptable location for collection and would be secure to avoid odour/vermin problems occurring).

Conclusion

The site falls within the current development boundary and there is an extant permission on the site for flats, and is a committed site. This application proposes design changes to the building to accommodate small office spaces within some of the units.

The proposal is visually acceptable and, in having consideration of the planning history relating to the site, will not significantly harm the protected tree, the setting of the listed building or the amenity of local residents.

6. Recommendation

Approval - Full

7. Conditions

- 1 All planting, seeding or turfing shown on the approved landscaping details drawing no. OS 1868-19.3 (as approved under planning reference 20/01056/DISCON) shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason - To ensure the implementation of the approved scheme and adequate maintenance of the landscaping for a period of five years in the interests of the character of the conservation area.

- 2 The development shall be carried out in full accordance with the tree protection measures outlined on the submitted Tree Protection Plan (Drawing no. OS 1868-19.1) and within the Arboricultural Assessment (Reference - OS 1868-19-DOC1 Rvs A).

Reason - To safeguard the protected mature Oak Tree present on site, in the interests of visual amenity.

- 3 Hard surfacing beneath the canopy of the protected Oak Tree shall be designed to minimise ground compaction in accordance with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 Trees in relation to design, demolition and construction", details of which shall previously have been submitted to and agreed, in writing, by the Local Planning Authority. Such areas will require the use of geo-textile membranes coupled with no excavation and minimal alterations in ground level.

Reason - To minimise disturbance to and help to ensure the satisfactory retention of the protected trees.

- 4 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), the second floor dormer window in the north-east facing side elevation of the building shall be glazed in obscure glass before the development hereby permitted is first occupied and shall thereafter be permanently retained in this approved form.

Reason - To protect the privacy and amenities of the occupiers of 'Vicarage Farmhouse'.

- 5 Prior to the first occupation of the development the communal bin/refuse and cycle store area shall be constructed in accordance with the submitted details and made available for use in perpetuity.

Reason - To ensure the development meets the functional needs of future residents.

- 6 The development shall be carried out in full accordance with the recommendations contained within the Ecological Mitigation Strategy (reference - OS 1868-19 Doc 1) as approved under planning reference 20/01056/DISCON.

Reason - To safeguard those protected species using the site.

- 7 Prior to occupation of the development a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

Reason - To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety.

- 8 No unbound material shall be used in the surface treatment of the vehicular access throughout.

Reason - To avoid displacement of loose material onto the highway in the interests of highway safety.

- 9 Prior to occupation of the development the vehicular turning and parking facilities, as shown on the submitted plan shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

Reason - To ensure that sufficient parking and vehicular turning provision is provided within the site in the interests of highway safety.

- 10 Prior to occupation of the proposed flats, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport to include six one day travel vouchers for use with the relevant local public transport operator free of charge.

Reason- In the interests of reducing the need to travel by car and promoting sustainable development and transport.

- 12 No site clearance, demolition or construction work shall take place on the site on Sundays or public holidays. On all other days no site clearance, demolition or construction work shall take place on the site outside of the following times:

0800 - 1800 on Mondays to Fridays

0800 - 1300 on Saturdays

These restrictions shall apply throughout the site clearance and construction period.

Reason - In the interests of residential amenity.

- 13 The construction of the development shall be carried out in accordance with the submitted 'Site Facilities Plan' and the details contained within the submitted 'Construction Health and Safety Plan' document.

Reason - In the interests of safeguarding local resident's amenity and highway safety.

- 14 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the approved plans:-

PV-102A

PV-101A

PV-100A

PC-12

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

8. Informatives

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.

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

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.

The Public Right of Way network is protected by the Highways Act 1980. Any unauthorised interference with any route noted on the Definitive Map of PROW is considered to be a breach of this legislation. The public's rights and ease of passage over public footpath no.10 (Harwich_169) shall be maintained free and unobstructed at all times to ensure the continued safe passage of the public on the definitive right of way.

The grant of planning permission does not automatically allow development to commence. In the event of works affecting the highway, none shall be permitted to commence until such time as they have been fully agreed with this Authority. In the interests of highway user safety this may involve the applicant requesting a temporary closure of the definitive route using powers included in the aforementioned Act. All costs associated with this shall be borne by the applicant and any damage caused to the route shall be rectified by the applicant within the timescale of the closure.

Site Workers - Steps should be taken to ensure that the Developer provides sufficient turning and off-loading facilities for delivery and site worker vehicles, within the limits of the site together with an adequate parking area for those employed in developing the site. No vehicles associated with the development shall affect the ease of passage along the PROW.

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